

## ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT ("**Agreement**") is executed this 8<sup>th</sup> day of October, 2018, by and between NuStar Logistics L.P., ("**NuStar**") and LG HI Falcon, LLC, ("**Falcon**"). NuStar and the Falcon are sometimes referred to herein collectively as the "Parties".

### **RECITALS:**

**WHEREAS**, NuStar is the owner of that certain Easement Agreement recorded May 13, 2004 and recorded at Reception Number 204078591 in the Records the El Paso County, Colorado Clerk and Recorder's Office where NuStar's pipeline is located ("**Easement**");

**WHEREAS**, the Easement will be further defined in an Agreement to be executed simultaneously with this agreement;

**WHEREAS**, NuStar operates and maintains a pipeline for the transportation of oil, gas, or any of their products, or water of other liquid or mineral substances (the "**Pipeline**") within the real property described in the Easement;

**WHEREAS**, Falcon intends to construct, operate and maintain a storm sewer pipeline, a domestic water line, a raw water line, an emergency overflow storm water rip-rap spillway and to add and remove dirt (collectively referred to as the "**Improvements**") in, over, through, and across the Easement; and

**WHEREAS**, NuStar is willing to consent to Falcon's construction, maintenance and use of said Improvements on the Easement subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Consent. NuStar hereby consents to the construction, installation, maintenance, use, operation, repair, replacement, relocation and removal of the Falcon's Improvements as particularly depicted on in **Exhibit "A"**, located within the Easement and in compliance with all applicable legal, regulatory and construction requirements, including NuStar's Guidelines for Development Around NuStar Pipelines and Facilities, which are stated on **Exhibit "B"**, attached hereto and incorporated by reference in this Agreement. NuStar hereby consents to Falcon having access to the Improvements for the specific purposes described in this Agreement.

2. Notice. Falcon shall provide NuStar a minimum of forty-eight (48) hours advance notification (Monday thru Friday, 7:00 a.m. to 5:00 p.m.) prior to commencing construction, maintenance or repairs to Falcon's Improvements that are within fifty (50) feet of NuStar's Pipeline so that NuStar may be present during such activities. In addition, Falcon shall or shall require and be responsible for its contractors, agents and subcontractors to notify the state's One Call number. No excavations shall be made by Falcon on land adjacent to the Pipeline which will

in any way impair, or withdraw the lateral support, or which will cause any subsidence, accumulation of water, or damage to the Pipeline and/or right-of-way.

3. Inspection Rights and Approval. Prior to operation of the Falcon's Improvements, the NuStar may send a representative to inspect and perform acceptance tests, if necessary, to determine if the Falcon's Improvements complies with the Exhibit B requirements. NuStar shall notify the Falcon as to whether or not approval is granted within ten (10) working days from NuStar's inspection of the Falcon Improvements. In the event the Falcon's Improvements do not comply, NuStar shall promptly notify Falcon in writing, with reasonable specificity, the reason(s) for rejection of approval, and shall provide Falcon a reasonable period of time to bring the Falcon's Improvements into compliance. NuStar shall have access to the Improvements at all times.

4. Relocation. If NuStar requires Falcon, at the cost of Falcon, to relocate any of its Improvements within the Easement to a different location within the Easement, then NuStar will provide at least sixty (60) days' written notice to the person designated by Falcon in writing to receive notices, and in such notice NuStar will provide a new location at which Falcon may construct, maintain, operate, repair, replace, relocate and remove the Falcon's replacement Improvements at the cost of Falcon. The new location will be as close as reasonably possible to the original location.

5. Maintenance and Interference. Falcon agrees to provide all necessary and routine maintenance of its Improvements and notify NuStar immediately in the event any damages are caused by Falcon or a Falcon contractor to NuStar's Pipeline within the Easement. All repairs to the Pipeline will be repaired by NuStar at Project Owner's sole expense. Falcon will reimburse NuStar for its expense within thirty (30) days of receipt of NuStar's invoice.

