

**VILLAGE OF ORLAND PARK  
APPEARANCE IMPROVEMENT GRANT AGREEMENT**

**THIS AGREEMENT**, entered into this 2 day of February, 2016, between the Village of Orland Park, Illinois (hereinafter referred to as "Village") and the following designated Owner/Lessee:

Owner's Name:	UG Orland Park IL, LLC 1000 Fourth St #290, San Rafael, CA 94901 c/o United Growth Capital Management, LLC
Lessee's Name:	N/A
Name of Business:	Mattress Firm / State & Main Restaurant
Tax ID# / Social Security #:	FEIN # 47-4226092
Address of Property to be Improved:	29 Orland Square Drive
PIN Number:	27-10-300-033-0000
Legal Description:	LOT F-3 IN ORLAND SQUARE PLANNED DEVELOPMENT UNIT NO. F-3, BEING A SUBDIVISION OF A TRACT OF LAND IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPTING FROM LOT F-3, THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT F-3; THENCE NORTH 76 DEGREES 19 MINUTES 10 SECONDS EAST, 40.86 FEET (BEARINGS BASED ON ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, NAD 1983) ALONG THE NORTHERLY LINE OF SAID LOT F-3 TO AN ANGLE POINT IN SAID LINE; THENCE NORTH 88 DEGREES 19 MINUTES 35 SECONDS EAST, 5.57 FEET ALONG SAID NORTHERLY LINE; THENCE SOUTH 46 DEGREES 42 MINUTES 10 SECONDS WEST, 60.73 FEET TO THE WEST LINE OF SAID LOT F-3; THENCE NORTH 01 DEGREES 54 MINUTES 42 SECONDS WEST, 31.84 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING)

**WITNESSETH:**

**WHEREAS**, the Village of Orland Park has established an Appearance Improvement Grant for application within the Village of Orland Park and the Old Orland Historic District ("Historic District"); and

**WHEREAS**, said Appearance Improvement Grant is administered by the Village with the advice of the Historic Preservation Review Commission in cases of Contributing Structures and Buildings (as the same are defined in the Village's Land Development Code) and designated Landmarks for the purposes of helping property Owners and Lessees of Contributing Structures and Buildings within the District to restore, preserve and maintain these unique local resources; and

**WHEREAS**, pursuant to the Appearance Improvement Grant the Village, subject to its sole discretion, will reimburse Owners/Lessees for the cost of eligible exterior improvements to Commercial Structures Village-wide, to Contributing Structures and Buildings within the Historic District and to designated Landmark structures up to a maximum of one-half (1/2) of the Village approved contract cost of such improvements or \$20,000.00, whichever is less;

**WHEREAS**, pursuant to the Appearance Improvement Grant the Village, subject to its sole discretion, will waive the permit fees associated with eligible exterior improvements (excluding signage) to commercial structures Village-wide, to contributing structures and buildings within the Historic District and to designated landmark structures.

**WHEREAS**, the Owner/Lessee's property is located within the Village or the Historic District, and the Owner/Lessee desires to participate in the Appearance Improvement Grant program pursuant to the terms and provisions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the Village and the Owner/Lessee do hereby agree as follows:

**SECTION 1**

With respect to Appearance Improvements, the Village shall reimburse the Owner for the cost of improvements to the Owner's property not to exceed fifty percent (50%) of such cost.

The actual total reimbursement amounts per this Agreement shall not exceed **\$20,000.00**. The improvement costs that are eligible for Village reimbursement include all labor, materials, equipment, and other contract items necessary for the proper execution and completion of the scope of work as shown on the plans, design drawings, specifications and estimates approved by the Village. Such plans, design drawings, specifications, estimates and scope of work are attached hereto as Exhibit A.

In addition the Village, subject to its sole discretion, will waive the permit fees associated building permit fees associated with eligible exterior improvements (excluding signage) to commercial and landmark structures Village-wide.

The appearance improvements to be performed pursuant to this Agreement are:

**Building improvements:** All four (4) building elevation will be altered. New parapet walls and "towers" will be added and will act as both architectural elements and to screen rooftop mechanical units. Architectural columns and storefront windows will be added to all facades. An existing entryway vestibule will be removed. The interior will be demised into two (2) different units. Pedestrian connectivity will be improved through the installation of new sidewalks within and connecting to the site. Parking lot spaces will be reconfigured to reflect the change from a medical office use to a commercial/restaurant use. New foundation landscaping, parking lot landscaping and screening landscaping will be installed.

#### **Appearance Review Conditions:**

- 1) Obtain a building permit from the Village's Building Department prior to initiating work.
- 2) Submit a sign permit application to the Building Division for separate review and approval.
- 3) Screen all mechanical equipment either at grade level with landscaping or hidden behind the roofline. Additional screening requirements may be required, as determined by the Development Services Department.
- 4) Submit a detailed site plan and construction details for the sidewalk along 149th Street and crosswalk across 149th Street to the Village for review and approval prior to installation.
- 5) Submit an easement document for Village review for a sidewalk easement along 149th Street and Orland Square Drive.
- 6) Complete sidewalk and crosswalk projects on 149th Street before 12/31/2016.
- 7) Update and resubmit Landscape plan (L1) to accommodate the sidewalk connection leading from the building to the corner of 149th Street and Orland Square Drive.
- 8) Update and resubmit all proposed site plans to include a sidewalk connection from the proposed outdoor patio area to the existing sidewalk
- 9) Update and resubmit all base and topographic maps for all site plans.

