

AI-29379

Item #: 4. I. 1.

Commissioners Court

Date: 01/12/2009

Amend Court Order No. 2008-845-09-23

Submitted By: Georgia Shepherd, Administrative Services

Department: Administrative Services

Request Type: CONSENT

Agenda Area: Miscellaneous

Information

Department Action

Amend Court Order No. 2008-845-09-23

Purchasing Department Action

Finance Department Action

Auditor's Office Action

Commissioners Court

Amend Court Order No. 2008-845-09-23 to designate DNT IVB as a project for the Collin County Toll Road Authority and assume regional mobility authority powers for the Collin County Outer Loop and DNT IVB projects, Administrative Services.

Attachments

Link: [Court Order](#)

Link: [Resolution](#)

Link: [RMA Powers](#)

Link: [Court Order No. 2008-845-09-23](#)

THE STATE OF TEXAS

COUNTY OF COLLIN

Subject: Amend Court Order No. 2008-845-09-23, DNT IVB – Commissioners Court

On January 12, 2009, the Commissioners Court of Collin County, Texas, met in regular session with the following members present and participating, to wit:

Keith Self
Matt Shaheen
Jerry Hoagland
Joe Jaynes
Kathy Ward

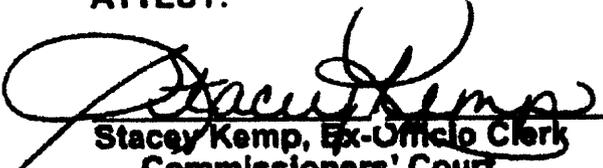
County Judge, Presiding
Commissioner, Precinct 1
Commissioner, Precinct 2
Commissioner, Precinct 3
Commissioner, Precinct 4

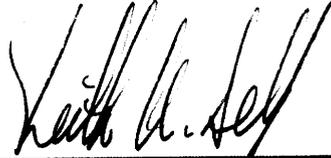
During such session the court considered a request for approval to amend Court Order No. 2008-845-09-23.

Thereupon, a motion was made, second and carried with a majority vote of the court for approval to amend Court Order No. 2008-845-09-23 to designate DNT IVB as a project for the Collin County Toll Road Authority and assume regional mobility authority powers for the Collin County Outer Loop and DNT IVB projects. Same is hereby approved in accordance with the attached documentation.

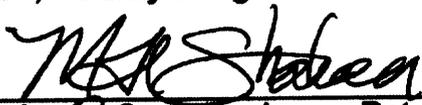


ATTEST:

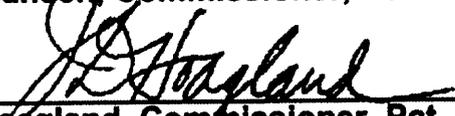

Stacey Kemp, Ex-Officio Clerk
Commissioners' Court
Collin County, T E X A S



Keith Self, County Judge



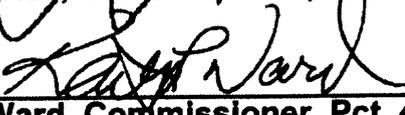
Matt Shaheen, Commissioner, Pct. 1



Jerry Hoagland, Commissioner, Pct. 2



Joe Jaynes, Commissioner, Pct. 3



Kathy Ward, Commissioner, Pct. 4

RESOLUTION OF THE COLLIN COUNTY TOLL ROAD AUTHORITY

WHEREAS, the Collin County Toll Road Authority (CCTRA) has been created to respond to the growth in Collin County which requires additional infrastructure capacity for transportation within the boundaries of Collin County, and;

WHEREAS, the CCTRA has designated the Outer Loop as a Project of the Authority, and;

WHEREAS, Phase IVB of the extension of the North Dallas Tollway, north of FM 428 to the boundary of Collin County, is also an essential transportation improvement within Collin County.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. Phase IVB of the extension of the North Dallas Tollway, north of FM 428 to the boundary of Collin County, is hereby designated as a Project of the CCTRA.
2. With respect to all projects of the CCTRA, including the Project designated above and the Outer Loop, the CCTRA does hereby adopt the powers of a regional mobility authority pursuant to Section 283.003, of the Texas Transportation Code.
3. The CCTRA is authorized to acquire such right-of-way and property necessary for the Projects of the CCTRA, subject to further approval of the CCTRA board for specific funding of each Project.
4. The board does hereby authorize the expenditure by the CCTRA for professional fees needed for planning and design of the projects of the authority.

