

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20070313-UTL**

**1. ACTION REQUESTED/PURPOSE:**

Authorize the Chair, on behalf of the BOCC, to:

1) approve "License Agreement for Underground Pipe Installation and Occupation," with the Seminole Gulf Railway, L.P. (SGLR), as it relates to the placement of a water main across the railroad right-of-way, as part of the proposed Florida Department of Transportation (FDOT) improvements to Metro Pkwy., from Hanson St. to Martin Luther King Jr. Blvd. (SR 82); and,

2) approve payment of fees: The total application (\$3,500.00) and "one-time fee (\$45,600.00)," as indicated in Paragraph 17 of the Agreement is \$49,100.00.

**2. FUNDING SOURCE:**

Utilities Capital Improvement; Program: Capital Project; Project: SR 739 Waterline Relocation to be reimbursed by FDOT.

**3. WHAT ACTION ACCOMPLISHES:**

Permits the construction of a 12" Lee County Utilities water main, across the SGLR right-of-way to interconnect to the City of Fort Myers' water system. This construction re-establishes an existing interconnect, relocated due to the FDOT improvements to Metro Pkwy.

**4. MANAGEMENT RECOMMENDATION:** Approval.

**5. Departmental Category:** 10 - Utilities

*CIOC*

**6. Meeting Date:**

MAR 20 2007

**7. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**8. Requirement/Purpose: (specify)**

- Statute
- Ordinance
- Admin. Code
- Other Approval

**9. Request Initiated:**

Commissioner \_\_\_\_\_  
 Department Pub. Works  
 Division Utilities  
 By: *Douglas L Meurer* 3-1-2007  
 Douglas L. Meurer, P.E., Director

**10. Background:**

FDOT is improving Metro (Evans) Blvd. (SR 739), from Hanson Avenue to Martin Luther King Blvd., as a four-lane roadway. LCU is relocating an existing 16" water main along or paralleling Evans Avenue from Collins Avenue north to North Fort Myers. Part of this water main is contained in a LCU purchased easement within the SGLR right-of-way from south of Edison Avenue to Martin Luther King Blvd. LCU has subordinated this easement to FDOT, and for doing so, FDOT has agreed to pay costs associated with the utility relocation.

Funds are available in Acct. 20710048730.506511.

Attachments: "License Agreement for Underground Pipe Installation and Occupation" – 3 Originals  
 (1 original for Minutes; 2 originals for SGLR)

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Res.	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. Lavender</i> Date: 3-2-07	N/A Date:	N/A Date:	<i>BAD</i> B. Dearborn Date: 3/2/07	<i>S. Coovort</i> S. Coovort Date: 3/5/07	<i>ebw</i> 3-6-07	<i>MR</i> 3/6/07	<i>MS</i> 3/6/07	<i>J. Lavender</i> 3/6/07	<i>J. Lavender</i> Date: 3-2-07

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *EW*  
 3/5 3:00 PM  
 COUNTY ADMIN FORWARDED TO: *PL*  
 3/6/07 1:20 PM

Rec. by CoAtty  
 Date: 3/5/07  
 Time: 11:15 AM

Forwarded To:  
 Admin.  
 3/5/07 1:10 PM

**LICENSE AGREEMENT FOR UNDERGROUND  
PIPE INSTALLATION AND OCCUPATION**

**THIS LICENSE AGREEMENT**, made this \_\_\_ day of \_\_\_\_\_, 2007 ("Agreement"), between **SEMINOLE GULF RAILWAY, L.P.**, a limited partnership under the laws of the State of Delaware (hereinafter referred to as "**SGLR**") and the **Lee County**, Board of County Commissioners, a Political Subdivision of the State of Florida ("**COUNTY**").

