

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

Blue Sheet No. 20041595

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the Railroad Crossing Agreement by and between the Simon Property Group, Inc. and Seminole Gulf Railroad for a two-lane crossing at Sandy Lane in conjunction with the development of the Coconut Point DRI.

WHY ACTION IS NECESSARY: Condition of proportionate share payments or offset(s) for the development of the Coconut Point DRI Regional Mall and Retail Center.

WHAT ACTION ACCOMPLISHES: Provides approval for the Railroad Crossing documents pursuant to the Developer Agreement for the Coconut Point DRI.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # 3

C12B

3. MEETING DATE:

12-07-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Development Agmt.

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: David M. Owen
Chief Assistant County Attorney

[Signature]

7. BACKGROUND:

On October 21, 2002, the Coconut Point DRI Development Order was approved and executed by the Board of County Commissioners. A part of that Development Order contemplates a two-lane extension of Sandy Lane, a portion of which crosses the Seminole Gulf Railroad which requires a Crossing Agreement between the Developer and the Railroad, with provisions for a subsequent Agreement between the Railroad and the County when the road improvements are dedicated to the County for ownership and maintenance.

(BACKGROUND CONTINUED - NEXT PAGE)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>[Signature]</i> N/A/11-27-04	N/A	N/A	<i>[Signature]</i> 11/27/04	<i>[Signature]</i> 11/22/04	OA <i>[Signature]</i> 11/23/04	OM <i>[Signature]</i> 11/23/04	RISK <i>[Signature]</i> 11/23/04	GC <i>[Signature]</i> 11/23/04	<i>[Signature]</i> 11-27-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY. 11/23/04
FORWARDED
TO CO. ADMIN.
5:43 PM

BACKGROUND: (Continued)

On February 24, 2004, the Coconut Point DRI Development Agreement was approved and executed by the Board of County Commissioners. The Development Agreement provides at Article Three, A., "Proportionate Share Obligation", Paragraph 2.(b)(4) that the offsets to the second installment of the proportionate share be evidenced by certain documents; in this case, the Board's approval of the Railroad Crossing Agreement by and between the Developer and the Seminole Gulf Railroad, which is attached hereto and has been deemed acceptable by County staff.

The Developer / Seminole Gulf Railroad Agreement of April 12, 2004 has a provision at Paragraph 6.(b) for the transfer of the Crossing Agreement (the "New License Agreement" option), which was negotiated between Seminole Gulf Railroad and County staff for the transfer of the Crossing when the Sandy Lane improvements, to include the Railroad Crossing, are contributed to the County for ownership and maintenance. The proposed "New License Agreement" is Exhibit B to the April 12, 2004 Agreement between the Developer and the Seminole Gulf Railroad.

Staff recommends Board of County Commissioners' approval of the April 12, 2004 License Agreement by and between the Simon Property Group, Inc. and Seminole Gulf Railroad for the purpose of fulfilling the provision of the Development Agreement relating to an offset to the proportionate share payment for 2004, which is due no later than December 31, 2004.