

RESOLUTION NO. 2020-216

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND BRISA RESIDENCES, LLC, FOR THE PROVISION OF UTILITY SEWER UNIT CONNECTION FEE REFUND AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE SEWER UNIT CONNECTION REFUND AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, Brisa Residences, LLC (Developer) is required to design, construct, and dedicate specific Wastewater Transmission Contributions to the County for ownership and maintenance in order for the County to provide utility service to the Lightsey Road Apartments PUD as described in Ordinance 2010-22; and

WHEREAS, the Developer is required to complete the required utility transmission contributions to provide service to the PUD; and

WHEREAS, St. Johns County, Florida (County) currently has an ordinance to refund unit connection fees for transmission mains installed by Developers; and

WHEREAS, the Developer pre-paid all utility unit connection fees for the Lightsey Road Apartments Project (MULTIFAM 2018000001) on April 23, 2019 prior to completing construction of the Contributed Section; and

WHEREAS, in consideration for the pre-payment of the unit connection fees and due to the financial magnitude of the infrastructure, the proposed sewer unit connection refund Agreement proposes unique provisions to allow retroactive refund of the transmission component of the unit connection fees collected upon recordation of this Agreement; and

WHEREAS, the County will collect the unit connection fees applicable to the sewer unit connection fee refund Agreement and pay Developer on a quarterly basis; and

WHEREAS, the sewer unit connection refund Agreement is valid until April 23, 2025, which is six (6) year time period from the date of initial unit connection fee payment by the Developer, and the time limit is consistent with timeframes defined in Utility Ordinance, Section 25 -E; and

WHEREAS, the County has determined that accepting the terms of the Sewer Unit Connection Fee Refund Agreement, which is attached hereto, and incorporated herein, will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. The above recitals are hereby incorporated into the body of this resolution and are adopted as findings of fact.

Section 2. The Board of County Commissioners approves the terms, provisions, conditions, and requirements of the Sewer Unit Connection Fee Refund Agreement between St. Johns County, Florida, and Brisa Residences, LLC and authorizes the County Administrator to execute this Sewer Unit Connection Fee Refund Agreement on behalf of St. Johns County substantially in the form attached hereto.

Section 3. If there are typographical or administrative errors or omissions that do not change the tone, tenor, or context of this resolution, this resolution may be revised without subsequent approval of the Board of County Commissioners.

Section 4. This resolution shall be effective upon adoption by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 16 day of June, 2020.

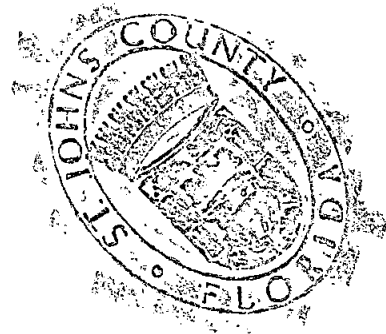
BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: Jeb S. Smith
Jeb S. Smith, Chair

RENDITION DATE 6/18/20

Attest: Brandon Patty, Clerk

By: Pam Halterman
Deputy Clerk



**SEWER UNIT CONNECTION
FEE REFUND AGREEMENT**

THIS SEWER UNIT CONNECTION FEE REFUND AGREEMENT (the “Agreement”) is entered into, and made effective, this ____ day of _____, 2020, by and between Brisa Residences, LLC, an Alabama limited liability company (“DEVELOPER”), and ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida (the “COUNTY”).

In consideration of the mutual promises and representations contained in this instrument, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Background.** DEVELOPER is the developer and has constructed improvements within the multi-family residential development project known as the Lightsey Road Apartments PUD, located within the parcel of land zoned PUD pursuant to Ordinance No. 2010-22 recorded in Official Records Book 3332, Pages 699 – 720 of the official records of St. Johns County, Florida. Lightsey Road Apartments PUD is located at the intersection of State Road 207 and Lightsey Road in St. Johns County, Florida and is more particularly described on the attached and incorporated **Exhibit A**. DEVELOPER plans to develop the Property with up to 256 multi-family residential units, and 25,000 square feet of non-residential commercial use space as described in the Lightsey Road Apartments PUD.

