

**DEVELOPMENT AGREEMENT**  
**Sterling Northgate (SP 15-57)**  
**Oversize Participation on Waterline Extension**

This Agreement is by and between **Sterling – A&M Northgate, LLC**, (“Developer”), and the **City of Bryan, Texas** (“City”) a Texas home-rule municipal corporation.

WHEREAS, the Developer is proposing to construct Sterling Northgate, a multifamily development located on the southwest corner of Natalie and Boyett St. As part of this development, the Developer is required to construct approximately 1,030 linear feet of eight inch waterline; and

WHEREAS, the City of Bryan is motivated in extending approximately 441 linear feet of eight inch waterline, replacing an existing six inch waterline, to thereby better accommodate the proposed development, to improve waterline infrastructure, and increase fire protection in the area; and

WHEREAS, the Developer has submitted a proposal for the City to cost participate in the Project, as shown in the attached Letter titled “Sterling Northgate – Oversize Participation Request” with **Exhibit B** showing the extents of waterline cost participation, and **Exhibit A** showing the detailed cost estimate; and

WHEREAS, the total cost of the Public Infrastructure on this Project based on the Developer’s Engineer’s Estimate is **\$312,375.00** and the Developer is requesting the City participate in the reimbursement of the actual construction costs for extending the waterline in an amount not to exceed **\$88,548.00** (City Contribution Amount), which is approximately 28.35% of the total estimated construction costs.

WHEREAS, TEXAS LOCAL GOVERNMENT CODE SECTION 212.071 authorizes the City to cost participate with a Developer of a subdivision or land to construct public improvements.

NOW, THEREFORE, the parties agree to the following:

1. The Project will be constructed according to plans and specifications approved by the City. A Vicinity Map depicting the Project is shown in **Exhibit B**.
2. The cost breakdown for the Project is set forth in the attached **Exhibit A**.
3. The Developer will be responsible for the design and construction of the Project.
4. The City is cost participating at a not to exceed cost of \$88,548.00, which is the estimated cost of extending the waterline. The City’s actual payment will be \$88,548.00 or the documented hard costs associated with the project, whichever is less.
5. The Project will be constructed according to plans and specifications approved by the City.
6. The Developer shall be solely responsible for selecting, supervising and paying the construction contractor(s) or subcontractors and for complying with all applicable laws, including but not limited to all requirements concerning workers compensation and construction retainage. The

parties agree and understand that all contractors, employees, volunteers and personnel furnished or used by the Developer in the sanitary sewer line construction shall be the responsibility of the Developer and shall not be deemed employees or agents of the City for any purpose.

7. Upon completion of the Project, defined as acceptance of the public infrastructure by the City in accordance with applicable ordinances and rules of the City (including but not limited to the requirements of the Bryan-College Station Unified Design Manual), the Developer shall submit a request to the City for reimbursement and payment of the City Contribution Amount. The request for reimbursement must be accompanied by a copy of any contracts for construction, contractors' applications for payment; affidavits and any other evidence the City may reasonably request supporting these are actual costs incurred by the Developer to construct the sanitary sewer line in accordance with approved plans.
8. The Project must be completed by January 26, 2017. This completion date will not be extended without the City's written consent.
9. Insurance Requirements. The Developer shall include in the contract requirements that the contractor must maintain Commercial General Liability insurance coverage for all of its operations under the contract, with a limit of not less than \$1,000,000 per occurrence, and the City must be listed as an additional insured. All persons engaged in work under the contract must be covered by workers' compensation insurance.
10. Payment and Performance Bonds. The Developer must obtain a payment bond and a performance bond, in compliance with the requirements of Texas Government Code chapter 2253.
- 11. No Waiver of Immunity. The City's execution of and performance under the Agreement will not act as a waiver of any immunity of the City to suit or liability under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.**
- 12. Indemnity and Release. Developer agrees to and shall indemnify, hold harmless, and defend City and its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, expert fees and attorneys' fees, for injury to or death of any person, or for damages to any property, or for breach of contract, arising out of or in connection with the work done by Developer, its officers, employees, agents and contractors, under the Agreement, regardless of whether such injuries, death, damages or breach are caused in whole or in part by the negligence of City , any other party indemnified hereunder, or the Developer.**
- 13. Release. The Developer assumes full responsibility for the work to be performed hereunder, and releases, relinquishes and discharges the City, its officers, agents and employees, from all claims, demands, and causes of action of every kind and character, including the cost of defense therefore, for any injury to or death of any persons and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of ,**

**or in connection with, the Developer's work to be performed hereunder.**

14. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of Bryan:

Attn: W. Paul Kaspar, P.E.  
P.O. Box 1000  
Bryan, Texas 77805

Developer:

Sterling – A&M Northgate, LLC  
Attn: John Caltagirone  
3411 Richmond Ave, Ste 200,  
Houston, Texas 77046

15. Assigns. This Agreement shall be binding on and inure to the benefit of the parties to it and permitted assigns. Developer shall not assign this Agreement without the written approval of the City Council. An assignment to a subsidiary or affiliate company of Developer shall not be prohibited under this section.
16. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
17. Texas law to apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.
18. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.
19. Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.
20. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

21. Incorporation of Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.
22. Duplicate Originals. The parties may execute this Agreement in duplicate originals, each of equal dignity. If the parties sign this Agreement on different dates, the later date shall be the effective date of this Agreement for all purposes.

