

**Recording Requested By  
And When Recorded Return To:**

Jackson Walker L.L.P.  
Attn: Judge A. Platt  
901 Main Street, Suite 6000  
Dallas, Texas 75202

(Space Above for Recorder's Use Only)

**UTILITY EASEMENT AGREEMENT**

This **UTILITY EASEMENT AGREEMENT** (this "**Agreement**") is entered into and effective as of July \_\_\_, 2012, by and between **BIG SKY TRAILS, LTD.**, a Texas limited partnership ("**Big Sky**"), and **JAGOE-PUBLIC COMPANY**, a Texas corporation ("**Jagoe-Public**").

**RECITALS:**

A. Big Sky is the owner of that certain tract or tracts of land in Denton County, Texas, being more particularly described on **Exhibit A** attached hereto and incorporated herein (the "**Big Sky Property**").

B. Contemporaneously with the execution of this Agreement, Big Sky has conveyed to Jagoe-Public that certain tract of land in Denton County, Texas, being more particularly described in **Exhibit B** attached hereto and incorporated herein (the "**Jagoe-Public Tract**"). The Big Sky Property and the Jagoe-Public Tract are each sometimes individually referred to as a "**Parcel**" and collectively as the "**Parcels**."

C. In partial consideration for the conveyance of the Jagoe-Public Tract to Jagoe-Public and in order to assist the favorable development of the Big Sky Property, Big Sky and Jagoe-Public (sometimes referred to herein individually, as a "**Party**" and collectively, as the "**Parties**") desire and agree to subject the Jagoe-Public Tract to the easements as hereinafter set forth.

**AGREEMENT:**

**NOW, THEREFORE**, for and in consideration of the premises and the easements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties declare and agree as follows:

1. **Grant of Easement.** Jagoe-Public does hereby grant, bargain, sell and convey to Big Sky, for the benefit of Big Sky, its successors and assigns, and all other persons hereafter owning all or any part of the Big Sky Property, a non-exclusive easement (the "**Easement**") on, over, across and under, the Easement Tract (defined below) to have and to hold, together with all and singular the Easement and the rights provided for below, unto Big Sky and Big Sky's successors and assigns forever, as a perpetual easement for the benefit of and appurtenant to the

Big Sky Property. Jagoe-Public does hereby bind himself and his heirs, legal representatives, administrators and assigns to WARRANT and FOREVER DEFEND all and singular the Easement granted herein unto Big Sky and Big Sky's successors and assigns, against every person whomsoever claiming or to claim the same or any part thereof, by, through or under Jagoe-Public. As used herein, the term "Easement Tract" means that certain tract of land, twenty feet (20') in width running north and south, generally, immediately adjacent to the east side of Jackson Road (as it may be expanded) on the western side of the Jagoe-Public Tract.

2. Purpose of Easement and Appurtenant Rights. Big Sky may use the Easement for the following uses and purposes: placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing utility lines, mains, cables and systems for electric, water, wastewater, sanitary sewer, telephone, gas, cable television, fiber optic cable, ISDN lines and other computer or similar communication lines, and any other utilities which may hereafter become reasonably necessary for the use and enjoyment of the Big Sky Property (or any part thereof) and any improvements now or hereafter constructed thereon, together with the right of ingress and egress upon and across the Easement Tract. All such improvements must be located underground and the use of the surface of the Easement Tract by Big Sky, its successors or assigns, is limited to the installation, maintenance, repair and operation of such improvements. The Easement and all rights and privileges appurtenant thereto shall run with the Big Sky Property and any portions, parts, or subdivisions thereof and shall inure to the benefit of all future owner or owners of all or any part of the Big Sky Property (which, for purposes of this Agreement, will be included as a "Party").