DEVELOPER has requested a refund pursuant to Section 25-E of the St. Johns County Utility Ordinance (Ordinance 2013-13) in consideration of DEVELOPER’s installation of approximately 971 feet of 16-inch (nominal) force main, and 201 feet of 20-inch nominal horizontal directional drilled force main (the “Sewer Mains) required to meet the anticipated utility transmission needs for the region. The Sewer Mains (collectively referred to herein as the “Contributed Sections”) are located within the road rights of way and are adjacent to State Road 207. The Contributed Sections were constructed and dedicated to the COUNTY in connection with the SR 207 Forcemain Improvements project as a requirement for service for the Lightsey Road Apartments PUD Project (MULTIFAM 2018000001) and are more particularly described in the Schedule of Values attached as **Exhibit B**, which is incorporated herein. The location of the Contributed Section is depicted on **Exhibit C**.

This Agreement states the terms and conditions upon which a refund of the transmission component of sewer unit connection fees paid by DEVELOPER or others who connect to the Contributed Sections as allowed and contemplated under Ordinance 2013-13, shall be paid by the COUNTY to DEVELOPER.

It is expressly noted that as a condition precedent for any refund permitted under this Agreement, DEVELOPER must first, at its expense, record this Agreement (upon proper execution by authorized representatives of both the COUNTY and DEVELOPER) with the Clerk of Courts in the official records of St. Johns County, Florida. The failure of DEVELOPER to have this Agreement recorded as noted above shall bar DEVELOPER from receiving any subsequent refunds on water and sewer unit connection fees until this Agreement has been properly recorded.

2. **Limitation of Amount of Refund.** In accordance with the provisions of Section 25-E of Ordinance 2013-13, any refund payable to DEVELOPER as a result of payment by DEVELOPER of sewer unit connection fees, or as the result of payment of sewer unit connection fees by others who connect, or have connected, to the Contributed Sections, shall be limited to the value of the transmission component of such unit connection fees. In addition, the cumulative amount of all refund payments to DEVELOPER pursuant to this Agreement shall in no event exceed \$480,824.89, which is the actual total cost of the Contributed Sections as verified by the final contractor's Schedule of Values in **Exhibit B** and herein referred to as the "Contributed Sections Cost".

3. **Payment of Refund in Connection with Connection Fee Payments.** As approved by Resolution of the St. Johns County Board of County Commissioners in accordance with Section 25-E of Ordinance 2013-13, the County will track and retain the transmission component of water unit connection fees collected within the Lightsey Road Apartments PUD starting from April 23, 2019, which was the date of payment for unit connection fees for the development, up to the date of this Agreement for the purpose of retroactively refunding to the Owner upon execution and recordation of this Agreement with the Clerk of Courts. The retroactive refund payment will be processed within three weeks following the recordation of this Agreement with the Clerk of the Court. Upon recordation of this Agreement with the Clerk of the Court, and upon payment by DEVELOPER or others as set forth in Section 4 below of any sewer unit connection fees for the Lightsey Road Apartments PUD or paid by others connecting to the Contributed Sections on or before April 23, 2025, DEVELOPER shall be entitled to a refund of the transmission component of any such sewer unit connection fees in an amount not to exceed the Contributed Sections Cost. The refund described in this Section shall be paid to DEVELOPER quarterly upon payment by DEVELOPER or others of such sewer unit connection fees, whether in connection with a Capacity Commitment Agreement, or as connections are actually made, and shall be payable simultaneously with payment of such sewer unit connection fees. Sewer unit connection fees paid by DEVELOPER or others after April 23, 2025 shall not entitle DEVELOPER to a refund under this Section 3, unless the time period in this Section 3 is extended by the COUNTY as allowed by Ordinance 2013-13 or revision thereof.

4. **Connection by Others.** In the event that other users, builders or developers connect to the Contributed Sections as depicted on **Exhibit C** on or prior to April 23, 2025, DEVELOPER shall be entitled to a refund equal to the value of the sewer transmission component of any such sewer unit connection fees paid by others in an

amount which, cumulatively with any other refund payments paid to DEVELOPER under the terms of this Agreement, shall not exceed the Contributed Sections Cost.

5. **Entire Agreement.** No prior Agreements or representations shall be binding upon the parties, unless included in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties, unless in writing, and executed by the party or parties to be bound thereby.

6. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

7. **Notice.** Any notices required or allowed to be delivered under this Agreement shall be documented in writing and shall be deemed to be delivered when (i) hand delivered to the official designated below, or (ii) upon receipt of such notice when deposited in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, addressed to a party at the address set forth under the parties names below or at such other address as the part shall have specified by written notice to the other party delivered in accordance with this Agreement:

To County: St Johns County Utilities Department
1205 State Road 16
St Augustine, FL 32084
Attention: Chief Engineer-Development
Phone: (904) 209-2700

To Developer: Brisa Residences, LLC
500 Office Park Drive, Suite 215
Birmingham, AL 35223
Attention: Holder Nevins
Phone: 205-427-2148

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

Signed, sealed and delivered
in the presence of:

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

Print Name:

By: _____
Print Name: _____
Title: _____

Print Name

ATTEST:

Brandon Patty
Clerk of the Court

By: _____

Deputy Clerk

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2020, by _____, as _____ of St. Johns County, a political subdivision of the State of Florida.