Gender and Number. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, unless the context requires otherwise.

**Executed this \_\_\_\_ day of \_\_\_\_\_, 2016, to be effective when executed by each of the parties.**

**CITY OF BRYAN**

**Approved:**

\_\_\_\_\_  
Jason P. Bienski, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

Approved as to Form:

\_\_\_\_\_  
Janis K. Hampton, City Attorney

**DEVELOPER:**

**Sterling – A&M Northgate, LLC**  
A Delaware limited liability company

**MEMBER:**

Din/Cal – A&M Northgate, LLC  
A Delaware limited liability company  
Its Sole Member

By: Class A Investors A&M Northgate, L.P.,  
A Delaware limited liability company  
Its Sole Member

By: Class A A&M Northgate, Inc.  
A Texas corporation  
Its General Partner

\_\_\_\_\_  
John Caltagirone, Vice President



Dr. Jayson Barfknecht, PE  
Public Works & Water Services Director  
City of Bryan  
1111 Waco Street  
Bryan, Texas 77803

November 25, 2015

***RE: Sterling Northgate Apartments – Request for Oversize Participation – New 8” Waterline along the project site and parallel to Natalie Street in Bryan, Texas***

Dear Dr. Barfknecht:

Sterling – A&M Northgate, LLC, as the owner / developer of the Sterling Northgate Apartments, would like to request participation from the City of Bryan for the replacement of an existing 6 inch waterline to an 8 inch waterline to be constructed along Natalie Street from the western property line of Lot 2RA, Block 1 of the Hyde Park Addition to the existing fire hydrant at the intersection of Natalie & Boyett Streets. This is approximately 441 linear feet of 8 inch waterline.

The waterline analysis for the Sterling shows that this project only requires the construction of approximately 1,030 linear feet of new 8 inch waterline to be constructed from Clay Street at Wellborn Road to the western property line of Lot 2RA, Block 1 of the Hyde Park Addition.

The City of Bryan Water Services Department has requested that the Sterling project construct the additional 441 linear feet of new 8 inch waterline as a replacement of the existing 6 inch waterline in an effort to improve the waterline system in the area.

A sealed Engineer’s Cost Estimate for the cost sharing is attached as Exhibit A. As seen on this exhibit the requested oversize participation is less than 30 % of the total cost of the waterline construction allowing this project to avoid the public bidding process.

If you have any questions or comments, please feel free to call our office at (979) 260-6963.

Sincerely,

A handwritten signature in black ink, appearing to read "Veronica JB Morgan".

