

**AGREEMENT FOR PUBLIC ROAD CROSSING, 15th ST. EAST IMPROVEMENTS,
MANATEE COUNTY, FL**

THIS AGREEMENT, made and entered into this 15th day of September, ²⁰¹⁰2010, by and between **SEMINOLE GULF RAILWAY, L.P.**, a Delaware limited partnership, whose mailing address is 4110 Centerpointe Drive, Suite 207, Fort Myers, Florida 33916, hereinafter referred to as "**SGLR**", and **MANATEE COUNTY**, a political subdivision of the State of Florida, hereafter referred to as "**COUNTY**".

WITNESSETH:

WHEREAS, SGLR owns the track and other rail facilities (the "**Rail Facilities**") comprising a line of railroad that crosses at grade, 15th St. E., at or near **Manatee County**, Florida (the "**Crossing**"); and

WHEREAS, SGLR's Rail Facilities occupy land and right of way owned by CSX Transportation, Inc. ("**CSXT**"), and leased to SGLR pursuant to a lease Agreement dated November 13, 1987 (the "**Lease Agreement**"); and

WHEREAS, the Lease Agreement authorizes SGLR to enter into this Agreement;

WHEREAS, COUNTY has a street improvement over and through the Crossing pursuant to an existing agreement, dated June 18, 1950 between SGLR and COUNTY;

WHEREAS, the COUNTY and SGLR desire to enter into an Agreement setting forth the implementation of a Crossing Improvement Project as defined below; and

WHEREAS, SGLR shall be responsible at the full cost of the COUNTY for undertaking certain construction relating to the Crossing; and

WHEREAS, COUNTY is willing to allow SGLR to perform such maintenance, widening and improving at the full cost and expense of the COUNTY on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, and intending to be legally bound, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. SGLR, for and in consideration of Ten Dollars (\$10.00) to it in hand paid by COUNTY, the receipt of which is hereby acknowledged, and of the covenants and agreements to be kept and performed by COUNTY as hereinafter expressed, SGLR hereby agrees to improve the existing crossing, hereto.

Revised 12/16/2010

3. (a) Work performed by Seminole Gulf Railway pursuant to this Agreement shall be that work between the rails of the crossing and for two feet outside of the rails of the crossing, exclusive of paving, but to include all rail elements and sub-surface work as necessary. All materials that constitute the rail elements, to include the rubber crossing interface material, ties, rail, and other on-track materials as necessary shall be furnished by Seminole Gulf Railway.

(b) SGLR agrees to perform the Crossing Improvement Project for a lump sum cost, (the "Project Cost") of Eighty Three Thousand (\$ 83,000.00) Dollars, which will cover all work to be performed, and all materials to be furnished by SGLR in connection with the improvement of the Crossing. COUNTY agrees to pay the Project Cost to SGLR as follows: one half of the Project Cost, Forty One Thousand Five Hundred (\$ 41,500.00) Dollars, shall be paid upon the execution of this Agreement; the balance of the lump sum, Forty One Thousand Five Hundred (\$ 41,500.00) Dollars, shall be paid upon completion of SGLR's portion of the work. Seminole Gulf Railway agrees to perform all of the crossing improvement in a timely fashion and in coordination with a County schedule in order to allow the County to establish a contractor to perform the necessary roadway work. In the event there is a delay to all or part of the project, resulting from a delay caused by either party, Seminole Gulf Railway agrees to reschedule the work to be performed as soon as possible after such an event.

(c) The County shall be responsible for all roadway surface work, exclusive of the rubber interface material, and other rail elements. COUNTY will install all paving and concrete surfacing up to the rubber interface outside of the rails in the Crossing area, as well as any paving and concrete placement between the rails, and rubber interface material, as required. The County shall also provide all Maintenance of Traffic, road closures, detours, and Law Enforcement for traffic control as needed throughout the project. Seminole Gulf Railway shall provide flagman/Inspection services to the County for the paving operations by the County's contractor, as needed.

4. At such time that SGLR performs work at the Crossing pursuant to this Agreement, COUNTY and SGLR will develop and agree upon a traffic plan. The costs to route vehicular traffic around or through the crossing replacement work zone will be at the County's expense.

5. (a) This Agreement shall not be binding until it has been authorized or ratified by Manatee County Board of County Commissioners.

(b) This Agreement does not supersede or cancel any agreements relating to the Crossing. The purpose of this agreement is to expedite the maintenance and/or improvement of the existing Crossing in connection with street improvements that may be performed by COUNTY, to permit the safe use of the Crossing area by the public.

6. (a) SGLR for itself and for its successors and assigns, agrees to release, indemnify, defend and save harmless the COUNTY and its respective officers, employees, agents and successors and assigns, from and against all damages, losses, claims, demands, suits, costs or expenses, including counsel fees, which the COUNTY may suffer or sustain, or be subject to, directly or indirectly, for personal injury, death or property damage suffered by anyone and arising out of or caused by the work performed by SGLR.

(b) To the extent permitted by law, COUNTY for itself and for its successors and assigns, agrees to release, indemnify, defend and save harmless SGLR and its respective officers, employees, agents and successors and assigns, from and against all damages, losses, claims, demands, suits, costs or expenses, including counsel fees, which SGLR may suffer or sustain, or may be subject to, directly or indirectly, for personal injury, death or property damage suffered by anyone and arising out of or caused by the work performed by the COUNTY. Nothing herein is intended to waive the limits on the COUNTY's Sovereign Immunity set forth in Section 768.28 Florida Statutes nor to constitute consent to be sued by third parties.