**WITNESSETH:**

**WHEREAS**, SGLR owns the track and other rail facilities ("**Rail Facilities**") comprising a line of railroad lying generally between Arcadia and Vanderbilt Beach, Florida; and

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

**WHEREAS**, **WHEREAS**, COUNTY has applied to SGLR for a license and permission to install, maintain and use a 12" inch Ductile Iron Potable Water Main, inside a 24" Steel Casing" which enters the right-of-way of the Arcadia-Vanderbilt Beach Main Line at approximately Railroad Milepost AX 965.31, at or near Fort Myers, FL and runs under one track at an 90 degree angle plus or minus, for a minimum distance of 100 feet, (Actual distance of 40') more or less, whereupon it exits the property. Said pipe to be installed in accordance with the Application for Pipeline Crossing Over/Under Properties and Tracks submitted by COUNTY along with Construction Drawings and approved by SGLR, marked Exhibit "A", attached hereto and made a part of this Agreement, said underground pipe installation or any appurtenances thereto being hereinafter referred to as the "Utility"; and

**WHEREAS**, SGLR is willing to accord to COUNTY the License and permission so applied for, but only upon and subject to the terms, conditions and limitations set forth in this Agreement.

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

1. SGLR, insofar as it has the legal right to do so and in consideration of the covenants and conditions hereinafter stated on the part of COUNTY to be kept and performed, hereby permits, as a temporary license, COUNTY to construct, use, maintain, repair, renew, and ultimately remove the Utility across and under the said tracks, right-of-way and property of SGLR at the location aforesaid, and as shown in detail in Exhibit A.

2. COUNTY represents and warrants that it is duly authorized in accordance with the laws of the State of Florida to enter into this Agreement and to be bound by the covenants and conditions contained herein. COUNTY agrees to provide SGLR with evidence satisfactory to SGLR confirming said authorization prior to the execution of this Agreement.

3. (a) The Utility shall be located, constructed and maintained in exact accordance with Exhibit A, and no departure shall at any time be made therefrom except upon permission in writing granted by SGLR; provided, however, that if any governmental or regulatory body having jurisdiction in the premises has regulated the manner and means of construction, maintenance, repair, alteration, renewal, relocation or removal thereof, then COUNTY shall comply therewith after prior notice to SGLR as to any required departure from Exhibit A. Supervision over the location of the construction work, inspection of the construction, maintenance, repair, alteration, renewal, relocation and removal of the Utility shall be

subject to the approval of SGLR. The Utility shall not be installed until the method of installation, the scheduling of installation, and all related matters have been approved in writing by SGLR.

(b) COUNTY shall, at its sole cost and expense, erect and maintain thereafter signs warning of the buried Utility. The signs shall be prominently located inside of the right-of-way line on both sides of track and shall be substantially worded thus: "Water Main Buried \_\_\_\_ feet under". In addition to the above, COUNTY, shall, at its sole cost and expense, mark any portion of the Utility installed in open trenches on SGLR rights-of-way with standard plastic burial warning tape for the entire length of Utility within the right-of-way. This warning tape shall be located directly over the Utility and not less than two feet above the top of pipe or casing. The tape shall be marked with wording substantially as thus: "Warning, Water Main Buried Below." To the extent this provision is not adhered to, SGLR shall not be liable for any damage to the Utility whether attributable to the fault or negligence of SGLR, CSXT or otherwise.

(c) The construction, maintenance, repair, renewal, alteration, or removal of the Utility shall be done under such conditions, including access to the site, as will be satisfactory to SGLR, and as will not interfere with the proper and safe use, operation and enjoyment of the property of SGLR or its successors or assigns.

(d) COUNTY, when performing any work in connection with the Utility, with the exception of the initial installation, shall request SGLR to furnish, at COUNTY's own cost and expense, any necessary inspectors, flagmen or watchmen for the protection of any person or property, including persons not parties hereto and their property. SGLR shall be notified at least one (1) weeks in advance of the performance of any work on the Utility, excepting emergency repairs in which case COUNTY shall notify SGLR as soon as reasonably possible.

(e) In addition to, but not in limitation of any of the foregoing provisions, if at any time SGLR should deem it necessary to place inspectors, flagmen or watchmen or any other persons to protect any persons or property during the construction, maintenance, repair, alteration, renewal or removal of the Utility, SGLR shall have the right to place such inspectors, flagmen, watchmen, or other persons at the sole cost and expense of COUNTY, with the exception of the initial installation of the utility. Upon receipt of a bill from SGLR, COUNTY shall promptly pay SGLR the full cost and expense of employing such persons. The furnishing or failure to furnish inspectors, flagmen, watchmen or other person by SGLR under this paragraph, however, shall not release COUNTY from any and all other liabilities assumed by COUNTY under the terms of this Agreement, including its obligations under Section 8 hereof.