In the event it is determined by NuStar, in its sole discretion, that the Improvements (1) cause or result in pipeline coating stress voltage levels in the Owner's Pipeline to be exceeded during operation of the Improvements due to AC voltage interference and/or (2) cause or result in added cost to NuStar in maintaining Owner's Pipeline, then, in each instance, Falcon shall be required to pay, when invoiced, all costs of NuStar identified and deemed necessary by NuStar due to the Improvements being present in, over, through, across or along Owner's Easement.

6. Falcon Improvements. Falcon shall be responsible for the design, installation, operation, and maintenance of the Improvements and shall obtain and maintain any required governmental authorizations and/or permits required for its activities and operations.

7. Notices. All notices to either party hereto shall be in writing and delivered by a nationally recognized delivery service or sent by first class U. S. Mail, postage-prepaid, return receipt requested to:

8.

NuStar Logistics L.P.  
19003 IH 10 West  
San Antonio, TX 78257  
Attn: Real Estate

With a copy to:  
NuStar Logistics, L.P.  
19003 IH 10 West  
San Antonio, TX 78257  
Attn: SVP, General Counsel

LG HI Falcon, LLC  
3500 Maple Avenue, Suite 1600  
Dallas, TX 75219-3936  
Attn: Ben Hummel, Manager

9. Assignment. This agreement shall inure to the benefit and be binding on the respective heirs, successors, assigns, agents, contractors, and personal representatives of the Parties to this agreement. Falcon shall not, without NuStar's written consent, assign, mortgage, encumber, hypothecate, pledge or transfer to one or more assignees, mortgagees, co-tenants or any other secured party, any or all right, title or interest in this Agreement. Nothing contained herein shall be construed to abrogate or relinquish any rights granted by the original Easement.

10. Indemnification. TO THE FULLEST EXTENT PERMITTED BY LAW, FALCON HEREBY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS NUSTAR AND ITS AFFILIATES AND ITS AND THEIR REPRESENTATIVES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "NUSTAR INDEMNITEES"), FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT IN CONNECTION WITH: (1) THE CONSTRUCTION, INSTALLATION, MAINTENANCE, USE, OPERATION, REPAIR, REPLACEMENT, RELOCATION AND REMOVAL OF THE IMPROVEMENTS; (2) INJURY TO, OR DEATH OF, PERSONS; (3) DAMAGE TO PROPERTY; (4) ENVIRONMENTAL LIABILITY; (5) VIOLATION OF LAW; AND (6) BREACH OF THIS AGREEMENT. FALCON INTENDS THAT THE FOREGOING RELEASE, DEFENSE, INDEMNIFICATION, AND HOLD HARMLESS OBLIGATION APPLY EXCEPT TO THE EXTENT THE CLAIMS WERE CAUSED BY, ARISE FROM OR RESULT FROM THE SOLE GROSS NEGLIGENCE OR WILFULL MISCONDUCT OF THE NUSTAR INDEMNITEES. AS USED HEREIN, "**AFFILIATE**" MEANS, WITH RESPECT TO ANY PERSON, ANY OTHER PERSON DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH, SUCH OTHER PERSON AT THE TIME AT WHICH THE DETERMINATION OF AFFILIATION IS MADE. FOR THE PURPOSES HEREIN, THE TERM "CONTROL" (INCLUDING, WITH CORRELATIVE MEANINGS, THE TERMS "CONTROLLED BY" AND "UNDER COMMON CONTROL WITH"), AS APPLIED TO ANY PERSON, MEANS THE POSSESSION, DIRECT OR INDIRECT, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THAT PERSON, WHETHER THROUGH THE

