RESOLUTION NUMBER 15-385

A RESOLUTION OF THE COUNCIL OF THE CITY OF DELTA, STATE OF UTAH, APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN DELTA CITY AND MILLARD COUNTY FOR JUSTICE COURT SERVICES.

WHEREAS, the City of Delta, Utah (hereinafter the "City") met in regular meeting on June 4, 2015 to consider, among other things, approving an Interlocal Cooperation Agreement between the City and Millard County (the "County");

WHEREAS, the Utah Local Cooperation Act, set out in Utah Code Ann. § 11-13-101 *et seq.* (the "Act") provides that two local governmental entities are authorized to enter into agreement with each other, upon resolution of the governing body of each of the parties, to do what each entity is authorized by law to perform;

WHEREAS, the County and the City are governmental entities as contemplated in the act;

WHERAS, the Council has determined that it is in the best interests of the citizens of the City to enter into an Interlocal Cooperation Agreement with the County for certain justice court services for the continued and efficient operation of the Delta City Justice Court;

WHEREAS, an Interlocal Cooperation Agreement for such justice court services has been prepared for approval which sets forth the purpose thereof, the extent of participation of the parties and the rights duties and responsibilities of the parties, and is attached hereto.

NOW, THEREFORE, be it hereby RESOLVED by the Council of the City of Delta, State of Utah THAT:

Section 1. The attached "Interlocal Cooperation Agreement for Justice Court Services" is hereby approved, and the Mayor and the City Recorder are authorized and directed to execute and deliver the same.

Section 2. The Council approves the operation of the Delta City Justice Court as contemplated by the attached Interlocal Cooperation Agreement for Justice Court Services and authorizes such operation effective immediately.

Section 3. To the extent that any resolution previously adopted by Delta City conflicts with the provisions of this Resolution, it is hereby amended, invalidated or, replaced by the provisions hereof.

Section 4. This resolution shall take effect immediately, as authorized by section 10-3-719 of the Utah Code Annotated.

PASSED AND ADOPTED this 18th day of June, 2015 by the following vote:

	Aye	Nay	Abstain	Absent
Robert W. Banks	X			
Kiley J. Chase	X			
John W. Niles				X
Steven R. Pratt				X
Betty J. Western	X			

GAYLE K. BUNKER
MAYOR

GREGORY JAY SCHAFER, MMC
CITY RECORDER

MILLARD COUNTY, UTAH
RESOLUTION NO. 15-06-16A

A RESOLUTION OF THE MILLARD COUNTY COMMISSION AUTHORIZING AN INTERLOCAL AGREEMENT WITH DELTA CITY ESTABLISHING TERMS AND CONDITIONS FOR THE PROVISION OF JUSTICE COURT SERVICES BY THE MILLARD COUNTY JUSTICE COURT FOR AND ON BEHALF OF DELTA CITY.

RECITALS

WHEREAS, Millard County and Delta City independently operate justice courts in accordance with Title 78A, Chapter 7 of Utah Code Annotated; and

WHEREAS, Millard County and Delta City, as political subdivisions of the State of Utah, are authorized by the Utah Local Cooperation Act to enter into agreements with one another regarding the performance of municipal services and other government functions; and

WHEREAS, Delta City has recently undergone significant staffing and personnel changes in its justice court; and

WHEREAS, Delta City has expressed a desire to enter into an agreement with Millard County providing for the handling of all criminal and other matters over which the Delta City Justice Court has jurisdiction by the Millard County Justice Court; and

WHEREAS, the Millard County Board of Commissioners has received comment from all Millard County officials that would be impacted by an agreement regarding the Delta City Justice Court and has determined that such an agreement is feasible and serves the interests of the residents of Millard County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Millard County, Utah:

1. Interlocal Agreement. The attached INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES ("Interlocal Agreement") is hereby approved and adopted and the Chair of the Millard County Board of Commissioners is authorized and directed to execute the Interlocal Agreement.

