

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

Blue Sheet No. 20040650

1. REQUESTED MOTION:

ACTION REQUESTED: Request Board approve and authorize the Chairman to sign this agreement between Florida Department of Transportation (FDOT) and Lee County, transferring jurisdictional responsibility for that portion of Daniels Road from the western extent of the limited access right of way of I-75 (State mile post 7.247) to the Port Authority property line, east of Treeline Avenue (mile post 7.991), a distance of 0.744 miles.

WHY ACTION IS NECESSARY: Board of County Commissioners must approve all agreements.

WHAT ACTION ACCOMPLISHES: Transfers Jurisdiction of 0.744 miles of Daniels Road from FDOT to Lee County.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # 2, 5

C9A

3. MEETING DATE:

06-08-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE Ch 336
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Transportation
- C. DIVISION

BY: Scott Gilbertson

7. BACKGROUND:

FDOT currently has jurisdiction over that portion of Daniels Parkway from west of I-75 to east of Treeline Avenue, this segment being 0.744 miles long. Lee County currently has jurisdiction over the balance of Daniels Parkway. This split jurisdiction is left over from the original interstate construction at a time when it was a requirement that access to airports be via a state roadway. FDOT jurisdiction over entrance roads to airports is no longer a state requirement, therefore state jurisdiction over this small portion of the road with the balance belonging to the County is no longer necessary nor is it practical. In 2003 Lee County requested the FDOT initiate a jurisdictional transfer of this 0.744mile segment. The transfer agreement leaves maintenance responsibility of the portion of the road within the limited access right of way of the interstate as the responsibility of the FDOT.

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>5/18/04</i> <i>[Signature]</i>	<i>[Signature]</i>	NA		<i>John S. Budge</i> 5-24-04	OA <i>[Signature]</i>	OM <i>[Signature]</i>	Risk <i>[Signature]</i>	GC <i>[Signature]</i>	<i>[Signature]</i> 5-20-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *5/21/04*
Time: *3:30 pm*
Forwarded To:
Cc. Helm
5/24/04 12:04

RECEIVED BY
COUNTY ADMIN: *[Signature]*
5/24/04
2:45 pm
COUNTY ADMIN
FORWARDED TO: *[Signature]*
5-26-04
8:30 am

LEE COUNTY RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

WHEREAS, Lee County has requested the transfer of a portion of Daniels Parkway (State Road 876/Section 12100-000) from the State Highway System to the County Road System; and

WHEREAS, the requested transfer is mutually agreed upon between the Florida Department of Transportation and Lee County; and

WHEREAS, Lee County, Florida has the authority to enter into an Agreement with the State of Florida Department of Transportation in accordance with Section 334.044 and Section 335.0415, Florida Statutes to transfer jurisdictional responsibilities of road.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

1. Lee County requests the transfer of jurisdictional responsibility for Daniels Parkway (State Road 876), from the physical gore of the entrance and exit ramps, west of Interstate 75 (Milepost 7.247) to the Southwest Florida International Airport Property line (Milepost 7.991 or 543.8 feet east of Treeline Avenue), for an approximate total length of 0.744 miles, from the State of Florida Department of Transportation to Lee County, Florida.
2. The Chairman of the Lee County Board of County Commissioners is hereby authorized to enter into and execute this Resolution and the Agreement with the State of Florida Department of Transportation, a copy of which is attached as Exhibit "A," for the transfer of jurisdiction.
3. The Clerk of the Circuit Court is hereby authorized and directed to transmit two certified copies of this Resolution to the State of Florida Department of Transportation.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner _____, seconded by Commissioner _____ and, upon being put to a vote, the result was as follows:

Robert P. Janes	_____
Douglas R. St. Cerny	_____
Ray Judah	_____
Andrew W. Coy	_____
John E. Albion	_____

DULY PASSED AND ADOPTED this ___ day of _____ 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

Approved as to form by:

County Attorney's Office

[031804/0800]

**AGREEMENT BETWEEN THE
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
LEE COUNTY FOR THE TRANSFER OF DANIELS PARKWAY (SR 876)**

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT" and LEE COUNTY, hereinafter referred to as the "COUNTY".