OWNERSHIP OF VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS, BY CONTRACT OR OTHERWISE. **"CLAIMS"** MEANS ALL ACTIONS, CAUSES OF ACTION, CLAIMS, CHARGES, DAMAGES, DEMANDS OR FINES, OF ANY KIND OR CHARACTER AND RELATED COSTS (INCLUDING COURT COSTS, DEFENSE COSTS, REASONABLE ATTORNEYS' FEES, SETTLEMENT COSTS, AND OTHER EXPENSES OF LITIGATION), LAWSUITS, LIABILITIES, LOSSES, OBLIGATIONS, PENALTIES, PROCEEDINGS, AND SUITS. **"LAW"** MEANS ALL APPLICABLE CONSTITUTIONS, LAWS (INCLUDING ENVIRONMENTAL LAWS AND COMMON LAW), TREATIES, STATUTES, ORDERS, DECREES, RULES, INJUNCTIONS, LICENSES, PERMITS, APPROVALS, AGREEMENTS, REGULATIONS, CODES, AND ORDINANCES ISSUED BY ANY GOVERNMENTAL AUTHORITY, AND INCLUDING JUDICIAL OR ADMINISTRATIVE ORDERS, CONSENTS, DECREES, AND JUDGMENTS, AND ALL PUBLISHED DIRECTIVES, GUIDELINES, GOVERNMENTAL AUTHORIZATIONS, REQUIREMENTS OR OTHER GOVERNMENTAL RESTRICTIONS WHICH HAVE THE FORCE OF LAW, AND DETERMINATIONS BY, OR INTERPRETATIONS OF ANY OF THE FOREGOING BY ANY GOVERNMENTAL AUTHORITY HAVING JURISDICTION OVER THE MATTER IN QUESTION AND BINDING ON A GIVEN PERSON, WHETHER IN EFFECT AS OF THE DATE HEREOF OR THEREAFTER AND, IN EACH CASE, AS AMENDED. **"ENVIRONMENTAL LAWS"** MEANS ALL APPLICABLE LOCAL, STATE AND FEDERAL LAWS, RULES, REGULATIONS AND ORDERS, AND COMMON LAW, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, PERTAINING TO (A) THE USE, GENERATION, MIGRATION, STORAGE, REMOVAL, TREATMENT, REMEDY, DISCHARGE, RELEASE, TRANSPORTATION, DISPOSAL OR CLEANUP OF POLLUTANTS, CONTAMINATION, HAZARDOUS WASTES, HAZARDOUS MATERIALS (DEFINED BELOW), TOXIC SUBSTANCES AND/OR TOXIC POLLUTANTS, (B) SURFACE WATERS, GROUND WATERS, AMBIENT AIR AND OTHER ENVIRONMENTAL MEDIA AND/OR (C) THE ENVIRONMENT OR HEALTH AND SAFETY-RELATED MATTERS, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING FEDERAL LAWS, SIMILAR STATE OR OTHER SIMILAR LAWS, AND ANY SUCCESSOR LAWS, TOGETHER WITH ALL REGULATIONS PROMULGATED PURSUANT THERETO, AS ALL OF THE SAME MAY BE AMENDED FROM TIME TO TIME (WHETHER PRIOR TO OR AFTER THE DATE HEREOF): THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980 (AS AMENDED BY THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986), THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (AS AMENDED BY THE USED OIL RECYCLING ACT OF 1980, THE SOLID WASTE DISPOSAL ACT AMENDMENTS OF 1980, AND THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984), THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970, THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986, THE HAZARDOUS MATERIALS TRANSPORTATION ACT, THE TOXIC SUBSTANCE CONTROL ACT, THE CLEAN AIR ACT, THE CLEAN WATER ACT, FEDERAL WATER POLLUTION CONTROL ACT, THE OIL POLLUTION ACT, AND THE SAFE DRINKING WATER ACT. **"ENVIRONMENTAL LIABILITY"** MEANS LIABILITY ARISING OUT OF OR RESULTING FROM A VIOLATION OF AN ENVIRONMENTAL LAW BY THE FALCON. **"HAZARDOUS MATERIALS"** MEANS ANY SUBSTANCE, MATERIAL OR WASTE (INCLUDING FRIABLE ASBESTOS NON-FRIABLE ASBESTOS, BENZENE, LEAD-