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate the day and year first above written.

WITNESSES FOR SGLR:

SEMINOLE GULF RAILWAY, L.P.
By its General Partner,
Seminole Gulf Railway, Inc.

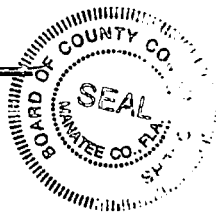
By: *Harry E. Neeves*
Harry E. Neeves
Vice President, Public Projects

Kurt Green
M. E. Gray

ATTEST:

R. B. Shore, Clerk of
The Circuit Court and
Ex-Officio Clerk of the Board
Of County Commissioners of
Manatee County, Florida

By: *Jessie J. Davis*
Deputy Clerk



BOARD OF COUNTY
COMMISSIONERS OF MANATEE
COUNTY, FLORIDA

By: *[Signature]*
Chairman *1/6/11*
Manatee County, Board of
County Commissioners

APPROVED AS TO FORM:

By: _____
COUNTY Attorney

ACKNOWLEDGMENT OF SEMINOLE GULF RAILWAY, L.P.

STATE OF FLORIDA

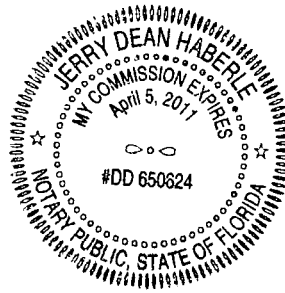
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 16 day of December 2010, by Harry E. Neeves, who is personally known to me and serves as Vice President of Seminole Gulf Railway, Inc., on behalf of the Corporation, in its capacity as general partner of Seminole Gulf Railway, L.P.

[Handwritten Signature] (Seal)

NOTARY

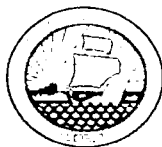
My Commission Expires:



Revised 12/16/2010

*2 originals to C. Butzow /
Not 1/6/11*

MEMORANDUM



Public Works Department
Administration
1022 26th Avenue East
Bradenton, FL 34208

MANATEE COUNTY
FLORIDA

Phone: 941.708-7480
Fax: 941.708-7500
www.myanatee.org

To: Susan Romine, Manager, Clerk of Courts
From: Chad Butzow, P.E., Deputy Director – Field Operations Services *CAB*
Date: January 4, 2011
Subject: Agenda Item 37, December 7, 2010, Rail Crossing Repair Proposal with Seminole Gulf Railway at 15th St. E.

During the Board of County Commissioners Regular Meeting of December 7, 2010, the above item was approved in open session with the Chairman executing the agreement attached to the agenda. Prior to the document being recorded, a scrivener's error was discovered in the document relating to the payment amount. Attached is a revised agreement reflecting the correct payment amount of \$83,000.00.

Public Works requests this document be placed on the Clerk's Consent Agenda requesting authorization for the Chairman to execute this agreement in replacement of the scrivener's error signed December 7, 2010, and record the replacement agreement into public record.

cc: Ron Schulhofer, Public Works Director

ACCEPTED IN OPEN SESSION

JAN 06 2011

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

RECEIVED

JAN 05 2011

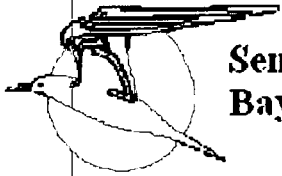
BOARD RECORDS

RECEIVED

DEC 17 2003

TRANSMITTAL

MANATEE COUNTY
PUBLIC WORKS



**Seminole Gulf Railway LP
Bay Colony Railroad Corp.**

TO: Chad Butzow
Manatee County

FROM: Harry E. Neeves V.P.
4110 Centerpointe Drive, Suite 207
Fort Myers, FL 33916

ATTN:
RE:

DATE:

WE ARE SENDING YOU

- | | |
|---|---|
| <input type="checkbox"/> APPLICATION FOR AGREEMENT | <input type="checkbox"/> UNDER SEPARATE COVER VIA |
| <input type="checkbox"/> INSURANCE & R-O-W REQUIREMENTS | <input type="checkbox"/> ATTACHED DOCUMENTS |
| <input type="checkbox"/> FINAL AGREEMENT | <input type="checkbox"/> PRINTS & SPECIFICATIONS |
| <input type="checkbox"/> INVOICE | <input type="checkbox"/> COPY OF LETTER |

QUANTITY	DESCRIPTION
3	Agreements Executed by SGLR (Revised 12/16/2010)

THESE ARE TRANSMITTED AS INDICATED BELOW

- | | |
|--|--|
| <input type="checkbox"/> FOR YOUR USE | <input type="checkbox"/> FOR YOUR FILE |
| <input type="checkbox"/> FOR REVIEW AND COMMENT | <input type="checkbox"/> AS REQUESTED |
| <input checked="" type="checkbox"/> FOR APPROVAL | <input type="checkbox"/> |

REMARKS:

COPY TO:

**IF MATERIAL RECEIVED IS NOT AS LISTED, PLEASE NOTIFY US AT ONCE
PHONE # (239)275-6060 FAX# (239)275-0581**