#### **SECTION 2**

No improvement work covered by the agreement shall be undertaken until its design has been submitted to and approved by the Village. Following approval, the Owner shall contract for the work and shall commence and complete all such work within one (1) year from the date of such approval weather permitting. Nothing in this Agreement shall permit any Appearance Improvements to be undertaken except in conformance with applicable Village Codes.

#### **SECTION 3**

The Development Services Director shall periodically review the progress of the contractor's work on the Appearance Improvement pursuant to this Agreement. Such inspections shall not replace any Village Code required permit inspections by the Building Inspectors. All work which is not in conformance with the approved plans, design drawings and specifications shall be immediately remedied by the Owner and deficient or improper work shall be replaced and

made to comply with the approved plans, design drawings and specifications and the terms of this Agreement.

## **SECTION 4**

Upon completion of the Appearance Improvement and upon final inspection and approval by the Development Services Director or his/her designee, the Owner shall submit to the Village:

- A. A properly executed and notarized contractor sworn statement showing the full cost of the Appearance Improvement Grant work, as well as each separate component amount due to the contractor and each and every subcontractor involved in furnishing labor, materials or equipment in the work.
- B. Proof of payment of the contract cost pursuant to the contractor's statement and final lien waivers from all contractors, subcontractors and material suppliers for which Owner is requesting reimbursement in whole or part.
- C. A copy of all of the invoices for professional services fees incurred for preparation of plans and specifications.

The Village shall, within thirty (30) days of receipt of the contractor's statement, proof of payment and lien waivers, and the professional services statement, issue a check to the Owner/Lessee as reimbursement for one-half (1/2) of the approved construction cost estimate or one-half (1/2) of the actual construction cost, whichever is less, subject to the limitations set forth in Section 1 hereof.

## **SECTION 5**

If the Owner/Lessee or his contractor fails to complete the improvement work provided for herein in conformity with the time limitation, approved plans, design drawings and specifications and the terms of this Agreement, then upon written notice being given by the Development Services Director to the Owner, by certified mail to the address listed above, this Agreement shall terminate and the financial obligation on the part of the Village shall cease and become null and void.

## **SECTION 6**

Upon completion of the Appearance Improvement work pursuant to this Agreement, the Owner/Lessee shall be responsible for properly maintaining such improvements in finished form and without change or alteration thereto, as provided in this Agreement, unless changes are submitted for review and are approved by the Historic Preservation Review Commission (HPRC) (in the case of Historic District or landmark properties) and/ or the Village Board. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the improvements as specified in the plans, design drawings and specifications approved pursuant to this Agreement. In the event the approved Appearance Improvements are not properly maintained or alterations are made to the appearance without

prior consent from the Village, the Village reserves the right to terminate this Agreement, hold the Owner/Lessee liable for any architectural design and consultant fees incurred by the Village, and require reimbursement in full for all monies expended towards the project through this Appearance Improvement Grant.

## **SECTION 7**

This Agreement shall be binding upon the Village and upon the Owner/Lessee and its successors, to said property for a period of ten (10) years from and after the date of completion and approval of the Appearance Improvement provided for herein. It shall be the responsibility of the Owner to inform subsequent Owner of the provisions of this Agreement, and to be aware of the requirement for prior Village approval of any alteration whatsoever to the building facades. In addition, the Village shall cause a memorandum of this Agreement to be recorded with the office of the Cook County Recorder of Deeds.

## **SECTION 8**

The Owner/Lessee releases the Village from, and covenants and agrees that the Village shall not be liable for, and covenants and agrees to indemnify and hold harmless the Village and its officials, officers, employees and agents from and against, any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from or in any way connected directly or indirectly with the Appearance Improvement(s), including but not limited to actions arising from the Prevailing Wage Act (820 ILCS 30/0.01 et seq.) The Owner further covenants and agrees to pay for or reimburse the Village and its officials, officers, employees and agents for any and all reasonable costs, reasonable attorneys' fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or causes of action. The Village shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. **The provisions of this Section 8, as well as Sections 6 and 7, above, shall survive the completion of said Appearance Improvement(s).**

## **SECTION 9**

Nothing herein is intended to limit, restrict or prohibit the Owner from undertaking any other work in or about the subject premises, which is unrelated to the Appearance Improvement provided for in this Agreement.

## **SECTION 10**

This Agreement shall be enforceable by any action at law or in equity, including actions for specific performance and injunctive relief. The laws of the State of Illinois shall control the construction and enforcement of this Agreement. The parties agree that all actions instituted on this Agreement shall be commenced and heard in the Circuit Court of Cook County, Illinois, and hereby waive venue in any other court of competent jurisdiction. Before any failure of any party to perform any obligation arising from this Agreement shall be deemed to constitute a breach, the

party claiming the breach shall notify the defaulting party and demand performance. No breach of this Agreement shall be found to have occurred if performance is commenced and diligently pursued to the satisfaction of the complaining party within thirty (30) days of the receipt of such notice.

**IN WITNESS THEREOF**, the parties hereto have executed this Agreement on the date first appearing above.

**OWNER**

UG Orland IL, LLC, a Delaware Limited liability company

By: United Growth Development, LP,  
A Delaware limited partnership, its managing partner

By: United Growth Capital Management, LLC, a Delaware limited liability company, its general partner

By: Brad LaRue, its Managing Member

**VILLAGE OF ORLAND PARK,**  
an Illinois home rule municipality

By: Douglas M. English  
Village Mayor

ATTEST: Jed Carl  
Village Clerk