3. Additional Rights and Obligations. Jagoe-Public retains, reserves and shall continue to enjoy the use of the surface and subsurface of the Easement Tract for any and all purposes (such as construction or installation of parking and driveways) and to convey similar easements to other third parties, provided such uses and other easements do not interfere with or prevent any of the allowed uses of the Easement by Big Sky; provided, however, Jagoe-Public agrees that he will notify Big Sky prior to placing any structures or improvements on or under the Easement Tract and, further, will locate such improvements in a manner so as to not interfere with any of Big Sky's rights with respect to, or damage any of Big Sky's improvements located within, the Easement. In addition, except in the event of an emergency, Big Sky will give Jagoe-Public notice in advance of the necessity of having to make repairs or improvements to the Easement Tract which would materially affect Jagoe-Public's use of the Jagoe-Public Tract and will cooperate with Jagoe-Public so as to minimize, to the extent reasonably practicable, disruption to Jagoe-Public's use of the Jagoe-Public Tract. By the acceptance hereof, Big Sky agrees that Big Sky at all times after doing any work in connection with such utility facilities and systems, will restore the surface of the Easement Tract, including fences, landscaping and paved parking areas of said premises to the approximate condition in which the same was found before such work was undertaken; and, further, Big Sky agrees that it will coordinate and cooperate with other entities having other public utility rights to use the Easement.

4. Assignment. Big Sky, its successors and assigns, have the right to assign to Denton County, the State of Texas or another appropriate governmental authority, or any other entity providing utility services, the non-exclusive right to use the Easement Tract for the purposes allowed herein and to grant easements to such utility providers in connection therewith, or dedicate to the public for public use, all or any portion of the Easement.

5. **No Dedication**. No provision of this Agreement shall ever be construed to grant or create any rights whatsoever in or to any portion of the Parcel other than the easements specifically set forth herein. Nothing in this Agreement shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever.

6. **Severability**. If any provision of this Agreement shall be or become invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

7. **Rights of Successors; Binding Effect; Gender**. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This Agreement shall bind and inure to the benefit of the Parties, and their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

8. **No Merger**. It is expressly understood and agreed that the Parties do not intend that there be, and there shall in no event be, a merger of the respective dominant and servient tenements in the Parcels by virtue of the present or future ownership of any portion of said tenements being vested in the same person(s) or entity, but instead intend that the easement servitudes shall not be extinguished thereby and that said dominant and servient tenements be kept separate.

9. **Governing Law**. This Agreement will be construed in accordance with the laws of the State of Texas.

10. **Modification and Cancellation**. This Agreement (including exhibits) may be modified or terminated or canceled only by written agreement signed by each of the Parties or their respective heirs, legal representatives, successors and assigns (and any mortgagees holding first lien security interests on any portion of the Parcels or any ground lease thereof), as long as they have any interest as an owner or lessee in any Parcel or portion thereof.

11. **Counterparts; Multiple Originals; and Separate Signature Pages**. This Agreement and any and all amendment hereto may be executed simultaneously in two or more counterparts and/or with separate signature pages, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

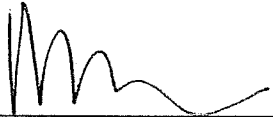
**EXECUTED** to be effective as of the date first set forth above.

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**

SEPARATE SIGNATURE AND ACKNOWLEDGMENT PAGE OF BIG SKY

BIG SKY TRAILS, LTD., a Texas limited partnership

By: BST FUND I INC., a Texas corporation

By:   
Peter Malin, President


STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_§

This instrument was acknowledged before me this \_\_\_\_\_ day of July, 2012, by Peter Malin, President of BST Fund I Inc., a Texas corporation, general partner of BIG SKY TRAILS, LTD., a Texas limited partnership, on behalf of said corporation and said partnership.

\_\_\_\_\_  
Notary Public - State of Texas

SEPARATE SIGNATURE AND ACKNOWLEDGMENT PAGE FOR JAGOE-PUBLIC

JAGOE-PUBLIC COMPANY, a Texas corporation

By:   
William J. Cheek, Jr., Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_§

This instrument was acknowledged before me this \_\_\_\_ day of July, 2012, by William J. Cheek, Jr., Vice President of JAGOE-PUBLIC COMPANY, a Texas corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public - State of Texas