

RESOLUTION NO. 87-173

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, UTAH RATIFYING AN INTERLOCAL COOPERATION ACT AGREEMENT BETWEEN DELTA CITY AND THE WEST MILLARD RECREATION DISTRICT.

RECITALS

The City Council of the City of Delta, Utah, referred to herein as the "City Council" hereby recites the following as the basis for adopting this resolution:

A. The White Sage Regional Park (the "Park") was constructed by Intermountain Power Agency ("IPA") and dedicated to Delta City to help alleviate the impact resulting from construction of the Intermountain Power Project. The Park was dedicated primarily for public recreation purposes.

B. Major changes have recently occurred in funding recreation facilities and activities in Delta, Millard County, Utah. The most significant change affecting a major public recreation facility in Millard County is the loss of impact alleviation payments from IPA to Delta City to fund the operation and maintenance of the Park and those programs conducted at the Park.

C. As a result of the loss of impact alleviation payment from IPA to Delta City, it has become economically unfeasible for Delta City to continue funding for the operation and maintenance of the Park.

D. The West Millard Recreation District (the "District") will now enjoy a significant increase in tax base and potential tax revenue during 1988 and subsequent years due to completion and commercial operation of the Intermountain Power Project.

E. As the potential revenue available to the District is not available to Delta City, Delta City desires that the facilities, currently owned by Delta City, together with the programs and recreational activities conducted at the White Sage Regional Park, continue for the benefit of all citizens in the West Millard County area.

F. Delta City, by and through its City Council, has determined that it will be in the best interests of the residents of Delta City and will promote the general welfare of its resi-

dents to transfer the property known as the White Sage Regional Park to the District for the purpose of operating and maintaining the Park and continuing the current programs and/or other recreational programs for the benefit of the citizens of West Millard County.

G. Delta City and the West Millard Recreation District entered into an Interlocal Cooperation Act Agreement, which sets forth the manner in which the White Sage Regional Park, together with certain personal property shall be transferred to the West Millard Recreation District, together with the covenants, conditions and promises associated with said transfer.

H. The City Council has determined that the Interlocal Cooperation Act Agreement, attached to the Resolution and incorporated herein by reference and made a part of this resolution, shall be formally adopted by resolution pursuant to Section 11-13-5, Utah Code Annotated (1953), as amended.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Utah:

1. Ratification of Interlocal Cooperation Act Agreement. The document entitled "Interlocal Cooperation Act Agreement", a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, by and between Delta City and the West Millard Recreation District is hereby approved and ratified by the City Council of the City of Delta, Utah.

2. Effective Date. This resolution shall become effective upon adoption.

3. Severability. In the event that any provision of this resolution less than the entire resolution is held invalid by a court of competent jurisdiction, this resolution shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this resolution.

4. Repeal of Conflicting Resolutions. To the extent that any resolutions or policies of the City of Delta conflict with the provisions of this resolution, there are hereby amended to be in accordance with the provisions hereof.

5. Publication. This resolution is ordered published in the Millard County Chronicle Progress, a newspaper published in the City of Delta, Utah. FOR A PERIOD OF THIRTY (30) DAYS AFTER THIS PUBLICATION, ANY PERSON IN INTEREST SHALL HAVE THE

RIGHT TO CONTEST THE LEGALITY OF SUCH RESOLUTION OR INTERLOCAL COOPERATION ACT AGREEMENT, AND AFTER SUCH TIME NO ONE SHALL HAVE ANY CAUSE OF ACTION TO CONTEST THE REGULARITY, FORMALITY OR LEGALITY THEREOF FOR ANY CAUSE WHATSOEVER.

PASSED AND APPROVED this 29th of December, 1987.

Ruth Hansen
RUTH HANSEN, Mayor

Attest: Dorothy Jeffery
DOROTHY JEFFERY
City Recorder

INTERLOCAL COOPERATION ACT AGREEMENT

THIS AGREEMENT is entered into under authority of the Utah Interlocal Cooperation Act as contained in Title 11, Chapter 13, Utah Code Annotated (1953), as amended, by and between the following parties:

- I. CITY OF DELTA, a municipal corporation and political subdivision of the State of Utah, 76 North 200 West, Delta, Utah, referred to herein as "Delta City", and
- II. WEST MILLARD RECREATION DISTRICT, a special service district created to provide recreational services in West Millard County, _____, Delta, Utah, referred to herein as "District."

Delta City and District shall be referred to jointly in this agreement as "the parties."

