

PIPELINE RELOCATION AGREEMENT

This Water Line Relocation Agreement (“Agreement”), is made and entered into as of _____, 2016, by and between TIMBERLAKES WATER SPECIAL SERVICE DISTRICT, a special service district organized by Wasatch County, (“TIMBERLAKES”), TODD AND JULIE EDGERTON, residents of Wasatch County, Utah (the “EDGERTONS”), and STEPHEN AND KRISTY BROWER, residents of Wasatch County, Utah (the “BROWERS”).

RECITALS

WHEREAS, the EDGERTONS own lot 1713 in the Timberlakes Subdivision (“Lot 1713”) and desire to connect their property to the TIMBERLAKES water system.

WHEREAS, the Browsers own lot 1714 in the Timberlakes Subdivision (“Lot 1714”).

WHEREAS, TIMBERLAKES owns a culinary water system and provides culinary water to lot owners within the Timberlakes Subdivision.

WHEREAS, TIMBERLAKES asserts a prescriptive easement over a portion of Lot 1713 for a pipeline connected to its water system.

WHEREAS, the BROWERS have continuously used a water meter located on Lot 1713 for TIMBERLAKE’s delivery of culinary water to the BROWER’s property and residence on Lot 1714.

WHEREAS, TIMBERLAKES, EDGERTONS, and BROWERS collectively desire to relocate the existing pipeline and meter on Lot 1713, to a mutually agreeable location to be determined by the parties in a subsequently executed agreement.

WHEREAS, TIMBERLAKES agrees to allow the relocation of the existing pipeline in exchange for the express easements and other consideration set forth herein.

NOW, THEREFORE, in consideration of the following promises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. TIMBERLAKES agrees:

A) TIMBERLAKES agrees to relocate the pipeline to a mutually agreed upon location on Lot 1713 and Lot 1714, which agreed-upon survey is set forth in the attached Exhibit A.

B) TIMBERLAKES shall be responsible for the cost of design, engineering and labor for the installation of the new pipeline on Lots 1713 and 1714, with the exception that the EDGERTONS agree to pay 50% of the cost of the actual materials for the new pipeline up to a maximum out-of-pocket cost of \$7,500, as set forth below.

C) TIMBERLAKES agrees not to disturb any area of Lot 1713 until the EDGERTONS (i) complete and obtain a successful percolation test for a future septic system on Lot 1713, (ii) execution and delivery of the Water Connection Agreement to TIMBERLAKES, which is attached hereto as Exhibit B, and (iii) payment of the \$7,500 material costs to TIMBERLAKES.

D) TIMBERLAKES agrees that once the percolation test proves that a septic system can be built on Lot 1713 in an area that is not less than twenty-five (25) feet from the new pipeline location, TIMBERLAKES will immediately commence installation of the new pipeline

to be completed in a commercially reasonable manner and timeframe with the expectation to be completed within three weeks of commencement. The parties agree that time is of the essence for all parties' obligations set forth in this Agreement.

E) TIMBERLAKES agrees to clearly mark the location of the abandoned pipeline on Lot 1713, so that the EDGERTONS can remove some or all of the abandoned pipeline at their cost and expense at any time in the future.

F) TIMBERLAKES agrees to maintain its normal liability insurance that shall cover both the work involved in installing the new pipeline on Lots 1713 and 1714, and the operation and maintenance of the new pipeline in its new location.

2. EDGERTONS agree:

A) The EDGERTONS agree to pay to TIMBERLAKES 50% of the actual cost of the material necessary to re-locate the water line, up to a maximum out of pocket amount of \$7,500.00. EDGERTONS agree to pay \$7,500 to TIMBERLAKES upon execution of this Agreement, which will be held in trust by TIMBERLAKES until completion of all obligations set forth in this Agreement. TIMBERLAKES shall keep accurate records of the actual material costs for the new pipeline, and shall provide such records to EDGERTONS at the completion of the project. Within seven (7) days of completion of the project and recording of the express easement on Lot 1713, TIMBERLAKES shall reimburse to EDGERTONS any amounts in excess of their 50% actual material cost obligation owed under this Agreement.

B) The EDGERTONS agree to allow TIMBERLAKES to place any excess dirt material from digging the new trench on Lots 1713 and 1714 in a location mutually agreed upon by TIMBERLAKES and EDGERTONS. TIMBERLAKES shall promptly remove at its cost and

expense all trees, debris and brush that were cleared from Lot 1713 while excavating and installing the new pipeline.