4. If COUNTY desires or is required, as herein provided, to revise, renew, add to or alter the Utility in any manner whatsoever, it shall submit plans to SGLR who shall review them at COUNTY's cost. COUNTY's plans shall comply with Chapter 1, Part 5 - Pipelines of the American Railway Engineering Association Manual for Railway Engineering. COUNTY shall obtain written approval thereof before any work or alteration of the Utility is performed. SGLR reserves the right to make adjustments in charges in connection with any such work, and those charges shall be consistent with those customary in the industry for similar services.

5. (a) COUNTY shall at all times be obligated to perform such maintenance or renewal of the Utility as may be required for the safe operation and maintenance of the properties of SGLR and its lessees and shall, upon notice in writing from SGLR requiring it so to do, promptly make such repairs and renewals thereto as may be required by SGLR. However, if necessary to protect the property, traffic, patrons or employees of SGLR, or any other person, from damage or injury, SGLR may with or without notice to COUNTY at any time make such repairs and renewals thereto and furnish such material therefor as it deems adequate and necessary, all at the sole cost and expense of COUNTY. Any costs incurred by SGLR pursuant to this Section shall be promptly reimbursed to SGLR by COUNTY upon demand.

6. SGLR's right of supervision over the location of the construction work and inspection of the Utility from time to time thereafter, and SGLR's right to approve or disapprove of any contemplated work

on the Utility, shall extend for such distance on each side of the Utility as may, in SGLR's judgment, be necessary to support and sustain the tracks and roadbed of SGLR.

7. COUNTY shall comply with all Federal, State and local laws, now or hereinafter enacted, and shall assume all costs, expense and responsibility in connection therewith, without any liability whatsoever on the part of SGLR.

8. (a) It is understood between the parties hereto that the installation and existence of the Utility involves some risk, and COUNTY as part of the consideration for this License, hereby releases and waives any right to ask for or demand damages from SGLR or CSXT for or on account of loss of or injury to the Utility or other property or facilities of COUNTY, that is over, under, upon or in the property or facilities of SGLR, including the loss of or interference with service or use thereof and whether attributable to the fault, failure or negligence of SGLR, CSXT or otherwise.

(b) In conformance with Section 725.06 Florida Statutes, to the extent it applies to this indemnity, the specific consideration given for the promises of the COUNTY set forth in this agreement is the right granted to COUNTY to continue to use the Utility, together with One Dollar (\$1.00) in hand paid by SGLR to COUNTY, receipt whereof is hereby acknowledged and the adequacy of which COUNTY accepts as completely fulfilling the obligations of SGLR under the requirements of Section 725.06 Florida Statutes.

(c) If a claim or action is made or brought against either party to this Agreement and for which the other party, or CSXT may be responsible hereunder in whole or in part, such other party shall be notified and permitted to participate in the handling or defense of such matter.

(d) COUNTY agrees it will exercise its privileges hereunder at its own sole risk and agrees to indemnify and save harmless SGLR, its parent, subsidiaries, affiliates, and their respective officers, directors, agents and employees (hereinafter referred to as SGLR Entities) and CSXT, from all liability, loss, cost and expense, including attorneys' fees, which may be sustained by SGLR by reason of the death of or injury to any person or damage to any property arising out of or in connection with the herein described purposes by COUNTY, its contractors, agent or employees; and COUNTY agrees to defend at its sole cost and expense and at no cost and expense to SGLR any and all suits or action instituted against SGLR, for the imposition of such liability, loss, cost and expense. COUNTY's obligation to indemnify SGLR Entities shall not be construed to protect SGLR Entities from their own negligence, and shall be subject to the limitation set forth in Section 768.28(5) Florida Statutes, except in the event COUNTY or its contractors purchase insurance covering the liability with limits in excess of the statutory limits, COUNTY's obligation shall extend up to but shall not exceed the limits of that insurance. Notwithstanding any provision contained herein, COUNTY agrees to reimburse SGLR for all cost and expenses for any damage, including settlement, to SGLR's land and/or facilities resulting from COUNTY's use of the Utility.

