

RESOLUTION NO. 90-192

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, UTAH AUTHORIZING DELTA CITY TO BECOME A PARTY TO AN INTERLOCAL COOPERATION ACT AGREEMENT WITH MILLARD COUNTY AND FILLMORE CITY FOR THE PURPOSE OF RECEIVING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO BUILD PUBLIC RESTROOM FACILITIES, TO PROVIDE GRANT ADMINISTRATION, TO PROVIDE OPERATION AND MAINTENANCE OF THE BUILDINGS AND AUTHORIZING EXECUTION OF SAID AGREEMENT ON BEHALF OF DELTA CITY.

RECITALS

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

A. Each of the parties maintain a common goal of providing public facilities for the traveling public, county residents attending area events and tourists and other individuals visiting Millard County.

B. The cities of Delta and Fillmore are the major population and economic centers in Millard County. Delta City and Fillmore City both have well-maintained central city parks, but neither the Delta City or Fillmore City central parks have public restroom facilities.

C. The parties have cooperated in filing an application for Community Development Block Grant funds through the Utah Department of Community and Economic Development to obtain funds to build public restrooms in the central city parks in Delta and Fillmore. The Community Development Block Grant ("CDBG") Application submitted on behalf of the parties by Millard County requests that funds be received through Millard County for these purposes. The grant application further calls for Millard County to provide for construction of the restroom facilities and for Delta City and Fillmore City to assume ownership of the facilities and to perform other duties with respect to construction and maintenance of the restroom facilities.

D. The parties desire to enter into this agreement for the purpose of declaring and agreeing to their respective responsibilities and duties and to provide for completion of the restroom buildings construction projects consistent with the CDBG application.

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

Section 1. Authorization to Enter Agreement. Authorization is hereby given for Delta City to enter into the attached Interlocal Cooperation Act Agreement between Millard County, the

City of Delta, Utah and the City of Fillmore, Utah to provide for receiving Community Development Block Grant funds to build public restroom facilities, to provide grant administration and to provide operation and maintenance of the buildings. Authorization has been given for the Mayor of Delta City and the City Recorder to execute and attest, respectively, the attached agreement on behalf of Delta City.

Section 2. Administration of Agreement. The City Council hereby appoints Neil Forster to administer compliance with the attached Interlocal Cooperation Act Agreement according to its terms, on behalf of Delta City.

Section 3. Effective Date. This resolution shall become effective immediately upon adoption. The agreement approved hereby shall become effective in accordance with its terms.

Section 4. Severability. In the event that any provision of this resolution is deemed or held invalid by a court of competent jurisdiction, such portion shall be deemed severable and shall, to the extent possible, be construed separately and independent of any other provision of this resolution and all other portions of this resolution not held to be invalid shall continue in full force and effect, to the extent practicable.

Section 5. Conflicting Actions. To the extent that this resolution conflicts with any prior resolution or other act of the Delta City Council of equal or lesser dignity, such other action shall be deemed amended to conform to and be made in accordance with the provisions of this resolution.

ADOPTED AND APPROVED this 11th day of June, 1990.

Don Dafoe
DON DAFOE, Mayor

ATTEST:

Dorothy Jeffery
DOROTHY JEFFERY,
City Recorder

**INTERLOCAL COOPERATION ACT AGREEMENT
BETWEEN DELTA CITY, FILLMORE CITY AND MILLARD COUNTY
CONCERNING 1990-91 COMMUNITY DEVELOPMENT BLOCK GRANT**

THIS AGREEMENT is made and entered pursuant to the Interlocal Cooperation Act as set out in Utah Code Annotated §§ 11-13-1, et seq. between the following parties, listed in alphabetical order:

- I. **CITY OF DELTA, UTAH**, a municipal corporation of the State of Utah of 76 North 200 West, Delta, Utah 84624, referred to in this agreement as "Delta City,"; and
- II. **CITY OF FILLMORE, UTAH**, a municipal corporation of the State of Utah of 75 West Center, Fillmore, Utah 84631, referred to in this agreement as "Fillmore City,"; and
- III. **MILLARD COUNTY, UTAH**, a body corporate and politic of the State of Utah of 60 South Main, Fillmore, Utah 84631, referred to in this agreement as "Millard County."

Delta City and Fillmore City are referred to collectively in this agreement as "Cities". The parties are referred to collectively as the "parties."