(Print Name _____)
NOTARY PUBLIC
State of Florida at Large
Commission # _____
My Commission Expires: _____
Personally Known __ or Produced I.D. __
[check one of the above]
Type of Identification Produced _____

Signed, sealed and delivered
in the presence of:

**BRISA RESIDENCES, LLC, a
Alabama limited liability company**

Print Name: _____

By: _____
Print Name: _____
Title: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2020, by _____, as _____ of BRISA RESIDENCES, LLC, an Alabama limited liability company, on behalf of the company.

(Print Name _____)
NOTARY PUBLIC
State of Florida at Large
Commission # _____
My Commission Expires: _____
Personally Known __ or Produced I.D. _
[check one of the above]
Type of Identification Produced _____

EXHIBIT "A"

[PARCEL MAP & LEGAL DESCRIPTION]

PARCEL B - LIGHTSEY ROAD

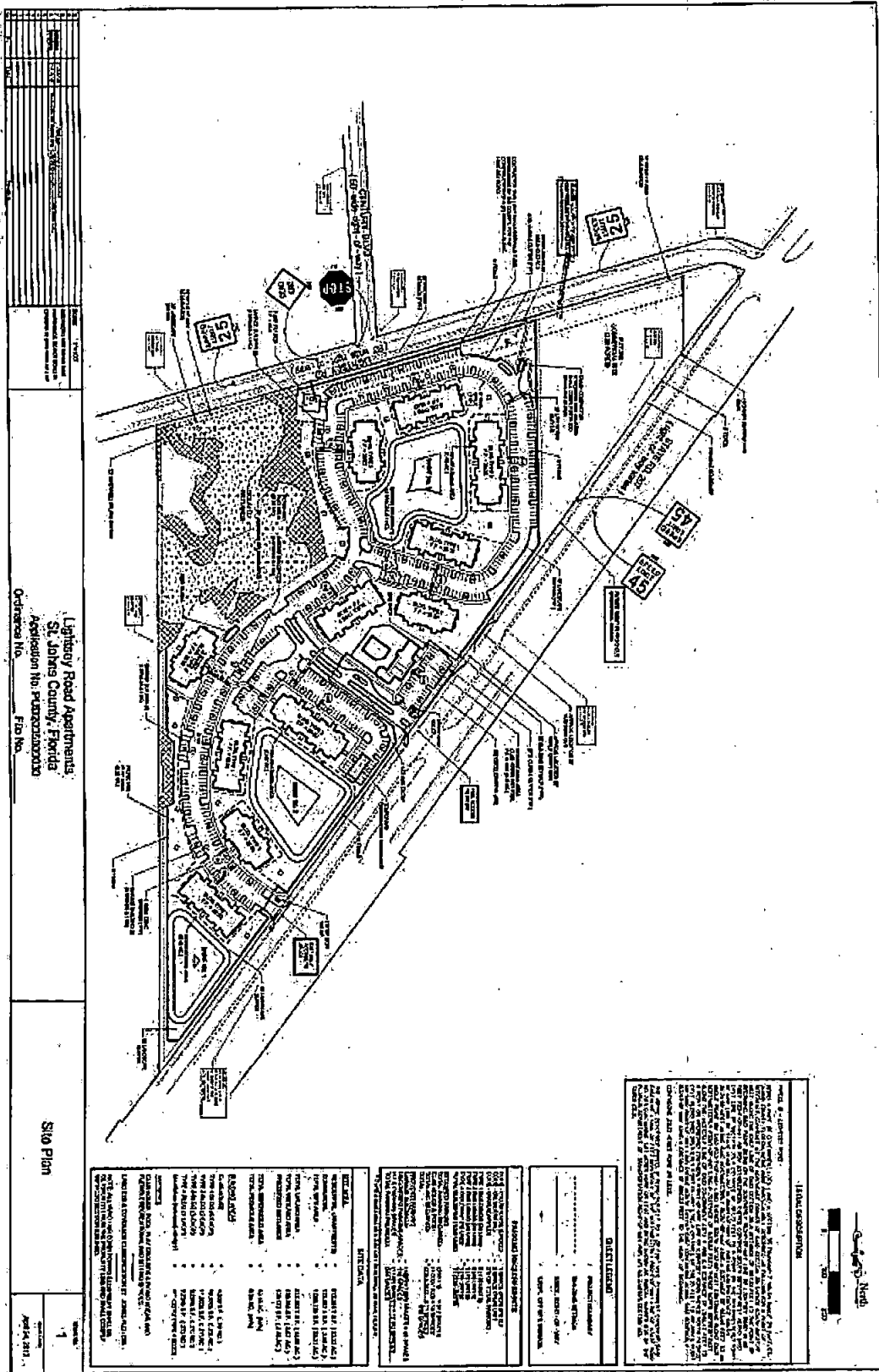
BEING A PART OF GOVERNMENT LOTS 1 AND 4, SECTION 35, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 35;