BASED PAINT, PETROLEUM, PETROLEUM PRODUCTS, METHYL TERTIARY BUTYL ETHER AND POLYCHLORINATED BIPHENYL) THAT IS: (1) REGULATED BY LAWS AS HAZARDOUS OR TOXIC, AS A POLLUTANT OR A CONTAMINATE, OR OTHERWISE AS A THREAT TO HUMAN HEALTH OR TO THE ENVIRONMENT; OR (2) FOUND BY ANY FEDERAL, STATE, MUNICIPAL OR LOCAL GOVERNMENT, INCLUDING AGENCIES, COMMISSIONS, COURTS AND DEPARTMENTS TO BE HAZARDOUS OR TOXIC, A POLLUTANT OR A CONTAMINANT, OR OTHERWISE A THREAT TO HUMAN HEALTH OR TO THE ENVIRONMENT. THE TERM HAZARDOUS MATERIALS INCLUDES, WITHOUT LIMITATION, SUBSTANCES DEFINED AS SUCH IN THE CLEAN AIR ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, THE FEDERAL WATER POLLUTION CONTROL ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, THE SAFE DRINKING WATER ACT, THE TOXIC SUBSTANCES CONTROL ACT, THE HAZARDOUS & SOLID WASTE AMENDMENTS ACT OF 1984, THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986, THE HAZARDOUS MATERIALS TRANSPORTATION ACT, THE OIL POLLUTION ACT OF 1990, AND ANY OF THE REGULATIONS IMPLEMENTING THE FORGOING STATUTES.

**NOTWITHSTANDING THE FOREGOING INDEMNITY, IN NO EVENT SHALL NUSTAR BE LIABLE TO FALCON FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR BUSINESS INTERRUPTIONS, HOWEVER CAUSED AND IRRESPECTIVE OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SAME.**

**THIS SECTION 9 SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS AGREEMENT.**

11. Insurance. Falcon shall procure and maintain, or ensure that its contractor procure and maintain for so long as this Agreement remains in effect, the insurance set forth on **Exhibit "C."**

12. General.

12.1 No Waiver. No failure or delay by either party in exercising any right, power or privilege hereunder at any time will serve as a waiver of the same right at any future date. No amendment to this Agreement will be effective unless made in writing and executed by both parties. This Agreement is intended to be as broad and inclusive as permitted by the laws of the State of Texas, and that, if any portion of this Agreement is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. No rule of construction against the drafter shall apply

12.2 Amendment. No amendment to this Agreement will be effective unless made in writing and signed by Falcon and Easement Holder.

12.3 Severability. If a provision of this Agreement is unenforceable under Law, that provision will be enforced to the maximum extent permitted by Law. The remaining provisions of this Agreement will continue in full force and effect.

12.4 Governing Law; Jurisdiction. **This Agreement will be governed and construed in accordance with the laws of the State of Texas, without reference to the choice of law principles thereof. Any disputes arising out of this Agreement will be subject to the exclusive jurisdiction of the U.S. District Court located in Harris County, Texas if federal jurisdiction is available and to the courts of the State of Texas located in Harris County, Texas if federal jurisdiction is not available.**

12.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and part of one and the same document. Any Agreement may be executed in one or more counterparts, each of which will be deemed an original and part of one and the same document.

12.6 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to the matters contemplated herein.

13. Limitations.

13.1 THIS AGREEMENT GRANTS NO INDEPENDENT RIGHT TO FALCON TO ENTER ONTO THE EASEMENT. NUSTAR MAKES NO ASSIGNMENT OF ANY OF ITS RIGHTS UNDER THE EASEMENT BY THIS INSTRUMENT. FALCON MUST OBTAIN AN EASEMENT OR OTHER LEGAL AUTHORITY FROM THE SURFACE AND FEE OWNER(S) OF THE LANDS COVERED BY THIS AGREEMENT SUFFICIENT TO AUTHORIZE THE FALCON IMPROVEMENTS. IF FALCON FAILS TO OBTAIN SUCH EASEMENT OR RIGHTS OF WAY FROM THE SURFACE FEE OWNER(S), THIS AGREEMENT SHALL BE NULL, VOID AND OF NO EFFECT.

13.2 THIS CONSENT IS GIVEN ONLY WITH RESPECT TO THE PROJECT OWNER'S IMPROVEMENTS DEPICTED ON **EXHIBIT 'A'** AND SHALL NOT BE CONSTRUED AS AUTHORIZING THE PLACEMENT OR INSTALLATION OF ANY OTHER IMPROVEMENTS EXCEPT AS AUTHORIZED IN ADVANCE AND IN WRITING BY NUSTAR.