RECITALS

The parties recite the following as the basis for entering this agreement:

A. Each of the parties maintain a common goal of providing public facilities for the traveling public, county residents attending area events, tourists and other individuals visiting Millard County.

B. The cities of Delta and Fillmore are the major population and economic centers in Millard County. Delta City and Fillmore City both have well-maintained central city parks, but neither the Delta City or Fillmore City central parks have public restroom facilities.

C. The parties have cooperated in filing an application for Community Development Block Grant funds through the Utah Department of Community and Economic Development to build public restrooms in the central city parks in Delta and Fillmore. The Community Development Block Grant ("CDBG") Application submitted on behalf of the parties by Millard County, a copy of which is attached as Exhibit "A" to this agreement, requests that funds be received through Millard County for these purposes. The grant application further calls for Millard County to provide for construction of the restroom facilities and for Delta City and Fillmore City to assume ownership of the facilities and to perform other duties with

respect to construction and maintenance of the restroom facilities.

D. The parties desire to enter this agreement for the purpose of declaring and agreeing to their respective responsibilities and duties and to provide for completion of the restroom buildings construction projects consistent with the CDBG application.

NOW, THEREFORE, the parties, for the mutual covenants and other consideration expressed herein, hereby agree as follows:

1. Administration of Grant by Millard County. Millard County agrees to administer the Community Development Block Grant, including all documentation, administration, reporting, auditing and any other function necessary to comply with the provisions of the grant applied for under the CDBG application attached as Exhibit "A". Millard County further agrees to be responsible for receipt, disbursement and auditing of all funds received through the CDBG program. Millard County shall further be obligated to assure compliance with all of the covenants and conditions contained in the CDBG program agreement for the 1990-91 grant period as set out in the form of agreement attached hereto as Exhibit "B". The Cities shall cooperate with and assist Millard County as reasonably necessary to meet the terms and conditions of the agreement attached as Exhibit "B". Millard County will administer this grant through the Administrative Assistant to the Millard County Commission, under supervision of the Millard County Commission.

2. Construction of Project Improvements. Millard County will provide for construction of the restroom facilities contemplated under this agreement. To effectuate the purpose of this agreement; namely, the construction of restroom facilities in Delta and Fillmore, Millard County shall:

2.1. Retain such architectural, engineering or other design services as are necessary to design restroom buildings as described in the CDBG application attached as Exhibit "A". Millard County shall provide for design of restrooms that are similar to those used by the Utah Department of Transportation on interstate highway rest stops. The restroom buildings shall be constructed as permanent buildings. The restroom building to be located in the Delta City central park will be architecturally consistent with the Delta Municipal Building and the restrooms to be constructed in the Fillmore City central park shall be architecturally consistent with the Fillmore City and Library Building.

2.2. Design the restroom buildings to minimize maintenance costs during operation and ownership of the buildings by the Cities.

2.3. Prepare floor designs, exterior elevations, layouts

and other drawings sufficient for the Cities to review the proposed structures to assure compliance with all applicable local building codes, to assure that the buildings are architecturally consistent with their surroundings as described above and to assure that the buildings are constructed in a manner consistent with the use and purposes of the building and good construction practices.

2.4. Properly advertise for competitive bids consistent with Utah law for construction of the improvements.

2.5. Provide proper construction contracts and bid documents to assure proper documentation of bids, construction contracts, construction work progress and contract payments.

2.6. Supervise construction of the restroom buildings until issuance of a Certificate of Completion of the form specified in the Millard County Standard Contract Documents and through issuance of certificates of occupancy by the respective building departments of Delta City and Fillmore City.

2.7. Provide in its contract documents that construction shall be completed on the restroom buildings by October 31, 1990.

3. Cities' Duties Regarding Grant Administration. Delta City and Fillmore City shall, with respect to construction of the respective restroom buildings within the central parks of each city, perform the following:

3.1. Each of the Cities will identify and locate a site within the central city park in each city on which the restroom buildings will be constructed. The Cities agree that they will each identify and stake the location of the restroom buildings for each respective city after the design has been approved by each respective city.

3.2. Delta City agrees that it will grant license to Millard County and does hereby grant license for Millard County to enter the site identified by Delta City for the purpose of constructing the restroom building in the Delta City central park contemplated under this agreement. Delta City agrees that it will execute such documents as are necessary to grant license to Millard County to enter the site identified by Delta City and to construct the intended restroom building facilities on that site and to perform any further activities contemplated under this agreement or the CDBG program contract attached as Exhibit "B".