THENCE SOUTH 00°27'19" WEST ALONG THE SAID EAST LINE OF SAID SECTION 35, A DISTANCE OF 587.81 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF LIGHTSEY ROAD (A 60 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE CONTINUE SOUTH 00°27'19" WEST ALONG SAID EAST LINE OF SECTION 35, A DISTANCE OF 187.15 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 207 (A RIGHT-OF-WAY OF VARYING WIDTH); THENCE SOUTH 36°24'16" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 961.45 FEET TO AN ANGLE POINT ON SAID RIGHT-OF-WAY LINE; THENCE SOUTH 36°32'08" WEST CONTINUING ALONG SAID NORTH- WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1169.82 FEET; THENCE NORTH 00°00'01" EAST ALONG THE WESTERLY LINE OF SAID GOVERNMENT LOTS 4 AND 1, A DISTANCE OF 1548.43 FEET TO A POINT ON AFORESAID SOUTHERLY RIGHT-OF-WAY LINE OF LIGHTSEY ROAD; THENCE NORTH 74°54'21" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 510.35 FEET TO AN ANGLE POINT ON SAID RIGHT-OF-WAY LINE; THENCE NORTH 74°11'47" EAST CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 806.23 FEET TO THE POINT OF BEGINNING.

CONTAINING 25.21 ACRES MORE OR LESS.

THE ABOVE DESCRIBED PARCEL B BEING SUBJECT TO A 20 FOOT WIDE PERMANENT EASEMENT, SAID EASEMENT LYING 20 FEET NORTHERLY OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 207; CONTAINING 1.03 ACRES MORE OR LESS AND BEING KNOWN AS PARCEL NUMBER 838 BY THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, WPI NO. 2116939, SECTION NO. 78050-2516.



Lightsey Rd Apartments Offsite (SR 207 FM) (MULTIFAM 201800001)
 W&S Refund Agreement
 April 21, 2020

EXHIBIT "B"

[SCHEDULE OF VALUES]