W I T N E S S E T H

WHEREAS, the DEPARTMENT has the authority, in accordance with Section 334.044, and 335.0415, Florida Statutes, to assign jurisdictional responsibilities of roads; and

WHEREAS, the COUNTY has requested the transfer of a portion of Daniels Parkway (State Road 876/Section 12100-000) from the State Highway System to the County Road System; and this transfer is mutually agreed upon between the DEPARTMENT and the COUNTY; and

WHEREAS, the COUNTY by Resolution, dated the _____ day of _____, 2004, a certified copy of which is attached hereto and made a part hereof, has authorized its Chairman of the Board of County Commissioners to enter into this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. a) That portion of Daniels Parkway (State Road 876) from the physical gore of the entrance and exit ramps, west of I-75 (Milepost 7.247) to the Southwest Florida International Airport Property line (Milepost 7.991 or 543.8 feet east of Treeline Avenue), for an approximate total length of 0.744 miles (hereinafter the "Road"), shall be transferred from the DEPARTMENT to the COUNTY.
- b) The COUNTY accepts all responsibility for operation and maintenance of the Road. In addition to the Road, this Agreement transfers to the COUNTY all curbs, sidewalks, culverts, and drainage structures within the Road right-of-way at the time of transfer. Said responsibility extends from right-of-way line to right-of-way line. The DEPARTMENT gives up all rights to the Road, except as may be specified in this Agreement. THE DEPARTMENT shall continue to maintain all areas within the limited access right of way lines of Interstate 75 and Daniels Parkway.
- c) It is agreed that all obligations of the DEPARTMENT, under any circumstance, utility or other such agreement, relating to the Road is hereby transferred to and assumed by the COUNTY.

- d) If there is evidence of historical or archeological resources that could be adversely affected by the transfer, the COUNTY agrees to maintain at its sole expense the resources in accordance with mitigation plan developed by the DEPARTMENT'S District Environmental Management Office. If no evidence is found, the COUNTY agrees not to adversely impact any such resources if found after the transfer.
- e) The COUNTY agrees to maintain, as originally constructed, the ROAD including all curbs, sidewalks, culverts, and drainage structures within the Road right-of-way at the time of transfer. Said maintenance shall be performed in accordance with applicable federal, state or local laws, rules, and regulations.

2. All notices under this Agreement shall be directed as follows:

TO DEPARTMENT:

Ron Gruver
Florida Department of Transportation
Post Office Box 1249
Bartow, Florida 33831-1249

TO COUNTY:

Scott Gilbertson, Director
Lee County Department of Transportation
Post Office Box 398
Fort Myers, Florida 33902-0398

- 3. Existing deeds or right-of-way maps applicable to the Road will be recorded, by the DEPARTMENT, in the public land records of Lee County. If right-of-way maps do not exist, the COUNTY shall have the responsibility to make such maps and record them in the public records of Lee County.
- 4. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- 5. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or condition contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

6. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

7. Unless otherwise specifically stated herein, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF the CITY has caused this Agreement to be executed in its behalf this _____ day of _____, 2004, by the Mayor, authorized to enter into and execute same by Resolution Number _____, and the DEPARTMENT has executed this Agreement through its District Secretary for District One, Florida Department of Transportation, this _____ day of _____, 2004.

LEE COUNTY
FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
CHAIRMAN, BOARD OF
COUNTY COMMISSION

By: _____
DISTRICT SECRETARY

ATTEST:

ATTEST:

By: _____ (Seal)

By: _____ (Seal)

Approved as to Form and Legality:

Approved as to Form and Legality:

By: _____
COUNTY ATTORNEY

By: _____
DISTRICT LEGAL COUNSEL