Veronica JB Morgan, P.E., CFM  
Managing Partner

cc: file  
Curtis Burnett, Dinerstein Companies

Attachments: Sealed Engineer’s Cost Estimate

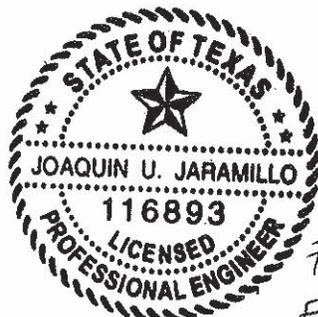
# Exhibit A - Cost Estimate

## The Sterling - Bryan 3-Story Building

### Engineer's Estimate of Construction Costs December 23, 2015

Item #	Description	Unit	Unit Price	Quantity	Total
<b>Site Preparation - Water Construction</b>					
1	Mobilization	L.S.	\$2,500.00	1.0	\$2,500
2	Prepare ROW	L.S.	\$3,500.00	1.0	\$3,500
3	Construction Staking	L.S.	\$3,000.00	1.0	\$3,000
<b>Site Preparation Subtotal</b>					<b>\$9,000</b>
<b>Water System Construction - Required of Development</b>					
4	8" PVC Waterline (AWWA C900-DR14) in Structural Backfill	L.F.	\$70.00	668	\$46,760
5	8" PVC Waterline (AWWA C900-DR14) without Structural Backfill	L.F.	\$60.00	361	\$21,660
6	8" M.J. Gate Valve	EACH	\$1,200.00	3	\$3,600
7	8"x45° M.J. Bend	EACH	\$700.00	2	\$1,400
8	8"x11.25° M.J. Bend	EACH	\$600.00	1	\$600
9	8"x6" M.J. Tee	EACH	\$600.00	2	\$1,200
10	6"x45 M.J. Bend	EACH	\$500.00	2	\$1,000
11	6" M. J. Gate Valve	EACH	\$900.00	2	\$1,800
12	6"x 2" Tapped Tee	EACH	\$300.00	1	\$300
13	2" M.J. Gate Valve	EACH	\$200.00	1	\$200
14	New Fire Hydrant Assembly	EACH	\$4,000.00	1	\$4,000
15	8"x1" Service Saddle & Reconnection of existing services (short)	EACH	\$1,500.00	1	\$1,500
16	Concrete Repair	S.Y.	\$60.00	78	\$4,680
17	Asphalt Repair	S.F.	\$10.00	206	\$2,060
18	Connect to Existing System	EACH	\$2,500.00	1	\$2,500
19	Bacteria Test (1/2)	EACH	\$1,000.00	1	\$1,000
20	Pressure Test (1/2)	EACH	\$1,750.00	1	\$1,750
21	Trench Safety	L.F.	\$3.00	1029	\$3,087
22	2" Copper Service Line	L.F.	\$120.00	9.25	\$1,110
23	Combination Fire/Water Meter Assembly	EACH	\$25,000.00	1	\$25,000
24	Traffic Control	L.S.	\$3,750.00	1	\$3,750
<b>Water System Subtotal</b>					<b>\$128,957</b>
<b>Sanitary Sewer System Construction</b>					
25	Connect to Exist System	L.S.	\$3,000.00	1	\$3,000
26	Grout Fill Existing Sanitary Sewer Service Lines	L.F.	\$10.00	1500	\$15,000
27	Remove Existing Sanitary Sewer Service Lines	L.F.	\$13.00	4990	\$64,870
<b>Sanitary Sewer System Subtotal</b>					<b>\$82,870</b>
<b>Erosion Control Construction</b>					
28	Erosion Control Plan & Sedimentation Control (includes silt fencing, construction exits, straw bale barriers, inlet protection, grass seeding, and any other sedimentation control devices)	L.S.	\$3,000.00	1.0	\$3,000
<b>Erosion Control Subtotal</b>					<b>\$3,000</b>
<b>Water System Construction - Oversize Participation Request</b>					
29	8" PVC Waterline (AWWA C900-DR14) in Structural Backfill	L.F.	\$70.00	441	\$30,870
30	6" PVC Waterline (Remove)	L.F.	\$20.00	76	\$1,520
31	New Fire Hydrant Assembly	EACH	\$4,000.00	1	\$4,000
32	8" M.J. Gate Valve	EACH	\$1,200.00	2	\$2,400
33	8"x45° M.J. Bend	EACH	\$700.00	8	\$5,600
34	8"x 6" M.J. Tee	EACH	\$600.00	1	\$600
35	8" x 6" M.J. Reducer	EACH	\$600.00	1	\$600
36	6" M. J. Gate Valve	EACH	\$900.00	1	\$900
37	8"x 2" Tapped Tee	EACH	\$400.00	1	\$400
38	2" Blow off valve and meter box	EACH	\$1,200.00	1	\$1,200
39	8"x1-1/2" Service Saddle & Reconnection of existing services (Long)	EACH	\$2,500.00	9	\$22,500
40	Grout Fill existing 6" Waterline	L.F.	\$15.00	365	\$5,475
41	Asphalt Repair	S.F.	\$10.00	216	\$2,160
42	Connect to Existing System	EACH	\$2,500.00	1	\$2,500
43	Bacteria Test (1/2)	EACH	\$1,000.00	1	\$1,000
44	Pressure Test (1/2)	EACH	\$1,750.00	1	\$1,750
45	Trench Safety	L.F.	\$3.00	441	\$1,323
46	Traffic Control	L.S.	\$3,750.00	1	\$3,750
<b>Water System OP Subtotal</b>					<b>\$88,548</b>

Project Total w/o OP	\$223,827
Project Total w/ OP	\$312,375
Percent of Participation	28.35%



*Joaquin U. Jaramillo* 12/23/2015  
 (Joaquin U. Jaramillo, P.E.) (Date)

Firm #  
 F-1443

# Exhibit B - Location Map

WELLBORN RD

6 in  
6 in  
ORAN CR

Bryan

6 in  
6 in  
6 in  
6 in  
GAYTHA CR

NATALIE ST

Existing 6" Waterline to be Replaced with 8" Waterline

BOYETT ST

FIRST ST

College Station

SPRUCE ST

