

**AGREEMENT  
FOR LANDSCAPE IMPROVEMENTS**

This AGREEMENT FOR LANDSCAPE IMPROVEMENTS (“Agreement”) is made and entered into as of the 10<sup>th</sup> day of March, 2020, by and between the CITY OF MENIFEE, a California municipal corporation, (“City”) and McCall Plaza, LP., a California limited partnership (“Landowner”).

**WITNESSETH**

**1.** Landowner for and in consideration of the approval of a minor plot plan for landscape approval and installation on that certain development plan known as “McCall Plaza Onsite Landscape and Irrigation Plan ” (Plot Plan No. 2018-168) located at the southeast corner of the intersection of McCall Boulevard and Sherman Road, APNs 333-060-021 and -022 (the “Property”), agree, at Landowner’s own cost and expense, to furnish all labor, equipment, and material necessary to perform, complete, and maintain onsite landscaping for a period of twelve (12) months after Building Permit final or as otherwise required by City’s Community Development Director in a good and workmanlike manner, all those landscape and irrigation improvements in accordance with those landscape and irrigation plans for the development of said entitlement which have been approved by City’s Community Development Director, and are on file in the Office of the City of Menifee Community Development Department, and to do all work incidental thereto in accordance with the standards set forth in Menifee Municipal Code Chapter 9.86 and Menifee Municipal Code Chapter 15.04, which are expressly made a part of this Agreement (the “Work”). All of the Work shall be done under the inspection of and to the satisfaction of City’s Community Development Director and shall not be deemed complete until approval of the final planting inspection is made by City’s Community Development Director. Approval of City’s Community Development Director of the Work and of the final planting shall be in writing. The estimated cost of the Work is **THREE HUNDRED AND TWELVE THOUSAND AND FOUR HUNDRED AND FORTY EIGHT DOLLARS AND ZERO CENTS (\$312,448.00).**

**2.** Landowner agrees to pay to City the actual cost of such inspections of the Work as may be required by City’s Community Development Director. Landowner and City further agree that if suit is brought upon this Agreement or any security guaranteeing the completion of the Work, all reasonable costs, expenses, and fees incurred by City in successfully enforcing such obligations shall be paid by Landowner including reasonable attorneys’ fees, and that upon entry of judgment, such costs, expenses, and fees shall be taxed as costs and included in any judgment rendered.

**3.** To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), Landowner shall defend (with legal counsel reasonably acceptable to City), indemnify, and hold free and harmless City and City’s agents, officers, and employees, (each, an “Indemnitee”) from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of Landowner or any officers, agents, employees, representatives, or subcontractors of Landowner [the “Landowner Entities”]), expense, and

liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Landowner, any of the Landowner Entities, anyone directly or indirectly employed by any of them, or anyone that they control (collectively, the "Liabilities"), with regard to the Work described in this Agreement. Such obligation to defend, hold harmless, and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused in part by the sole negligence or willful misconduct of such Indemnitee.

4. Landowner hereby grants to City, and to any agent or employee of City, the irrevocable permission to enter upon the Property for the purpose of inspecting the Work or determining compliance with this Agreement. This permission shall terminate in the event that Landowner and Developer have completed the Work within the time specified or any extension thereof granted by City's Community Development Director.

5. Landowner agree at all times, up to the completion and written approval of the Work by City's Community Development Director, to give good and adequate warning to the traveling public of each and every dangerous condition caused by the Work, and to protect the traveling public from such defective or dangerous conditions.

6. Landowner, or their agents and employees, shall give notice to City's Community Development Director at least forty-eight (48) hours before beginning the Work and shall furnish City's Community Development Director all reasonable facilities for obtaining full information respecting the progress and manner of the Work.

7. Landowner shall comply with all applicable local, state, and federal laws and regulations applicable to the performance of the Work. Landowner shall not hire or employ any person to perform work within City or allow any person to perform the Work required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. Any and all work subject to prevailing wages, as determined by the Director of Industrial Relations of the State of California, will be the minimum paid to all laborers, including Landowner employees, contractors, and subcontractors. It is understood that it is the responsibility of Landowner to determine the correct scale. The State Prevailing Wage Rates may be obtained from the California Department of Industrial Relations ("DIR") pursuant to California Public Utilities Code, Sections 465, 466, and 467 by calling 415-703-4774. Appropriate records demonstrating compliance with such requirement shall be maintained in a safe and secure location at all times, and readily available at City's request. Landowner shall obtain and maintain a City of Menifee business license. Landowner shall require the same of all contractors and subcontractors.

