FACILITIES ACQUISITION AND PAYMENT AGREEMENT

This **FACILITIES ACQUISITION AND PAYMENT AGREEMENT** ("**Agreement**") is made and entered into on November 30, 2022, by and between **PEAK METROPOLITAN DISTRICT NO. 3**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "**District**"), and **UFCS AIRPORT, LLC**, a Colorado limited liability company (the "**Developer**") (individually, each a "**Party**" and collectively, the "**Parties**").

RECITALS

A. The Developer is developing property within a project located in the City of Colorado Springs, Colorado, commonly known as Peak Innovation Park (the "**Property**").

B. The Property is within the boundaries and/or service area of the District.

C. Pursuant to the authority granted to the District by its Consolidated Service Plan for Peak Metropolitan Districts Nos. 1-3, as approved by the City of Colorado Springs on August 28, 2018, as amended by that First Amendment to the Consolidated Service Plan approved on February 12, 2019, and as amended by that Second Amendment to the Consolidated Service Plan approved on March 22, 2022, as it may be further amended or restated from time to time (the "**Service Plan**"), the District is authorized to construct, acquire and install public improvements, including water, sanitation (including storm drainage), street, safety protection, park and recreation, transportation, fire protection, television relay and translation, and mosquito control and other facilities and services ("**Improvements**"), which benefit property within the District's boundaries and/or service area.

D. The Improvements are necessary for the development of the Property.

E. The District has determined that for reasons of economic efficiency and timeliness it is in the best interests of the District for the Developer to construct or cause construction of certain of the Improvements.

F. The District has issued bonds, the proceeds of which may be utilized in part to reimburse the Developer and/or pay for construction costs incurred under contracts for certain Improvements entered into by the Developer for certain Improvements acquired by the District or other local governmental entity, including but not limited to, all costs of design, testing, engineering, acquisition, construction, related consultant fees, and construction management ("**Construction Costs**").

G. The District and the Developer desire to set forth their respective rights, obligations, and procedures with respect to the District's payment of Construction Costs and acquisition of Developer-constructed Improvements, and for reimbursement of the Developer as provided herein.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Construction of Improvements. The Developer agrees to design, construct, and complete the Improvements in full conformance with the design standards and specifications as established and in use by the District, if applicable, and other entities with proper jurisdiction pursuant to the provisions of this Agreement. If the District so requests, the Developer shall provide periodic reports on the status of completion and costs of the Improvements.

2. Construction Contract Requirements. Any construction contract for all or any portion of the Improvements shall require the contractor and/or the Developer to provide a warranty for the period of time between initial acceptance and final acceptance of the Improvements by the appropriate accepting jurisdiction, together with a security mechanism to secure the warranty approved by the District or as required by the applicable government entity to which the Improvements will be dedicated.

3. Acquisition of Improvements. The District shall acquire the Improvements after preliminary acceptance from the appropriate accepting jurisdiction, and prior to final acceptance upon receipt, review and approval by the District's accountant and engineer of the following:

(a) As-built drawings for the Improvements to be conveyed by the Developer;

(b) Lien waivers and indemnifications from each contractor verifying that all amounts due to contractors, subcontractors, material providers or suppliers have been paid in full, in a form acceptable to the District;

(c) An assignment from the Developer to the District of any warranties associated with the Improvements, in a form acceptable to the District, such as a warranty agreement;

(d) Copies of all contracts, pay requests, change orders, invoices and evidence of payment of same, the final AIA payment form (or similar form approved by the District), canceled checks, and any other requested documentation to verify the amount of reimbursable Construction Costs requested;

(e) Confirmation and any reasonable evidence requested by the District from the Developer to ensure no duplication in payment or reimbursement of Construction costs; and

(f) Such other documentation, records and verifications as may reasonably be required by the District;

(g) An executed Bill of Sale conveying the Improvements to the District, substantially in the form attached hereto as **Exhibit A** for any District acquired Improvements.

4. Certification of Construction Costs. The Parties hereby agree that a condition precedent to the District's acquisition of the Improvements, and obligation to reimburse the Developer or payment of Construction Costs associated with the Improvements shall be the District's receipt of a written certification of an independent engineer engaged by the District that the Construction Costs of the Improvements are reasonable and comparable to the costs of similar public improvements constructed in and around the area of Colorado Springs. Such independent engineer's determination shall be conclusive regarding the amount of Construction Costs the District shall be obligated to reimburse the Developer and/or pay under this Agreement ("**Certified Construction Costs**"), notwithstanding the fact that the actual Construction Costs incurred by the Developer may exceed the Certified Construction Costs.

5. Reimbursement of Developer and Payment of Construction Costs. Subject to the receipt of funding as set forth in Section 6, the District agrees to reimburse the Developer for and/or make direct payment of Certified Construction Costs up to a maximum amount of Fifty-One Million Five Hundred Thousand Dollars ($51,500,000), together with interest thereon, unless otherwise agreed to in writing by the Parties. Certified Construction Costs shall accrue interest from the date such costs are incurred by the Developer. Simple interest shall accrue on amounts reimbursable to the Developer under this Agreement, until paid, at the rate of eight percent (8%) per annum. Developer and District acknowledge the existence of limitations on the District's ability to make such payments as a result of the Service Plan.