3.3. Fillmore City agrees that it will grant license to Millard County and does hereby grant license for Millard

County to enter the site identified by Fillmore City for the purpose of constructing the restroom building in the Fillmore City central park contemplated under this agreement. Fillmore City agrees that it will execute such documents as are necessary to grant license to Millard County to enter the site identified by Fillmore City and to construct the intended restroom building facilities on that site and to perform any further activities contemplated under this agreement or the CDBG program contract attached as Exhibit "B".

3.4. Each of the Cities, respectively, agree to budget for during the fiscal year beginning July 1, 1990 and provide for installation of water lines and sewer lines as necessary for construction, maintenance and operation of the restroom buildings. Each of the Cities respectively agree to budget for water and sewer installation and for maintenance of the restroom buildings after completion of construction.

3.5. The Cities each respectively agree that they will locate the buildings so that they can be readily visible to and accessible by the public, including travelers.

4. Cities' Duties Regarding Contract Administration. The Cities each respectively agree that they will perform the following duties with respect to administration of the CDBG contract:

4.1. Each city will assure sufficient record keeping to comply with the monitoring, certification and auditing requirements of the CDBG Form Contract attached as Exhibit "B".

4.2. The Cities each respectively agree to require inspection of the improvements by their respective building officials to assure that all construction complies with applicable zoning, building codes and other land use and land development regulations.

4.3. The Cities each respectively agree to provide proper zoning for construction, operation and maintenance of the restroom buildings.

4.4. The Cities each respectively agree to provide such documentation, records and other certifications as are necessary for Millard County to comply with the reporting, certification and auditing requirements of the contract attached as Exhibit "B" and all applicable state and federal regulations.

4.5. Delta City and Fillmore City each respectively agree and acknowledge that the cooperative undertaking described in this agreement requires full compliance by each of the parties with CDBG regulations and procedures. Delta City and Fillmore City therefore each agree to fully comply with all applicable procedures and regulations so that the grant program provided for in this agreement will not be

compromised or jeopardized by the actions of any party to this agreement.

5. Duties of Cities Following Construction. The Cities each respectively agree that, following completion of construction as defined in this agreement, they will accept ownership of and operate and maintain the restroom buildings as public restroom buildings available to the general public, including travelers and tourists. The parties agree that the Cities shall be entitled to impose such reasonable restrictions as are necessary to provide for proper maintenance and use of the restroom buildings and to assure compliance with all requirements of the CDBG program as described in the form of agreement attached as Exhibit "B" and the certifications therein by all persons and entities having access to, control over or use of the restroom buildings. The Cities each respectively agree that they will budget for such operation and maintenance beginning with their budget years commencing July 1, 1990, and that the funds will be available for such purposes immediately upon completion of construction.

6. Insurance and Indemnification.

6.1. The Cities each respectively agree to maintain landowners liability insurance on the sites owned by each respective city on which restroom buildings will be constructed throughout construction of the restroom buildings. The Cities shall each provide for Millard County to be named as an additional insured liability during the period of construction of the restroom facilities on the property owned by each respective city until delivery of the quit-claim deed provided for in paragraph 7.6 of this agreement. Such liability coverage shall provide a minimum of \$1,000,000 coverage per occurrence or \$1,000,000 combined single limit coverage.

6.2. Millard County shall require the contractor or contractors constructing each of the restroom buildings to provide insurance with at least a \$1,000,000 minimum limit per occurrence or \$1,000,000 combined single limit coverage for injury to persons or \$50,000 for injury to property. Millard County shall require that all such contractors provide insurance policies naming the City owning the property on which the improvements are being constructed and Millard County as additional insureds.

6.3. Each party to this agreement shall provide workmans compensation and other employer's insurance for their respective employees during the term of this agreement.

6.4. Each party to this agreement shall indemnify and defend each of the other parties for any loss or claim arising from any act or omission of any employee or agent of such indemnifying party. Such indemnification and defense shall include, but shall not be limited to, any liability or claim arising from noncompliance with the provisions of the CDBG

form agreement attached as Exhibit "B" hereto.

6.5. Fillmore City shall include in its insurance coverage for the restroom buildings course of construction coverage for any loss to the restroom building to be built on Fillmore City property.