8. If Landowner, or their agents or employees, neglects, refuses, or fails to prosecute the Work with such diligence as to insure its completion within the specified time, or within such extensions of time as have been granted by City's Community Development Director, or if Landowner violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, Landowner shall be in default of this Agreement and notice in writing of such default may be served upon Landowner. City's Community Development Director shall have

the power to terminate all rights of Landowner due to such default. The determination of City's Community Development Director of the question as to whether any of the terms of this Agreement or the plans and specifications have been violated or have not been performed satisfactorily shall be conclusive upon Landowner, and any and all parties who may have any interest in this Agreement or any portion thereof. No delay or omission in the exercise of any right or remedy by City shall impair such right or remedy or be construed as a waiver. City's consent or waiver of one act or omission by Landowner shall not be deemed to constitute a consent or waiver of City's rights with respect to any subsequent act or omission by Landowner. Any waiver of any default shall be in writing. The foregoing provisions of this Section shall be in addition to all rights and remedies available to City under law.

9. Prior to the date this Agreement is executed, Landowner agrees to file with City good and sufficient security as provided in subsections (1), (2), and (3) of subdivision (a) of Section 66499 of the Government Code in any amount not less than the estimated cost of the Work for the faithful performance of the terms and conditions of this Agreement, except that when the estimated cost of said work is \$2,500 or less, the security shall be a deposit of cash or its equivalent as determined acceptable by City's Building Director. Landowner further agree that if the security is a bond and if the sureties on the faithful performance bond or the amount of said bonds in the opinion of City's Community Development Director becomes insufficient, Landowner agrees to renew each and every bond or bonds with good and sufficient sureties or increase the amount of said bonds, or both, within ten (10) days after being notified by City's Community Development Director that the sureties or amounts are insufficient. Notwithstanding any other provision herein, if Landowner fails to take such action as is necessary to comply with said notice, Landowner shall be in default of this Agreement unless all required work is completed within ninety (90) days of the date on which City's Community Development Director notifies Landowner of the insufficiency of the sureties or the amount of the bonds or both.

10. It is further agreed by and between the parties hereto, including the surety or sureties on the bonds or the issuers of any instruments or letters of credit securing this Agreement, that, in the event it is deemed necessary to extend the time of completion of the Work contemplated to be done under this Agreement, extensions of time may be granted from time to time by City's Community Development Director either at his/her option or upon request of Landowner, and such extensions shall in no way affect the validity of this Agreement or release the surety or sureties on said bonds. Landowner further agrees to maintain the aforesaid bond or bonds or the issuance of any instruments or letters of credit in full force and effect during the term of this Agreement, including any extensions of time as may be granted thereon.

11. Upon the satisfactory completion and written approval of the Work by City's Community Development Director, the entire amount of the security shall be released or returned by City to Landowner.

12. This Agreement shall be binding upon Landowner and Developer and their heirs, executors, administrators, successors, or assigns, all and each both jointly and severally.

13. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

14. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid. No waiver of any term or condition of this Agreement shall be a continuing waiver thereof.

15. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

16. Landowner shall not discriminate in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

17. The laws of the State of California shall govern this agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

18. The person(s) executing this Agreement on behalf of the parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said party, and (c) by so executing this Agreement, such party is formally bound to the provisions of this Agreement.

19. Any notice or notices required or permitted to be given pursuant to this Agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

To City: City of Menifee  
Community Development Department  
29844 Haun Road  
Menifee, CA 92584

To Landowner: McCall Plaza, LP a California Limited  
Partnership  
PO Box 1958  
Corona. CA 92878

[signatures on following page]

IN WITNESS WHEREOF, Landowner and City have executed this Agreement as of the date and year first above written.

Dated: March 10, 2020

By: McCall Plaza, LP a California Limited Partnership

By: RKJK A Nevada Co., LLC  
a Nevada limited liability company,  
General Partner

By: *Gregory McCall*  
Manager

Dated: \_\_\_\_\_

By\_ (Signature for President or other Category 1 Officer)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

Dated: \_\_\_\_\_

By\_ (Signature for President or other Category 1 Officer)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

CITY OF MENIFEE  
("City")

DocuSigned by:  
*Cheryl Kitzerow*  
F44DB3375E4C482...

Dated: \_\_\_\_\_

By Cheryl Kitzerow  
Community Development Director

Approved as to Form:

DocuSigned by:  
*Jeffrey T. Melching, City Attorney*  
DABE8686180C4BB...  
Jeffrey T. Melching  
City Attorney



### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

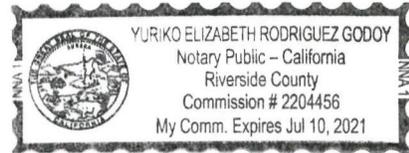
State of California  
County of Riverside )

On March 10, 2020 before me, Yuriko Elizabeth Rodriguez Godoy, notary public  
(insert name and title of the officer)

personally appeared Hagop Kofdarali,  
who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~  
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in  
his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the  
person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Yuriko Elizabeth Rodriguez Godoy* (Seal)