APPROVED AND ADOPTED this 12th day of January, 2009.

Collin County Commissioners Court

Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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(1) construct, acquire, improve, operate, maintain, or pool a project located: (a) exclusively in the county; (b) in the county and outside the county; or (c) in one or more counties adjacent to the county	Yes	Yes
(2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project	Yes	Yes
(3) impose tolls or charges as otherwise authorized by this chapter		Yes
(4) construct a bridge over a deepwater navigation channel, if the bridge does not hinder maritime transportation		Yes
(5) construct, acquire, or operate a ferry across a deepwater navigation channel		Yes
(6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or (7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366. (b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails. [Emphasis added] (c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide transportation services to the general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state. (d) If the county constructs, acquires, improves, operates, maintains, or pools a project under this chapter, before December 31 of each even-numbered year the county shall submit to the department a plan		Yes

Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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<p>for the project that includes the time schedule for the project and describes the use of project funds. The plan may provide for and permit the use of project funds and other money, including state or federal funds, available to the county for roads, streets, highways, and other related facilities in the county that are not part of a project under this chapter. A plan is not subject to approval, supervision, or regulation by the commission or the department, except that:</p> <ul style="list-style-type: none"> (i) any use of state or federal highway funds must be approved by the commission; (ii) any work on a highway in the state highway system must be approved by the department; and (iii) the department shall supervise and regulate work on a highway in the state highway system. <p>(e) Except as provided by federal law, an action of a county taken under this chapter is not subject to approval, supervision, or regulation by a metropolitan planning organization. [Emphasis added]</p> <p>(f) The county may enter into a protocol or other agreement with the commission or the department to implement this section through the cooperation of the parties to the agreement.</p>		
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Powers of Regional Mobility Authority (RMA) Chapter 370 Transportation Code (Section 370.033)		
(1) adopt rules for the regulation of its affairs and the conduct of its business	Yes	+
(2) adopt an official seal	Yes	+
(3) study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects, individually or as one or more systems, provided that a transportation project that is subject to Subpart C, 23 C.F.R. Part 450, is:	Yes	Yes

Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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(a) included in the plan approved by the applicable metropolitan planning organization; and (b) consistent with the statewide transportation plan and the statewide transportation improvement program		
(4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter	Yes	+
(5) enter into contracts or operating agreements with a similar authority, another governmental entity, or an agency of the United States, a state of the United States, the United Mexican States, or a state of the United Mexican States	Yes	+
(6) enter into contracts or agreements necessary or incidental to its powers and duties under this chapter	Yes	+
(7) cooperate and work directly with property owners and governmental entities and officials to support an activity required to promote or develop a transportation project	Yes	Yes
(8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and other persons as the authority considers necessary or useful	Yes	+
(9) notwithstanding Sections 221.003 and 222.031 and subject to Subsections (j) and (m), apply for, directly or indirectly receive and spend loans, gifts, grants, and other contributions for any purpose of this chapter, including the construction of a transportation project, and receive and spend contributions of money, property, labor, or other things of value from any source, including the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, the commission, the department, a subdivision of this state, or a governmental entity or private entity, to be used for the purposes for which the grants, loans, or contributions are made, and enter into any agreement necessary for the grants, loans, or contributions	Yes	+
(10) install, construct, or contract for the construction of public utility facilities, direct the time and manner of construction of a public utility facility in, on, along, over, or under a transportation project, or request the removal or relocation of a public utility facility in, on, along, over, or under a transportation project	Yes	+
(11) organize a corporation under Chapter 431 for the promotion and development of transportation projects	Yes	+
(12) adopt and enforce rules not inconsistent with this chapter for the use of any transportation project,	Yes	+

Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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including tolls, fares, or other user fees, speed and weight limits, and traffic and other public safety rules, provided that an authority must consider the same factors that the Texas Turnpike Authority division of the department must consider in altering a prima facie speed limit under Section 545.354		
(13) enter into leases, operating agreements, service agreements, licenses, franchises, and similar agreements with a public or private party governing the party's use of all or any portion of a transportation project and the rights and obligations of the authority with respect to a transportation project	Yes	+
(14) borrow money from or enter into a loan agreement or other arrangement with the state infrastructure bank	Yes	Yes
(15) do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed by this chapter. (b) Except as provided by this subsection, property that is a part of a transportation project of an authority is not subject to condemnation or the exercise of the power of eminent domain by any person, including a governmental entity. The department may condemn property that is a part of a transportation project of an authority if the property is needed for the construction, reconstruction, or expansion of a state highway or rail facility. (c) An authority may, if requested by the commission, perform any function not specified by this chapter to promote or develop a transportation project in the authority's area of jurisdiction. (d) An authority may sue and be sued and plead and be impleaded in its own name. (e) An authority may rent, lease, franchise, license, or make portions of its properties available for use by others in furtherance of its powers under this chapter by increasing the feasibility or the revenue of a transportation project. If the transportation project is a project other than a public utility facility an authority may rent, lease, franchise or make property available only to the extent that the renting, lease or franchise benefits the users of the project. (f) An authority and a governmental entity may enter into a contract, agreement, interlocal agreement, or other similar arrangement under which the authority may plan, design, construct, or operate a transportation project on behalf of the governmental entity. An authority may enter into a contract with the department under which the authority will plan, develop, operate, or maintain a transportation project on behalf of the department, subject to the transportation project being in the authority's area of jurisdiction.	Yes	+

Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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<p>(g) Payments to be made to an authority under a contract described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract. The contract may extend for the number of years as agreed to by the parties.</p> <p>(h) An authority shall adopt a written drug and alcohol policy restricting the use of controlled substances by officers and employees of the authority, prohibiting the consumption of alcoholic beverages by employees while on duty, and prohibiting employees from working for the authority while under the influence of a controlled substance or alcohol. An authority may adopt policies regarding the testing of employees suspected of being in violation of the authority's drug and alcohol policy. The policy shall provide that, unless required by court order or permitted by the person who is the subject of the testing, the authority shall keep the results of the test confidential.</p> <p>(i) An authority shall adopt written procedures governing its procurement of goods and services that are consistent with general laws applicable to the authority.</p> <p>(j) An authority may not apply for federal highway or rail funds without the approval of the department.</p> <p>(k) An authority may not directly provide water, wastewater, natural gas, petroleum pipeline, electric transmission, electric distribution, telecommunications, information, or cable television services.</p> <p>(l) If an authority establishes an airport in Central Texas, the authority may not establish the airport at a location prohibited to the department by Section 21.069(c).</p> <p>(m) If an authority receives money from the general revenue fund, the Texas Mobility Fund, or the state highway fund it may use the money only to acquire, design, finance, construct, operate, or maintain a turnpike project under Section 370.003(14)(A) or (D) or a transit system under Section 370.351. [Emphasis added]</p> <p>(n) Nothing in this chapter or any contractual right obtained under a contract with an authority under this chapter supersedes or renders ineffective any provision of another law applicable to the owner or operator of a public utility facility, including any provision of the utilities code regarding licensing, certification, or regulatory jurisdiction of the Public Utility Commission of Texas or the Railroad Commission of Texas.</p> <p>(o) Except as provided in Subchapter J, an authority may not provide mass transit services in the service area of another transit provider that has taxing authority and has</p>		
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Powers of County Tollway Authority Chapter 284 Transportation Code (Section 284.003)	RMA	County Tollway Authority
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<p>implemented it anywhere in the service area unless the service is provided under a written agreement with the transit provider or under Section 370.186.</p> <p>(p) Before providing public transportation or mass transit services in the service area of any other existing transit provider, including a transit provider operating under Chapter 458, an authority must first consult with that transit provider. An authority shall ensure there is coordination of services provided by the authority and an existing transit provider, including a transit provider operating under Chapter 458. An authority is ineligible to participate in the formula or discretionary program under Chapter 456 unless there is no other transit provider, including a transit provider operating under Chapter 458, providing public transportation or mass transit services in the service area of the authority.</p> <p>(q) An authority, acting through its board, may agree with another entity to acquire a transportation project or system from that entity and to assume any debts, obligations, and liabilities of the entity relating to a transportation project or system transferred to the authority. [Emphasis added]</p>		
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THE STATE OF TEXAS

COUNTY OF COLLIN

Subject: Resolution, Creation of a County Toll Road Authority – Commissioners Court

On **September 23, 2008**, the Commissioners Court of Collin County, Texas, met in **regular session** with the following members present and participating, to wit:

**Keith Self
Phyllis Cole
Jerry Hoagland
Joe Jaynes
Kathy Ward**

**County Judge, Presiding
Commissioner, Precinct 1
Commissioner, Precinct 2
Commissioner, Precinct 3
Commissioner, Precinct 4**

During such session the court considered a request for approval of the attached resolution supporting the Creation of a County Toll Road Authority (CTRA).