(1) Any contractors employed by COUNTY to perform any work relating to the License granted hereunder shall be required by COUNTY to sign the indemnification agreement attached hereto as Exhibit "B", and to provide the following insurance:

(i) ISO Form Railroad Protective Public Liability Insurance providing for a limit of not less than Six Million (\$6,000,000) Dollars aggregate and Two Million (\$ 2,000,000) per occurrence with respect to bodily injury, death or property damage for any one accident; The policy shall name Seminole Gulf Railway LP, as the named insured, and shall name as an additional insured CSX Transportation, Inc.; and

(ii) Contingent liability and comprehensive general public liability insurance with a contractual liability endorsement with limits not less than Five Million (\$5,000,000) Dollars with respect to bodily injury, death or property damage for any one accident. The policy is to name Seminole Gulf Railway LP, and CSX Transportation, Inc. as named additional insured's as their interests may appear.; and

(iii) Workers' compensation and employers' liability insurance with limits not less than One Hundred Thousand (\$100,000) Dollars or such greater amount as may be required by law. The policy is to contain a waiver of subrogation in favor of Seminole Gulf Railway LP and CSX Transportation, Inc.: and

(iv) Auto liability with a combined single limit of not less than One Million Dollars (\$1,000,000). The policy is to name Seminole Gulf Railway LP, and CSX Transportation, Inc. as named additional insured's as their interests may appear.

(v) Such policies of insurance shall be endorsed to provide thirty (30) days notice to each named insured by the insurance company before any reduction to or cancellation of the policies. SGLR shall be furnished with a certificate of insurance for the above coverage indicating conformance to the foregoing.

(2) COUNTY is currently self-insured. If at any time during the term of this Agreement COUNTY fails to maintain its formal self-insured status, it shall obtain insurance coverage as outlined in paragraph 8(d)1.

9. All costs and expenses in connection with the construction, maintenance, repair, alteration, renewal, relocation or removal of the Utility shall be borne by COUNTY, and in the event of work being performed or materials furnished by SGLR pursuant to this Agreement, COUNTY agrees to pay to SGLR the actual cost of material plus the current applicable overhead percentages for storage, handling, transportation, purchasing and other related material, management expenses and the actual cost of labor plus the current applicable overhead percentages as developed and published by SGLR for fringe benefits, payroll taxes, administration, supervision, use of tools, machinery and other equipment, supplies, employers' liability insurance, public liability insurance, and other insurance, taxes and all other indirect expenses. It is to be understood that the aforementioned material and labor overhead charges are to be applied at the rates which are effective at the time of the performance of any work by employees or contractors of SGLR. COUNTY agrees to pay such bills within thirty (30) days of the presentation thereof by SGLR.

10. (a) COUNTY, shall, at its sole cost and expense within thirty (30) days of written request from SGLR, or within such additional period as may be necessary to enable COUNTY, exercising due diligence, to procure all necessary governmental permits, change the location of the Utility insofar as it is located over, upon or in the Leased Property or Rail Facilities of SGLR to another location to permit and accommodate changes of grade or alignment and improvement in or additions to the Leased Property or Rail Facilities of SGLR upon land now or hereafter owned or used by SGLR. Said construction shall at all times comply with the terms and conditions of this Agreement with respect to the original construction except as to location of the Utility. In the event of the lease, sale or disposal of the Leased Property or Rail Facilities or any part thereof affected by this License, then COUNTY shall make such adjustments or relocations in the portion of the Utility over, upon, or in the Leased Property and Rail Facilities of the SGLR as may be required by SGLR or any of its grantees. If COUNTY shall fail or refuse to comply therewith, then SGLR may make such repairs or adjustments or changes in location and provide necessary material therefore, at the sole cost and expense of COUNTY.

(b) SGLR reserves the right at any time, if it so desires, to construct an additional track or tracks across the Easement; in such event, COUNTY, at its sole cost and expense, shall relocate or encase the Utility as directed by SGLR to avoid interference with the new track alignment.

11. COUNTY will be responsible for any settlement caused to the roadbed, right-of-way and/or tracks, facilities and appurtenances of SGLR arising solely from or as a result of the installation of the Utility, and COUNTY agrees to pay SGLR on demand the full cost and expense of repairing or restoring SGLR's facilities.