6.6. Delta City shall include in its insurance coverage for the restroom buildings course of construction coverage for any loss to the restroom building to be built on Delta City property during course of construction.

7. Compliance with Interlocal Cooperation Act Requirements.

7.1. Duration. This agreement shall continue in effect throughout construction of the restroom buildings provided for in this agreement and completion of the CDBG compliance period applicable to the grant received by Millard County pursuant to this agreement. This agreement shall then terminate except for the obligation of the Cities to operate and maintain the restroom buildings and to assure compliance with the certifications described in "Attachment G" of the CDBG form agreement attached as Exhibit "B". The Cities may terminate their obligations to maintain the buildings as provided hereunder at any time by demolishing and removing those buildings.

7.2. No Separate Entity. The parties do not intend to create a separate legal entity under this agreement, but to merely provide for a joint undertaking under the Interlocal Cooperation Act.

7.3. Administration. Administration of this agreement shall proceed as set out herein, with administration to be provided by the Administrative Assistant to the Millard County Commission, acting under supervision of the Millard County Commission and in cooperation with the Delta City Council and the Fillmore City Council. There is no separate or joint board created hereunder.

7.4. Financing. Financing of the joint undertaking provided for in this agreement shall be provided under the \$65,300.00 total CDBG funding. This amount shall be first applied to construct all restroom building improvements. The Cities each agree to provide the cost of installing water and sewer connections as provided for in this agreement. Electrical and other utility connections shall be included in the cost of construction. The parties each agree to bear such administrative, personnel and labor costs as may be incurred by each respective party for employees or agents furnished each entity to perform under this agreement. Any CDBG funds remaining after construction of the restroom buildings may be applied by Millard County to offset administrative and auditing costs incurred by Millard County.

7.5. Termination. This agreement may be terminated only by mutual agreements of the parties hereto until completion of the CDBG program to be set out in the original of the contract of which a form is attached as Exhibit "B". Termination thereafter may be effected unilaterally as set out in paragraph 7.1 above.

7.6. Disposition of Property. The real property improvements and any related personal property to be acquired, constructed or held under this agreement shall become the property of the city upon whose park such improvements are constructed and may be disposed of by such city in accordance with its established property disposition procedures. Millard County shall execute a quit-claim deed back to each City upon completion of the restroom buildings.

7.7. Effective Date. This agreement shall become effective upon adoption of a resolution of the governing body of each respective party to this agreement as required under Utah Code Annotated § 11-13-17; upon approval of the agreement by an attorney authorized for each respective entity under § 11-13-9 and filing of the agreement with the keeper of records of each party hereto as required in § 11-13-10.

8. Authority. Each of the parties hereto represent that they enter into this agreement after receiving proper authority from their governing bodies as provided by Utah law.

9. Applicable Law. This agreement shall be governed under the laws of the State of Utah and jurisdiction for any case arising from this contract shall be in the courts of the State of Utah.

10. Severability. To the extent that any provision of this agreement is held or deemed to be unenforceable by a court of competent jurisdiction, that provision shall be deemed severable and the remaining provisions shall, to the extent possible, be enforced.

11. Specific Performance. Each party to this agreement shall be entitled to specific performance of the terms and conditions of this agreement.

IN WITNESS WHEREOF, the parties to this agreement have executed this agreement effective for each party as of the date noted below.

CITY OF DELTA, UTAH

DATED June 11, 1990

By: Don Daffoe
DON DAFOE, Mayor

Attest: Dorothy Jeffery
DOROTHY JEFFERY,
City Recorder

Approved as to form pursuant
to UCA § 11-13-9

RICHARD WADDINGHAM,
Delta City Attorney

CITY OF FILLMORE, UTAH

DATED _____

By: _____
KEITH GILLINS, Mayor

Attest: _____
MARLENE CUMMINGS,
City Recorder

Approved as to form pursuant
to UCA § 11-13-9

SCOTT W. KING,
Fillmore City Attorney

MILLARD COUNTY, UTAH

DATED _____

By: _____
MICHAEL R. STYLER, Chairman
Board of County Commis-
sioners

Attest: _____
MARLENE A. WHICKER,
Millard County Clerk

Approved as to form pursuant
to UCA § 11-13-9

WARREN H. PETERSON,
Millard County Attorney