Thereupon, a motion was made, second and carried with a majority vote of the court for approval of the attached resolution supporting the Creation of a County Toll Road Authority (CTRA). Same is hereby approved in accordance with the attached documentation.



Keith Self, County Judge



Phyllis Cole, Commissioner, Pct. 1



Jerry Hoagland, Commissioner, Pct. 2



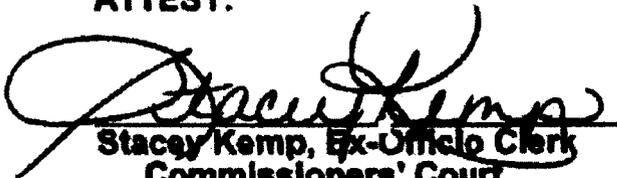
Joe Jaynes, Commissioner, Pct. 3



Kathy Ward, Commissioner, Pct. 4



ATTEST:



**Stacey Kemp, Ex-Officio Clerk
Commissioners' Court
Collin County, T E X A S**

RESOLUTION TO CREATE THE COLLIN COUNTY TOLL ROAD AUTHORITY

- WHEREAS,** Collin County is the home of 750,000 residents and growing at a rate of 2,000 residents per month, and;
- WHEREAS,** Collin County residents and businesses currently have 658,000 vehicles registered and this number is fed by an average of 60,000 registration transactions per month, and;
- WHEREAS,** The Texas Transportation Institute estimates that Americans spend 38 additional hours in travel time annually due to inadequate and undersized infrastructure; and
- WHEREAS,** The additional congestions wasted 2.9 billion gallons of fuel and cost over \$78 billion in time and fuel; and
- WHEREAS,** The additional 38 hours in congestion equates to almost five vacation days that would be better spent with friends and family, an increase from 14 hours wasted in 1982; and
- WHEREAS,** maintaining aging highway infrastructure throughout Texas and expanding the highway system for statewide connectivity and maintaining urban mobility requires far greater investment in transportation infrastructure than is possible with current transportation revenues; and;
- WHEREAS,** The Texas Department of Transportation and the United States Department of Transportation have adopted policies that recommend new road infrastructure and capacity to be paid for utilizing public-private partnerships, tolling strategies, or user fees; and
- WHEREAS,** The growth in Collin County will require additional infrastructure capacity of which no current funding mechanisms have been identified to fund construction; and
- WHEREAS,** The Collin County Outer Loop consists of 55 miles of new infrastructure and will provide Collin County drivers with a needed route around congested urban areas; and
- WHEREAS,** The Collin County Outer Loop is projected to cost \$8 billion and no State or Federal funding has been identified for this project; and
- WHEREAS,** Collin County has already incurred planning and design costs for Collin County Outer Loop; and
- WHEREAS,** Collin County has begun acquiring right of way and other easements that require construction of services roads within a defined period of time; and
- WHEREAS,** The Commissioners Court has specifically identified the Collin County Outer Loop as a necessary and priority infrastructure project; and
- WHEREAS,** The legislature provided for counties to create and operate toll toad authorities in Chapter 284 of the Texas Transportation Code.

THEREFORE BE IT RESOLVED, that pursuant to Chapter 284 of the Texas Transportation Code, the Collin County Commissioners Court hereby creates the Collin County Toll Road Authority; and

BE IT FURTHER RESOLVED, that until further direct action from the Commissioners Court or the Collin County Toll Road Authority, the Collin County Outer Loop project, along with other projects to be identified in the future by the Commissioners Court, will be managed and operated by the Collin County Toll Road Authority; and

BE IT FURTHER RESOLVED, that the governing board of the Collin County Toll Road Authority Board shall consist of the members of the Collin County Commissioners Court.

APPROVED AND ADOPTED this 23rd day of September, 2008.

Collin County Commissioners Court