**12.** Upon the removal or abandonment of the Utility, all the rights of COUNTY hereunder shall cease and terminate, and this instrument shall thereupon become and be null and void, without any liability on the part of either party to the other party except only as to any charges and liability accrued prior thereto, and the obligation of COUNTY at SGLR's request to remove its Utility from SGLR's property. All property of SGLR shall be restored in good condition and to the satisfaction of SGLR. If COUNTY fails or refuses to remove their Utility and appurtenances under the foregoing conditions, SGLR may do so at the cost and expense of COUNTY, and SGLR shall not be liable in any manner to COUNTY for said removal.

**13.** As part of the consideration of this Agreement, COUNTY covenants and agrees that no assessments, taxes or charges of any kind shall be made against SGLR, CSXT or their property by reason of the construction of the Utility of COUNTY; COUNTY further covenants and agrees to pay SGLR promptly upon bills rendered therefore the full amount of any assessments, taxes or charges of any kind which may be levied, charged, assessed or imposed against SGLR, CSXT or their respective property by reason of the construction or maintenance of the Utility.

**14.** This Agreement may terminate upon the termination of SGLR's Lease Agreement with CSXT at the discretion of CSXT. However, SGLR may terminate this Agreement prior to the termination of its Lease with CSXT if COUNTY is in default of any of the provisions of this Agreement. In the event COUNTY is in default of any of the provisions herein, SGLR shall give COUNTY notice thereof and a reasonable opportunity to cure the default. If after a reasonable time COUNTY fails to cure the default, or take reasonable steps to cure the default, SGLR shall give COUNTY written notice of its intent to terminate this Agreement 30 days following receipt of the written notice and this Agreement, and all rights and obligations herein, shall terminate except for the provisions of Paragraph 12.

**15.** The License conferred hereby shall only be for the benefit of COUNTY and their grantees, successors, and assigns.

**16.** COUNTY understands that this Agreement does not allow COUNTY to install or permit the installation of any other utility within the limits of the crossing.

**17.** In consideration of the License hereby granted, COUNTY shall pay SGLR upon execution of this Agreement, a fee of Thirty Five Hundred (\$3,500) Dollars to cover SGLR's legal and administrative costs in the preparation and review of this Agreement ("Preparation Fee"). Upon execution of this Agreement COUNTY shall pay to SGLR a one-time fee of Forty Five Thousand Six Hundred Dollars (\$45,600.00) to cover the Occupancy Charge (Rent) for the life of this Agreement. SGLR shall provide flagging services for the initial installation of the utility, as necessary, provided the utility is installed by the Florida Department of Transportation's (FDOT) contractor, during the construction of the New Evans Avenue project. If the utility is installed by a contractor employed by COUNTY solely for the installation of the utility, all flagging/inspection services shall be provided to COUNTY by SGLR as provided for herein, at SGLR's current published rates at the time of the installation for such services.

**18.** The terms of this Agreement shall be binding and effective upon the parties hereto, and unless and until terminated, as hereinbefore provided, this Agreement shall inure to the benefit of and be binding upon the parties hereto their successors and assigns provided, however, that this Agreement may not be assigned without the prior written consent of SGLR.

19. Any correspondence in connection with the contents of this Agreement should be addressed.

If to SGLR:

**Seminole Gulf Railway, L.P.**  
**Attn: Harry E. Neeves, V. P., Real Estate & Public Projects**  
**4110 Center Pointe Drive, Suite 207**  
**Fort Myers, Florida 33916**  
**Phone: 239-275-6060**  
**Fax: 239-275-0581**

If to COUNTY:

**Lee County Public Works/Utilities Division**  
**Attn: Kim Hoskins, P.E.**  
**1500 Monroe Street**  
**Fort Myers, FL 33901**  
**Phone: 239-479-8181**  
**Fax: 239-479-8176**

(Prepared by SGLR)

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 it's General Partner,  
SEMINOLE GULF RAILWAY, INC.