C) The EDGERTONS agree not to require TIMBERLAKES to re-seed the disturbed area on Lot 1713 caused by the installation of the new pipeline on Lot 1713.

D) The EDGERTONS agree that TIMBERLAKES shall be allowed to abandon the existing pipeline in its current location on Lot 1713. EDGERTONS shall be responsible for removing such portion of the existing pipeline on Lot 1713 as they deem necessary at any future time.

E) Concurrently with the execution of this Agreement, the EDGERTONS shall grant to TIMBERLAKES a permanent and perpetual express thirty-foot wide easement on Lot 1713 for the new pipeline in the location provided by the EDGERTON's surveyor and as set forth in the easement agreement attached hereto as Exhibit C. TIMBERLAKES shall bear the cost of recording the easement with the Wasatch County Recorder's Office, and the EDGERTONS shall bear the cost of survey and preparing the easement agreement.

F) EDGERTONS agree that by connecting to TIMBERLAKES' water system, they become subject to all meter connection and maintenance fees, water usage fees, any and all capital improvement fees and bond obligations currently imposed, and any other fee or obligation that may be imposed in the future by TIMBERLAKES.

G) EDGERTONS agree to maintain property and casualty insurance on Lot 1713 prior to and during all construction of the new pipeline on Lot 1713.

H) EDGERTONS agree that any septic system and leach field to be constructed and maintained on Lot 1713 shall maintain a distance of at least 25 feet (or further distance as

required by Utah law, regulation, or other governing agency) from the new pipeline installed by TIMBERLAKES on Lot 1713. EDGERTONS agree to provide prior written notice to TIMBERLAKES to allow TIMBERLAKES to inspect and approve the proposed location of the septic system and leach field to be constructed on Lot 1713. EDGERTONS further acknowledge and agree that they shall indemnify, defend and hold harmless TIMBERLAKES from any and all damage to the pipeline or contamination of the water system caused by any septic system or leach field installed by the EDGERTONS on Lot 1713.

3. BROWERS agree:

A) BROWERS agree to allow TIMBERLAKES to place any excess dirt material from digging the new trench on Lot 1714, in a location mutually agreed upon by TIMBERLAKES and BROWERS. TIMBERLAKES shall promptly remove at its cost and expense all trees, debris and brush that were cleared from Lot 1714 while excavating and installing the new pipeline.

B) BROWERS agree not to require TIMBERLAKES to re-seed the disturbed area on Lot 1714 caused by the installation of the new pipeline on Lot 1714.

C) Concurrently with the execution of this Agreement, the BROWERS shall grant to TIMBERLAKES a permanent and perpetual express easement on Lot 1714 for the new pipeline in the location set forth in the survey and easement agreement attached hereto as Exhibits A and C.

D) BROWERS agree to maintain property and casualty insurance on Lot 1714 prior to and during all construction of the new pipeline and installation of the new meter on Lot 1714.

4. General Provisions.

A) Costs and Attorney's Fees. In the event of any dispute arising out of this Agreement, the prevailing party in any arbitration, mediation or legal proceeding shall be entitled to recover its reasonable attorney's fees and costs.

B) Amendments. No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the parties hereto.

C) Integration. This Agreement constitutes the entire understanding and agreement of the parties, and any and all prior agreements, understandings or representations are hereby terminated and cancelled in their entirety and are of no force and effect.

D) No Third Party Beneficiaries. The execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties to this Agreement.

E) Waiver. The waiver by any Party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or waiver of any subsequent breach, whether of the same or another provision of this Agreement.

F) Choice of Law. This Agreement in all respects shall be governed by the laws of the State of Utah.

G) Indemnification. Except for claims arising out of acts caused by the gross negligence or intentional misconduct of TIMBERLAKES or its agents, the EDGERTONS and BROWERS shall indemnify, defend and hold harmless TIMBERLAKES, its agents, directors, employees, and contractors from and against any claim, loss, expense, or damage to any person or property arising out of the existing and subsequently abandoned pipeline on Lot 1713, the

relocated meter on Lot 1714, the newly installed meter on Lot 1713, and the new pipeline installed on Lots 1713 and 1714.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day herein first above written.

TIMBERLAKES WATER SPECIAL SERVICE

DISTRICT

By: *Neil Anderson*
Its: *Chair*



TODD and JULIE EDGERTON

Todd Edgerton
Julie Edgerton

STEPHEN and KRISTY BROWER