14. Authority to Sign. The signatories below hereby represent he or she has the authority to execute this Agreement on behalf of the respective NuStar or Falcon.

[signature page to follow]

LG HI Falcon, LLC

By: \_\_\_\_\_

Print: Ben Hummel

Title: Manager

NuStar Logistics L.P.,  
By NuStar GP, Inc, General Partner

By: \_\_\_\_\_

Print: Carin Hoch

Title: Vice President, Real Estate & Right-of-Way


*Acknowledgments of the parties are set forth on the following page*

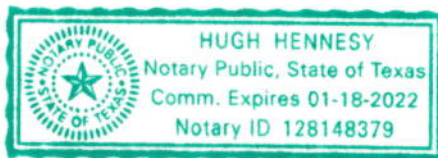


ACKNOWLEDGMENTS

STATE OF TEXAS           )  
  )  
COUNTY OF DALLAS       )


This instrument was acknowledged before me this 25<sup>th</sup> day of September, 2018, by Ben Hummel, the Manager of LG HI Falcon, LLC, a Texas limited liability company, on behalf of said limited liability company.

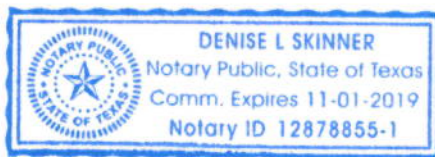
  
\_\_\_\_\_  
Notary Public State of Texas  
My Commission Expires: 01/18/22



STATE OF TEXAS           )  
  )  
COUNTY OF BEXAR       )

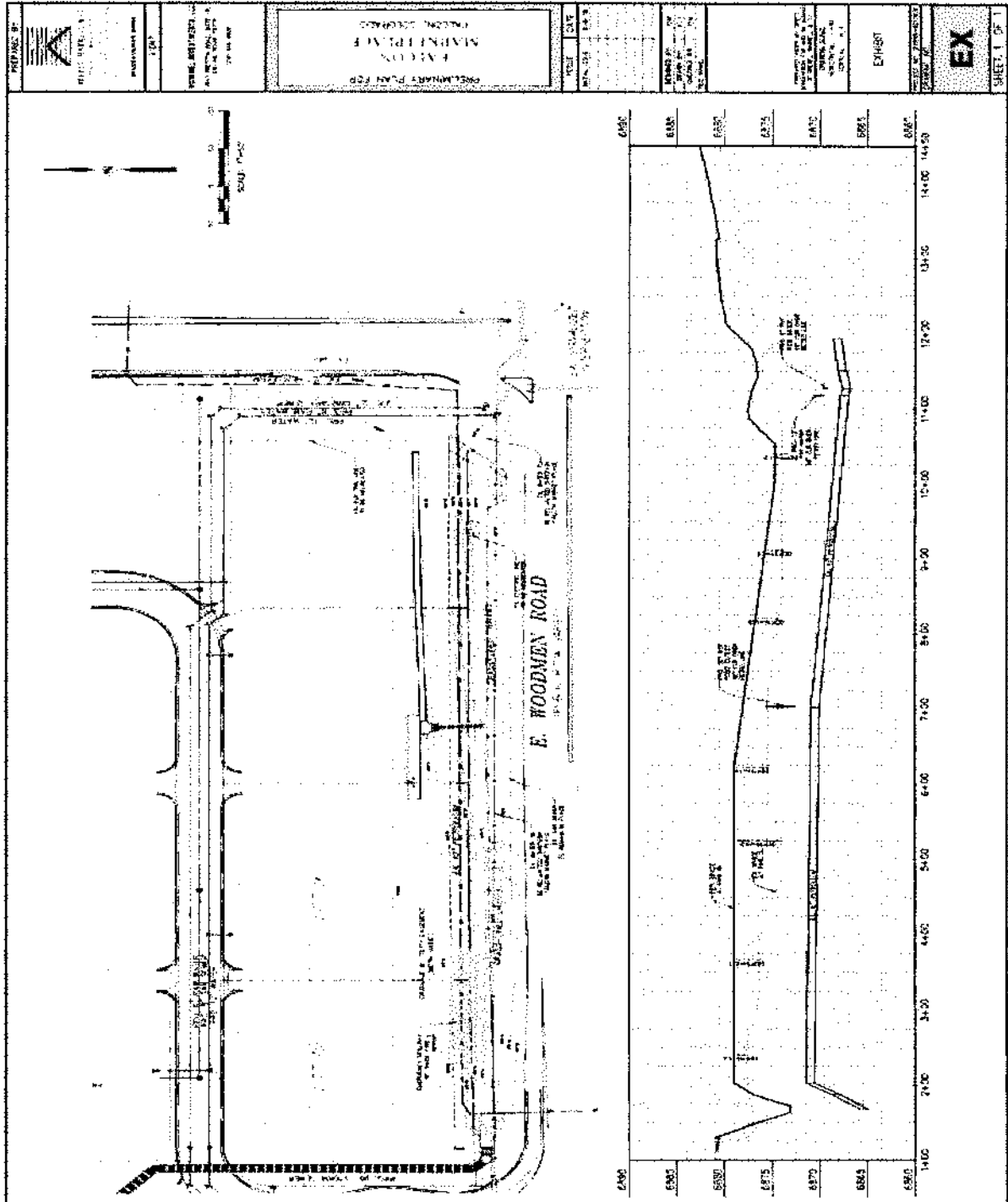
This instrument was acknowledged before me this 8<sup>th</sup> day of October, 2018, by CAROL HOCH, the Vice President of **NuStar GP, Inc.**, the general partner of **NuStar Logistics, L.P.**, a Delaware limited partnership, on behalf of the partnership.

