

**AGREEMENT BETWEEN CITY OF KERRVILLE, TEXAS, AND SUMMIT
PROPERTY OWNERS ASSOCIATION TO ALLOW ASSOCIATION TO INSTALL
AND MAINTAIN LANDSCAPING WITHIN CITY RIGHT-OF-WAY**

This agreement ("Agreement") is entered into between the **City of Kerrville, Texas** ("City"), and the **Kerrville Summit Property Owners Association, Inc.** ("Summit").

BACKGROUND

Summit is a property owners association created for the Summit residential subdivision. Summit has requested and the City has agreed to allow Summit to install and maintain landscaping within City-owned right-of-way at the entrance to the subdivision at Loop 534 and along the south side of Vista Ridge Drive to Mesa Del Sol Drive.

AGREEMENT

In consideration of the promises of each, the parties agree as follows:

1. *Defined Terms.* In this Agreement:

Summit means the Kerrville Summit Property Owners Association, Inc., its successors, or assigns.

City means the City of Kerrville, Texas.

City Property means the south right-of-way along Vista Ridge Drive as it intersects with Veterans Highway (Loop 534) and continues until it intersects with Mesa Del Sol, as shown in attached **Exhibit A**, incorporated in this Agreement by reference.

- 2. *Effective Date and Term.*** This Agreement is effective on the latest date of the dates signed by the parties. This Agreement has an initial term of five (5) years and automatically renews thereafter for successive one-year terms, unless terminated as provided for in this Agreement.
- 3. *Installation and Maintenance.*** Summit may install, maintain, and replace landscaping on City Property in compliance with this Agreement and City's ordinances, including the City's water management plan and other applicable laws or regulations. Summit will maintain the landscaping in good condition and will replace any plants that are dead or dying.
- 4. *Removal or Alteration of Improvements.*** Summit acknowledges and agrees that a) City may determine that the removal or alteration of the landscaping is necessary for the City to maintain, repair, replace, relocate, or alter the City Property, which includes Vista Ridge Drive; and b) City has no obligation to repair or replace any landscaping after the

City's alteration or removal.


5. **Indemnification.** Summit will indemnify and hold harmless the City, its officers, agents, and employees, from and against all claims, losses, damages, suits, or liability, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with Summit's actions directed at installing or maintaining the landscaping within the City Property.
6. **Termination.**
 - (a) The City, through its City Manager and without the need for City Council approval, may terminate this Agreement for any reason after the expiration of the initial five (5) year term, by giving Summit written notice of termination at least 180 days prior to the date of termination.
 - (b) The City may terminate this Agreement as provided in this paragraph if Summit fails to materially comply with any provision of this Agreement. City must give Summit notice of the default in writing citing the term(s) of the Agreement that has been breached and what action Summit must take to cure the default. If Summit fails to cure the default as specified in the notice within 30 days after receiving the notice, or such longer period as may be necessary provided that Summit promptly begins curing the default and diligently continues such efforts to completion, the City Manager may terminate this Agreement by written notice to Summit specifying the date of termination.
 - (c) Summit may terminate this Agreement at any time upon i) providing City with 30 days written notice of the termination; and ii) performing and completing the duties and responsibilities required of it under this Agreement, in particular, the removal of dead or dying plants, prior to any such termination.
7. **Notices.** All notices required under this Agreement must be in writing and may be sent by: (a) delivering the notice in person; (b) depositing the notice in the U.S. Mail, certified or registered, return receipt requested, postage prepaid; (c) by depositing the notice with Federal Express or another courier service for next day delivery; or (d) sending the notice by telefax with confirming copy sent by mail. Notice is deemed effective when received by the party to be notified. All notices must be sent or delivered to the following addresses or as City or Summit may hereafter designate by written notice:

City: City of Kerrville, Texas
 City Hall
 701 Main Street
 Kerrville, TX 78028
 Attn: City Manager

Summit: Kerrville Summit Property Owners Association
P.O. Box 291697
Kerrville, Texas 78029-1697

8. **Successors and Assigns.** This Agreement is binding on either parties, successors, assigns and grantees.
9. **Law Governing and Venue.** This Agreement is governed by the law of the State of Texas; venue shall occur in Kerr County, Texas.
10. **Entire Contract.** This Agreement represents the entire agreement between the City and Summit. The Agreement supersedes all prior negotiations, representations, or contracts, either written or oral. This Agreement may be amended only by written instrument signed by both parties.
11. **Severability.** If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.

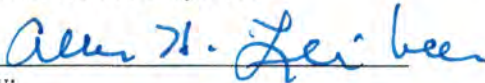
CITY OF KERRVILLE, TEXAS



Todd Parton, City Manager

Date: 6/26/13

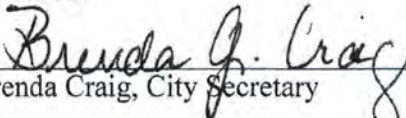
KERRVILLE SUMMIT PROPERTY OWNERS ASSOCIATION, INC.



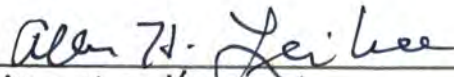
By:

Date: July 15, 2013

ATTEST:

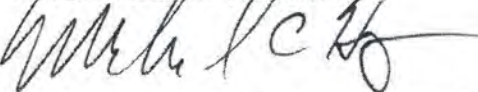


Brenda Craig, City Secretary




Allen H. Leiber
Date: 10/21/2014

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Notary Public
Witnessed Date: 10-21-14

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