W I T N E S S E T H:

A. The District was established and created under the Utah Special Service District Act by a resolution of the Millard County Commission dated August 17, 1977, for the purpose of providing recreational services and any incidental services within a boundary of that area of Millard County, Utah which is within the area and confines of the West Millard Hospital District, which District encompasses and includes the corporate boundaries of Delta City, Utah.

B. The White Sage Regional Park (the "Park") was constructed by Intermountain Power Agency ("IPA") and dedicated to Delta City to help alleviate the impact resulting from construction of the Intermountain Power Project. The Park was dedicated primarily for public recreation purposes. A legal description of the Park which is the subject of this agreement is attached hereto as Exhibit "A".

C. The City Council has determined that major changes have recently occurred in funding recreation facilities and activities. The most significant change affecting a major public recreation facility in Millard County is the loss of impact alleviation payments from IPA to Delta City to fund the operation and maintenance of the Park and those programs conducted at the Park.

D. As a result of the loss of impact alleviation payments from IPA to Delta City, which constituted 80% of operation and maintenance costs for the Park, together with shrinking

revenue due to population decreases and loss of federal revenue sharing, it has become economically unfeasible for Delta City to continue funding for the operation and maintenance of the Park.

E. While the impact alleviation payments from IPA to Delta City terminated on June 30, 1987, Millard County and the District will now enjoy a significant increase in tax base and potential tax revenue during 1988 and subsequent years due to completion and commercial operation of the Intermountain Power Project.

F. As the potential revenue available to Millard County and the District is not available to Delta City, Delta City desires that the facilities, currently owned by Delta City, together with the programs and recreational activities conducted at the White Sage Regional Park, continue for the benefit of all citizens in the West Millard County area.

G. Delta City, by and through its City Council, determines that it will be in the best interests of the residents of Delta City and will promote the general welfare of its residents to transfer the property known as the White Sage Regional Park to the District for the purpose of operating and maintaining the Park and continuing the current programs and/or other recreational programs for the benefit of the citizens of West Millard County.

H. The Administrative Control Board of the District ("Board") has determined that the Park provides recreational facilities and services to most of the residents of the District, and the District, therefore, determines it to be within their authority to acquire, own, operate and maintain the Park, which would substantially promote the purposes and objectives of the District. The Board has agreed to assume ownership and responsibility of the Park, subject to the conditions set forth in this agreement.

I. Delta City and the District, now desire to define and outline the rights, responsibilities, obligations and liabilities of each, in relation to the transfer of the Park from Delta City to the District.

NOW, THEREFORE, the parties hereto, for the consideration expressed in this agreement, the sufficiency of which is hereby acknowledged, hereby covenant, promise and agree as follows:

1. Purpose. Delta City shall convey a fee simple determinable title to the District of that real property referred to herein as the White Sage Regional Park, and the District shall

conduct recreational programs for the benefit of the citizens of the District. Delta City shall convey the Park to the District by Special Warranty Deed in a form substantially similar to that of the Special Warranty Deed attached hereto as Exhibit "B" and incorporated herein by reference. Thereafter, the District shall own said real property, together with all improvements, structures and fixtures now existing or at any time or times hereafter placed, constructed or installed on the property. In addition to said real property, Delta City shall convey to the District that certain personal property used in connection with the maintenance and operation of the Park pursuant to a Bill of Sale in the form substantially similar to the Bill of Sale attached hereto as Exhibit "C" and incorporated herein by reference.

The real property and personal property referred to in this paragraph shall be referred to jointly as the "Subject Property."

2. Maintenance. The parties expressly acknowledge that the purposes of the transfer of the Park from Delta City to the District is for use as a public facility, and the District will, subject to the terms of this agreement, operate and maintain the Park for use as a public facility subject to the rules or regulations adopted by the District and without discrimination to any person, regardless of race, color, religion, sex, marital status or national origin.

3. Future Transfer of Property. The parties hereto agree and acknowledge that the transfer of the Park from Delta City to the District is for the purpose of keeping the Park open to the residents of West Millard County as a public facility. Therefore, the following provisions shall serve as conditions to the future conveyance of the Subject Property:

(a) The parties hereto agree that Delta City shall put restrictions in the Special Warranty Deed hereafter conveyed to the District whereby the District, its successors or assigns, agrees to use the Park exclusively as a public park or recreational facility.

(b) In the event the District no longer desires to operate and maintain the Park as a public facility, the District may elect to convey the Subject Property to another public entity which has as part of its purposes or objectives recreational or other public related programs.