  
\_\_\_\_\_  
Notary Public State of Texas  
My commission expires: 11/01/2019





# **EXHIBIT A** **Depiction of Proposed Improvements**



**EXHIBIT B**  
**GUIDELINES FOR DEVELOPMENT**  
**AROUND NUSTAR PIPELINES AND FACILITIES**

Rev. 04/06/2016

The following terms and guidelines should be taken into consideration for development around pipelines and facilities owned and operated by NuStar Energy L.P. and its subsidiaries and affiliates ("NuStar"):

1. In order to allow NuStar to safely maintain, operate and protect its pipeline(s), no dwelling, building, structure, area of congregation, fences, obstructions, landscaping, or other structures (including, but not limited to decks, pools, and playscapes) shall be constructed, permitted or placed within fifty feet (50') of either side of NuStar's pipeline(s), unless prior written permission from NuStar is obtained. Any tree canopy that overhangs within fifty feet (50') on each side of the pipeline(s) shall be subject to cutting or trimming in the future as the pipeline(s) undergo maintenance clearing. Furthermore, NuStar shall not be liable for any tree damages occurring as a result of said clearing.
2. No cover shall be removed from over the pipeline(s) or easement.
3. No fill shall be placed upon the pipeline(s) without prior written approval from NuStar. Excessive fill can impact the ability for NuStar to maintain, operate, and protect the pipeline(s).
4. All street or road crossings must have a minimum of five feet (5') of cover over the pipeline(s) and a minimum of three feet (3') of cover in any borrow or drainage ditches, if there are any. Any proposed street or road crossing that cross NuStar's pipeline(s) at less than a ninety-degree (90°) angle must be approved in writing by NuStar, prior to construction of said crossing. Approved parking areas must have a minimum of five feet (5') of cover over the pipeline(s) and be approved in writing by NuStar, prior to the construction of said parking area. All street or road crossings shall be constructed in a manner as to prevent erosion of NuStar's easement.
5. Should any modifications be required for NuStar to maintain, operate, or protect the pipeline(s) to meet the conditions stated herein, all costs associated with the said modifications, downtime of the pipeline(s), etc. shall be at the sole expense of the surface owner unless otherwise agreed upon. The surface owner will be required to enter into a reimbursement agreement with NuStar prior to any modifications being made.
6. No utility crossings shall be installed within twenty-four inches (24") of NuStar pipeline(s) and must cross underneath NuStar's pipeline(s) unless approved in writing from NuStar. Utility must cross pipeline(s) as close to ninety degrees (90°) as possible. No utility may be installed parallel and within fifty feet (50') of each side of the pipeline(s). All utility crossings shall be constructed in a manner as to prevent erosion of NuStar's easement.
7. Any seismic testing, or blasting of any kind, performed within the vicinity of, or otherwise affecting in any way, NuStar pipelines or facilities, requires additional NuStar approval. Information,

including but not limited to explosive type, weight, and charge arrangement, must be made available. A test shot shall be made away from the pipeline(s) and seismic reading obtained. Costs associated with these activities shall be borne by the excavator, contractor and/or developer.