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Harry E. Neeves  
Vice-President

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS OF  
LEE COUNTY, FLORIDA

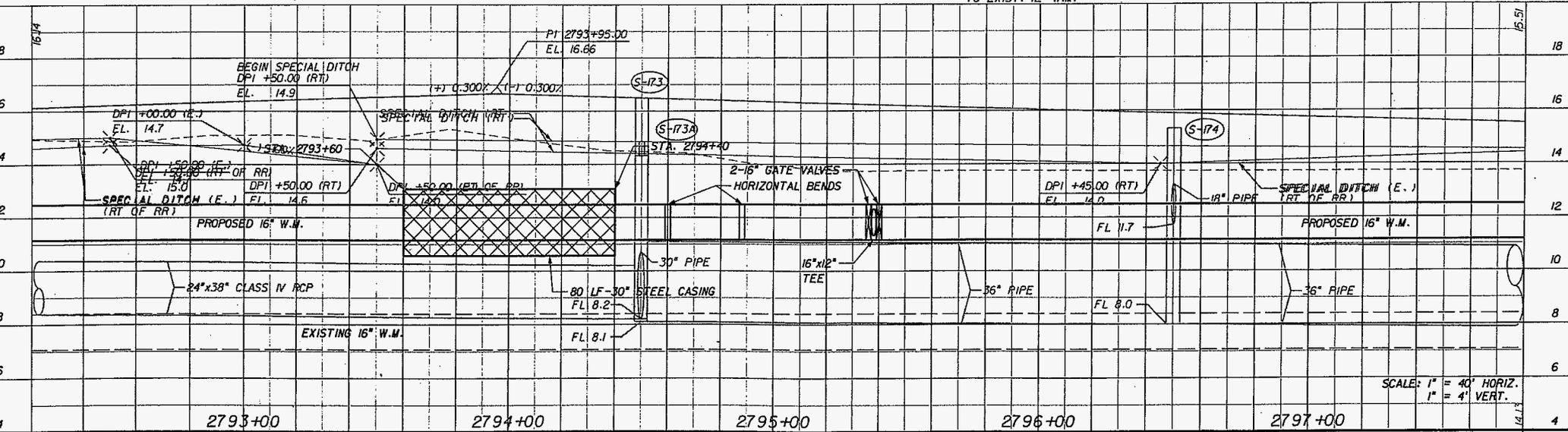
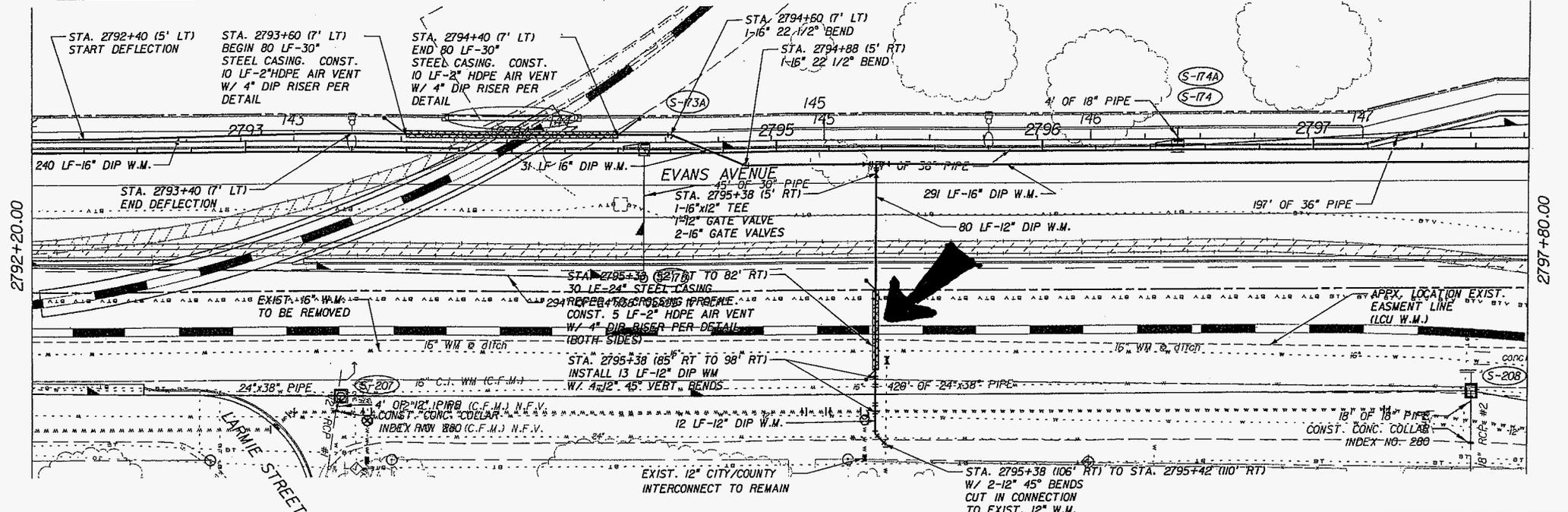
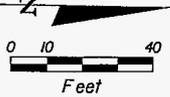
BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chair