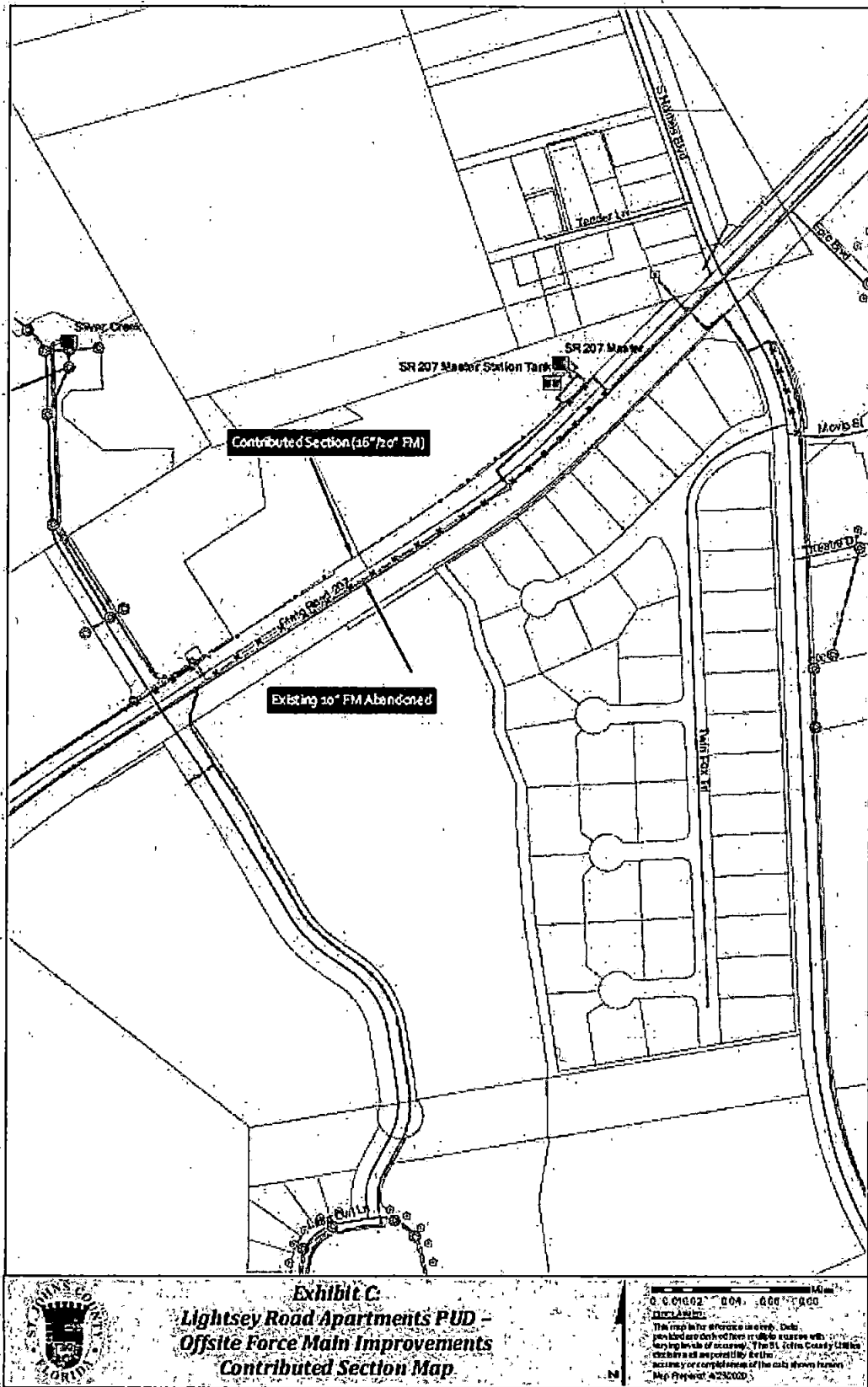
**St. Johns County Utility Department
Asset Management
Schedule of Values**

Project Name:	SR207 FM Improvements - Silver Creek Ln to Master Lift Station
Contractor:	P & S Paving, Inc.
Developer:	

	UNIT	QUANTITY	UNIT COST	TOTAL COST
Force Mains (Size, Type & Pipe Class)				
20" HDPE DR-11	LF	201	\$ 758.69	\$ 152,497.44
16" Fusible C900	LF	917	\$ 157.29	\$ 144,233.40
16" PVC	LF	54	\$ 1,795.96	\$ 96,981.92
Abandon Existing FM	LS	1	\$ 21,840.63	\$ 21,840.63
	LF		\$ -	\$ -
Sewer Valves (Size and Type)				
16" Gate Valve & Box	Ea	2	\$ 8,843.00	\$ 17,686.00
Fittings	Ea	22	\$ 1,751.75	\$ 38,538.50
16x2 Air Release Valve Assy	Ea	1	\$ 9,047.00	\$ 9,047.00
	Ea		\$ -	\$ -
Gravity Mains (Size, Type & Pipe Class)				
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
	LF		\$ -	\$ -
Laterals (Size and Type)				
	EA		\$ -	\$ -
	EA		\$ -	\$ -
	EA		\$ -	\$ -
	EA		\$ -	\$ -
Manholes (Size and Type)				
4-8 foot deep	EA		\$ -	\$ -
8-8 foot deep	EA		\$ -	\$ -
8-10 foot deep	EA		\$ -	\$ -
10-12 foot deep	EA		\$ -	\$ -
> 12 foot deep	EA		\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -
Lift Station			\$ -	\$ -
Mechanical Equipment	Lump Sum		\$ -	\$ -
Process Piping	Lump Sum		\$ -	\$ -
Process Structure	Lump Sum		\$ -	\$ -
Process Electrical Equipment	Lump Sum		\$ -	\$ -
Other Improvements	Lump Sum		\$ -	\$ -
Total Sewer System Cost				\$ 480,824.89

EXHIBIT "C"

[CONTRIBUTED SECTIONS LOCATION MAP]



Lightsey Rd Apartments Offsite (SR 207 FM) (MULTIFAM 2018000001)
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 April 21, 2020