8. No construction activity shall be performed within fifty feet (50') of either side of the pipeline(s), without contacting the appropriate state one-call system as well as providing NuStar with forty-eight (48) hours' notice. This will enable NuStar to schedule a representative to be present to mark the exact location of the pipeline(s) and to be present for any activities. Excavators MUST follow appropriate one-call law requirements regarding notification prior to excavation.
9. NuStar will not be responsible for the damage to, repair or replacement of any encroachments due to NuStar exercising its rights granted within the right-of-way grant and any subsequent agreements between the parties hereto, their heirs, successors, and assigns.
10. Line markers and other above ground pipeline appurtenances including but not limited to casing vents, barricades, cathodic protection test leads, or other cathodic protection facilities shall not be removed. All damages to these facilities during development activities require immediate notification to NuStar. Any cost associated with replacement or repair of such facilities will be at the sole cost of the responsible party and or surface owner.
11. Potholing within fifty feet (50') of either side of the pipeline(s) is not allowed without NuStar's prior written consent, and the on-site presence of NuStar personnel. The party performing potholing shall be held liable for any damage to NuStar's pipeline(s) or pipeline coating during potholing operations regardless of method used for potholing.
12. Applicable state one-call laws must be followed, and any costs associated with boring/directional drilling activities incurred by NuStar, such as pipeline(s) exposure, shall be made reimbursable to NuStar by the responsible party. The following clearances shall be provided for during boring activities within NuStar's pipeline easement:
  - A. Clearance during boring activities when pipeline is not fully exposed
    - I. Pipeline depth must be determined by NuStar personnel.
    - II. There must be at least ten feet (10') of clearance between NuStar's pipeline(s) and boring activities.
    - IV. Approval from NuStar's GM is required for boring activities when no exposure is possible.
  - B. Clearance during boring activities with full circumferential exposure
    - I. When the pipeline(s) is fully exposed and NuStar personnel are present and monitoring, NuStar personnel may authorize less than ten feet (10'), but not less than two feet (2'), of clearance from the pipeline(s).

II. Full circumferential exposure shall consist of two feet from the bottom edge of the pipeline. Consideration must be given to clearance during reaming activities.

C. Clearance during boring activities using excavation windows

I. Upon determination of pipeline depth, NuStar operations personnel will require an excavation window be established on the upstream side of the directional crossing.

II. The excavation window should be no closer than three feet (3') from the outside edge of the pipeline(s) but not greater than the width of the NuStar easement.

III. The depth of the excavation window must exceed two feet (2') from the bottom edge of the pipeline. Directional drilling may proceed provided that the drilling does not surface through the window.

IV. Operations personnel shall require two feet (2') of clearance from the bottom side of the pipeline(s) during reaming activities

13. Any new impressed current-type cathodic protection system, galvanic anode, or stray current mitigation systems located within, or otherwise affecting underground facilities within NuStar's easement, must be designed, installed and maintained so as to minimize any adverse effects on existing NuStar pipeline facilities. Notification to NuStar's Engineering Department is required prior to the installation of any new impressed current-type cathodic protection system, galvanic anode, or stray current mitigation systems located within or otherwise affecting underground facilities within NuStar's easement.

NuStar owns and maintains steel pipelines and facilities. These guidelines are necessary to maintain compliance with the state and federal regulations, and to provide as much protection as possible for NuStar's pipeline facilities and any proposed development in the vicinity of the pipeline facilities.