APPROVED AS TO FORM

BY: \_\_\_\_\_  
Office of the County Attorney  
Scott S. Coovert, Esquire

EXHIBIT "A"



REVISIONS			
DATE	BY	DESCRIPTION	DATE

**LEB COUNTY UTILITIES DIVISION**  
 12701 World Plaza Lane  
 Bldg. 80  
 Fort Myers, FL 33907  
 EB-4464  
 (239) 936-6466  
 George R. Brinson, P.E. 447607

ROAD NO.	COUNTY	FINANCIAL PROJECT ID
S.R. 739	LEE	195766-1-56-03 195766-1-56-04

**UTILITY RELOCATION PLAN  
 EVANS AVENUE SECTION 1**

SHEET NO.  
 U-17

**EXHIBIT "B"**

**RELEASE AND INDEMNIFICATION**

FOR VALUE RECEIVED, and in consideration of being authorized by Seminole Gulf Railway L.P., a Delaware limited partnership ("SGLR") to enter upon the property of SGLR in the performance of the contract between the undersigned contractor (the "CONTRACTOR") and Lee County, Florida ("COUNTY"), with respect to the construction and maintenance of an 12 inch water main in a 24 inch steel casing and the usual appurtenances thereto which traverses the railroad lines of SGLR (the "Utility") pursuant to the Agreement attached hereto as Exhibit "A" (the "Agreement"), the undersigned, intending to be legally bound, agree as follows:

1. CONTRACTOR will comply with all the obligations of COUNTY with respect to construction and maintenance of the Utility under the Agreement, including, without limitation, the provisions of Paragraph 3 thereof.

2. CONTRACTOR acknowledges and appreciates the risks and danger assumed and attendant upon the exercise of the permission granted hereunder, and assumes all risk of injury (including death) to itself, its officers, employees and agents, or to its property, occurring or arising while or resulting from being upon or about the property of SGLR, regardless of SGLR's fault or negligence.

3. CONTRACTOR, for itself and for its successors and assigns, agrees to release, indemnify, defend and save harmless SGLR and CSX Transportation, Inc. ("CSXT") and their respective officers, employees, agents, successors and assigns, from and against all damages, losses, claims, demands, suits, costs or expenses, including counsel fees, which SGLR or CSXT may suffer or sustain, or be subject to, directly or indirectly, for personal injury, death or property damage suffered by anyone whomsoever (including SGLR, CSXT and CONTRACTOR) and arising out of or caused either wholly or in part by the work performed on SGLR's property by the undersigned, regardless of the fault, failure or negligence of SGLR or CSXT.

4. In conformance with Section 725.06 Florida Statutes, to the extent it applies to this indemnity, the specific consideration given for the promises of the CONTRACTOR set forth in this Release and Indemnification is the right granted CONTRACTOR to perform work on SGLR's property, together with One Dollar (\$1.00) in hand paid by SGLR to CONTRACTOR, receipt whereof is hereby acknowledged, and the adequacy of which CONTRACTOR accepts as completely fulfilling the obligations of SGLR under the requirements of Section 725.06 Florida Statutes.

5. CONTRACTOR agrees to obtain the insurance specified in paragraph 8(e)1 of the Agreement. If any such insurance shall be provided on a claims-made basis, then in addition to the coverage requirements specified in paragraph 8(d)1 of the Agreement, CONTRACTOR agrees to make every effort to maintain similar insurance for at least two years following completion of the construction or maintenance of the Utility. If the insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least two years to report claims arising from work performed in connection with construction of the Utility.

**IN WITNESS WHEREOF**, the undersigned has caused these presents to be executed this day of \_\_\_\_\_, 2007.

ATTEST:

CONTRACTOR:

\_\_\_\_\_

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_