(c) In the event the District, its successors or assigns, convey any of said real property to other than a public entity whose purpose is to provide public recreational facilities or programs, title to the real

property shall automatically revert to Delta City pursuant to the terms and conditions of the warranty deed attached hereto, and Delta City shall thereafter own said property, free and clear, together with all improvements, structures and fixtures thereon and any and all personal property conveyed to the District pursuant to this agreement shall be reconveyed to Delta City; provided, however, that in the event the District, its successors or assigns, desire to sell said subject property and use the proceeds of such sale for new recreational facilities for the benefit of West Millard County residents, Delta City may convey any remaining interest it now has in said property to the District, its successors or assigns, for the purpose of consummating said sale and applying the proceeds thereof for new recreational facilities in West Millard County.

4. Employees. Delta City shall, from the date of transfer of the Park to the District, no longer be responsible to provide employees for the operation and maintenance of said Park. The District, however, shall be responsible to hire and supervise those employees used in connection with the Park's recreational facility and any programs associated therewith.

5. Risk of Loss and Liability Insurance. Delta City shall assume risk of loss or casualty to the improvements located on the subject property for any loss or damage occurring before January 1, 1988. District shall assume risk of loss for any damage or casualty occurring to the real property or improvements thereon after December 31, 1987. Delta City shall carry liability insurance on the Park up to the date of transfer of said Park to the District on or before January 1, 1988 and shall be liable for any claims arising prior to the date of said transfer. Furthermore, Delta City shall indemnify the District from any claims arising prior to the transfer of said Park. The District agrees to obtain liability insurance on said Park on or before January 1, 1988, and shall be liable for any claims arising after the date of transfer of said Park to District. Furthermore, the District shall indemnify Delta City for any claims arising after the date of transfer of said Park.

6. Documents. Delta City will provide the District with any information it may have in its possession, including but not limited to, books, reports, maps, blueprints or any other documents that may help show the construction, operation and maintenance of said Park.

7. Future Water Use. The parties anticipate that IPA will dedicate an annual water right to Delta City for the purpose of supplying the Park with an irrigation and culinary water

supply. IPA has proposed and Delta City agrees as a condition of said water right dedication that Delta City shall provide water services to said Park at the same rate water service is provided by Delta City to similarly situated users as said rates are determined from time to time by the Delta City Council.

8. Amendment. This agreement shall not be amended except in a writing executed by the authorized agents of each respective party hereto, such authorization having been given by resolution of the governing body of each respective party approved in accordance with the Utah Interlocal Cooperation Act.

9. Severability. In the event that any provision of this agreement less than the entire agreement is held invalid by a court of competent jurisdiction, this agreement shall be deemed severable, and such finding of invalidity shall not affect the remaining portions of this agreement.

10. Applicable Law. This agreement and all performances relating to this agreement shall be construed and interpreted according to the laws of the State of Utah.

11. Effective Date. This agreement shall become effective upon execution of the agreement by the parties hereto and upon passage of a resolution by each of the respective parties in accordance with the Utah Interlocal Cooperation Act, Section 11-13-5, U.C.A. (1953), as amended, and shall remain in full force and effect so long as the District, its successors or assigns, uses the Subject Property as a public recreational facility.

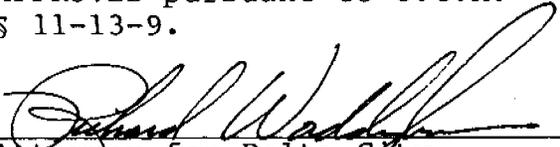
IN WITNESS WHEREOF, the parties have signed this agreement this 29 day of DECEMBER, 1987.

DELTA CITY

By: Ruth Hansen
RUTH HANSEN, Mayor

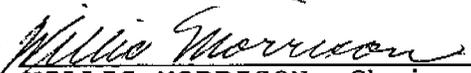
Attest: Dorothy Jeffery
DOROTHY JEFFERY,
City Recorder

APPROVED pursuant to U.C.A.
§ 11-13-9.

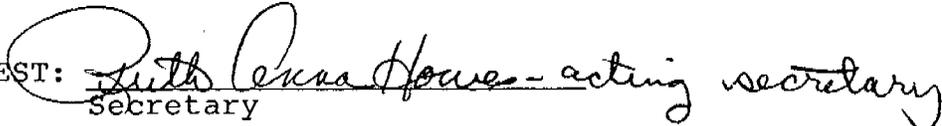


Attorney for Delta City

WEST MILLARD RECREATION DISTRICT

By: 

WILLIS MORRISON, Chairman

ATTEST: 
Secretary

APPROVED pursuant to U.C.A.
§ 11-13-9.

Attorney for West Millard
Recreation District