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

**Minimum Insurance Requirements – Easement/ROW**

In addition to Falcon's obligations of indemnification thereunder, Falcon shall, at its sole cost and expense, obtain and maintain, or ensure that its contractor obtain and maintain, the following insurance policies:

<b>Policy</b>	<b>Limits</b>	<b>Coverage</b>
Workers' Compensation	Amount required by Law in each state where Falcon conducts operations.	Must include coverage for alternate employers and borrowed servants, if leased employees will be used.
Employer's Liability	<ul style="list-style-type: none"> <li>• \$500,000 for bodily injury (each accident)</li> <li>• \$500,000 for bodily injury by disease (policy limits)</li> <li>• \$500,000 for bodily injury by disease (each employee)</li> </ul>	
Commercial General Liability	<ul style="list-style-type: none"> <li>• \$2,000,000 general aggregate limit</li> <li>• \$1,000,000 each occurrence limit (bodily injury/property damage)</li> <li>• \$1,000,000 each occurrence limit (personal injury and advertising injury)</li> <li>• \$2,000,000 aggregate limit (products/completed operations)</li> <li>• \$1,000,000 each occurrence limit (products/completed operations)</li> <li>• \$1,000,000 any one premises (damage to premises rented to you)</li> </ul>	Must be written on Insurance Services Office (ISO) Form CG 00 01 12 04 or a substitute form providing equivalent coverage, covering sudden and accidental or non-gradual pollution, liability arising from premises, operations, personal injury, advertising injury, products/completed operations, and liability assumed under an insured contract (including tort liability of a third party assumed in a business contract).
Business Automobile Liability	\$1,000,000 combined single limit (bodily injury/property damage)	Must include coverage for all owned, non-owned and hired vehicles.
Umbrella/Excess Liability	\$5,000,000 each occurrence limit	Must include terms at least as broad as the underlying Employer's Liability, Commercial General Liability and Business Automobile Liability policies.

The Workers' Compensation, Commercial General Liability and Business Automobile Liability policies will, to the fullest extent allowable by Law, include a waiver of subrogation in favor of NuStar, its Affiliates, and each of their respective officers, directors, employees and borrowed servants. The Commercial General Liability policy will (i) include NuStar, its Affiliates, and each of their respective officers, directors, employees and borrowed servants as additional insureds (collectively, the "Company Insured Group"); and (ii) be primary and non-contributory with respect to any insurance or self-insurance maintained by NuStar. Any additional insured endorsement may be either specific to the Company Insured Group or "blanket" or "automatic" (i.e., addressing any person or entity), as required by contract.

Falcon covenants and agrees to:

- (A) maintain the insurance coverages and limits required hereby and any additional insurance and/or bonds required by law (i) at all times during the term of this Agreement; and (ii) with respect to any coverage maintained in a "claims-made" policy, for two (2) years following termination of this Agreement; provided that, if a "claims-made" policy is maintained, the retroactive date must precede the date of the Agreement;
- (B) procure the required insurance from an insurance company eligible to do business in the state or states where access is being granted and having and maintaining a Financial Strength Rating of "A-" or better and a Financial Size Category of "VII" or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies; provided, however, with respect to Workers' Compensation insurance, Falcon may procure such insurance from the state fund of the state where access is granted; and
- (C) deliver to NuStar certificates of insurance stating the types of insurance and policy limits, and further provide, or cause the issuing insurance company to provide, at least 30 days prior written notice to NuStar of any cancellation, non-renewal, or reduction in coverage, terms, or limits. Falcon shall deliver such certificates (i) prior to execution of this Agreement; (ii) prior to expiration of any insurance policy required under this Agreement; and (iii) for any coverage maintained on a "claims-made" policy, for two (2) years following the termination of this Agreement.

NuStar and Falcon further covenant and agree that (i) the failure of NuStar to demand such certificate of insurance or failure of NuStar to identify a deficiency therein will not be construed as a waiver of Falcon's obligation to maintain the insurance required under this Agreement; (ii) the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect Falcon, nor be deemed as a limitation of Falcon's liability to NuStar in this Agreement; (iii) Falcon may meet the required insurance coverages and limits with any combination of primary and umbrella/excess liability insurance; and (iv) Falcon is solely responsible for any deductible or self-insured retention.