6. Funding. The Parties agree that no payment shall be required of the District hereunder unless and until the District issues bonds in an amount sufficient to make payment of or to reimburse the Developer for all or a portion of the Certified Construction Costs. The District may, however, make payments from available funds after the payment of the District's annual debt service and operations and maintenance expenses. The Developer agrees that, to the extent that any amounts are still owed under this Agreement after the District issues bonds, any obligation to pay such amounts is subordinate to such bonds. The Parties agree that payments by the District to the Developer shall credit first against accrued and unpaid interest and then to the principal amount due. It is hereby agreed and acknowledged that this Agreement evidences an intent to reimburse the Developer and make payment of Certified Construction Costs hereunder, but that this Agreement shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation for the purposes of Article X, Section 20 of the Colorado Constitution, and the making of any payment hereunder shall be at all times subject to annual appropriation by the District. By acceptance of this Agreement, Developer agrees and consents to all of the limitations in respect of the payment due hereunder and in the District's Service Plan.

7. Representations. The Developer hereby represents and warrants to and for the benefit of the District as follows:

(a) The Developer is a limited liability company in good standing and qualified to conduct business under the laws of the State of Colorado.

(b) The Developer has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by the Developer with any of its terms, covenants or conditions is or shall become a default under any

other agreement or contract to which the Developer is a party or by which the Developer is or may be bound. The Developer has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

The foregoing representations and warranties are made as of the date hereof and shall be deemed continually made by the Developer to the District for the entire term of this Agreement.

8. Term; Repose. Notwithstanding anything set forth in this Agreement to the contrary, the District shall not be obligated to the Developer for costs incurred by the Developer, but not invoiced (as evidenced by the delivery of the documents described in Section 3 above) to the District within one (1) year of the date incurred. In the event the District has not reimbursed the Developer and/or paid any portion of the Certified Construction Costs by December 31, 2062, whether invoiced or not invoiced by such date, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.

9. Inactive Status: The Developer acknowledges the District may elect to be inactive in any one or more of the years this Agreement is in effect, and the Developer and the District agree that, during the period of inactivity: the District shall have no financial obligations outstanding or contracts in effect that require performance by the District; the District shall not impose a mill levy for tax collection; the District shall not anticipate any receipt of revenue and shall have no planned expenditures, except for statutory compliance, in said fiscal year(s); the District shall have no operation or maintenance responsibility for any facilities; and the District shall file an initial notice of inactive status pursuant to Section 32-1-104, C.R.S., and each year thereafter that the District continues to be inactive, the District shall file a notice of inactive status pursuant to Section 32-1-104(4), C.R.S. By acceptance of this Agreement, Developer agrees that during any period of District inactivity, the District shall have no obligations, including no obligations to make payments of reimbursement or payment of Certified Construction Costs, under this Agreement and shall not be required to take any other actions hereunder.

10. Termination of Obligations. Notwithstanding any provision herein to the contrary, the District's obligations to reimburse the Developer for any and all funds advanced or otherwise payable to the Developer or otherwise under and pursuant to this Agreement shall terminate automatically and be of no further force or effect upon the occurrence of: (a) the Developer's voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by the Developer dissolving the Developer as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to the Developer (whether voluntary or involuntary). The termination of the District's payment and reimbursement obligations as set forth in this Section shall be absolute and binding upon the Developer, its successors and assigns. The Developer, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's payment obligations under this Agreement in the event that any of the occurrences described in this Section occur.

11. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: Peak Metropolitan District No. 3
c/o McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203-1214
Phone: 303-592-4380
Email: legalnotices@specialdistrictlaw.com

To Developer: UFCS Airport, LLC
1529 Market St., Suite 200
Denver, CO 80202
Attention: Garrett Baum
Phone: 303-226-5300
Email: gbaum@urbanfrontier.com

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, on the date of transmission if sent by electronically-confirmed email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address or contact information.

12. Assignment. The Developer shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

13. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the Developer any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the Developer shall be for the sole and exclusive benefit of the District and the Developer.

14. Default/Remedies. In the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

15. Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the State District Court in and for the County of El Paso, Colorado.

16. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

17. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

18. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

20. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

21. Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the District or the Developer unless the same is in writing and duly executed by the Parties hereto.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE TO FACILITIES ACQUISITION AND PAYMENT AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

PEAK METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
President

Attest:

_____
Secretary

UFCS AIRPORT, LLC, a Colorado limited liability company

By: _____

Name: Garrett Baum

Title: Manager

EXHIBIT A

Form of Bill of Sale

KNOW ALL BY THESE PRESENTS that _____, a _____, whose address is _____ ("**Grantor**"), for and in consideration of the sum of _____ Dollars ($_____) to be paid by the District in accordance with the terms of the Facilities Acquisition and Payment Agreement dated _____, 20____, and other good and valuable consideration, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto _____, a _____, whose address is _____ (the "**District**"), its successors and assigns, all of Grantor's right, title and interest in and to the facilities, personal property and the improvements shown on **Exhibit I** attached hereto and incorporated herein by this reference ("**Improvements**"), excluding therefrom those Improvements previously conveyed to other jurisdictions for perpetual ownership.

TO HAVE AND TO HOLD the same unto the District, its successors and assigns forever; and Grantor, its successors and assigns, shall warrant and defend the sale of said Improvements made unto the District, its successors and assigns, against all and every person or persons whomsoever, and warrants that (i) the conveyance of the Improvements to the District, its successors and assigns, is made free from any claim or demand whatsoever, and (ii) the Improvements were constructed and installed in accordance with plans and specifications reviewed and approved by the District and all applicable Rules and Regulations of the District.

IN WITNESS WHEREOF, Grantor executes this Bill of Sale this ____ day of _____, 20____.

GRANTOR:
_____, a _____

By: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____ and by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

EXHIBIT I

Improvements

Project Description	Estimated/Actual Cost