2. Severability. If any provision of the attached Interlocal Agreement is found by a court having proper jurisdiction to be inconsistent with Utah law or unconstitutional for any reason that provision shall be deemed stricken from the attached Interlocal Agreement and the remaining provisions shall remain in effect.

3. Recitals. The recitals set forth above are hereby adopted and incorporated by this reference.

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

RESOLUTION APPROVED AND ADOPTED by the unanimous/majority vote of the Millard County Commission this 16th day of June, 2015.

VOTING

	Yes	No
Commissioner Roper	✓	
Commissioner Draper	✓	
Commissioner Withers	✓	

MILLARD COUNTY COMMISSION

By: James I. Withers
JAMES I. WITHERS, Chairperson

Attest: Marki Rowley
MARKI ROWLEY
Millard County Clerk

INTERLOCAL COOPERATION AGREEMENT FOR JUSTICE COURT SERVICES

This Agreement made and entered into this 16th day of June, 2015 is by and between MILLARD COUNTY, a body politic of the State of Utah, ("County") and DELTA CITY, a Municipal Corporation of the state of Utah ("City").

Recitals

A. Utah Code Ann. § 78A-7-101 and § 78a-7-102 enables Utah counties and municipalities to establish and operate justice courts for public convenience and establishes the appropriate precinct for established courts;

B. Accordingly, the County and the City have both established justice courts, respectively, the Millard County Justice Court and the Delta City Justice Court;

C. The Parties have determined that it would be mutually beneficial and would save taxpayer money to share common court facilities and personnel through mutual cooperation;

D. The Parties are authorized by the Utah Interlocal Cooperation Act as set forth in Utah Code Ann. § 11-13-101 *et seq.* for the provision of justice court services;

E. The County is willing to provide the City with justice court services, physical facilities, equipment, and supplies necessary to conduct its justice court, on terms and conditions hereinafter set forth under the terms and provisions of this interlocal cooperation agreement;

F. To the extent allowed by law, the City desires to reserve its rights to amend its method of assuming its local responsibility in the future and to operate its municipal justice court in accordance with law in the event that this Agreement is terminated for any reason;

G. The County reserves its right to enter into similar agreements with other municipalities to provide justice court services to those municipalities on terms as negotiated between the County and such municipalities; provided however, that other contracts shall not interfere with the County's performance of the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the Parties hereto agree as follows:

1. **Adoption of Recitals.** The Parties adopt the above recitals as part of the Interlocal Cooperation Agreement.

2. **Justice Court Services.** The County shall provide justice court services, including both criminal and small claims, to the City and shall operate the Delta City Justice Court. (The Delta City Justice Court operated by Millard County shall hereinafter be referred to as the "Court")

3. **Territorial Jurisdiction**. The jurisdiction of the Court shall be all the territory within the corporate limits of the City, and such other territory as authorized by law should the City have continued to operate the Court itself.

4. **Court Jurisdiction**. The Court shall continue to have the jurisdiction granted to it by applicable laws and rules of the State of Utah and, in particular, those granted by Utah Code Ann. § 78a-7-106. The Court shall expressly have authority to enforce the City's ordinance.

5. **Justice Court Judge Authority**. The judge(s) of the Court provided by the County shall have such authority as is granted by State law and applicable rules.

6. **Certification.** The Court shall, at all times, meet the minimum requirements for the certification of a justice court as provided by Utah Code Ann. § 78A-7-103.

7. **Justice Court Judge.** The Court judge(s) provided by the County for the Court shall at all times be eligible, appointed, retained, participate in annual training, be compensated, and perform administrative responsibilities as is required by Utah Code Ann. § 78A-7-201 through 78A-7-210. The County may, when necessary, provide a temporary Court judge in accordance with Utah Code. Ann. § 78a-7-208. The Court judge shall also file required reports and audits as required by law, including Utah Code Ann. § 78A-7-215, or by rule promulgated by the Utah Judicial Council ("Judicial Council") pursuant to Utah Code Ann. 78A-7-103.

8. **Court Facilities and Hours.** The County shall ensure that:

8.1. All official court business for the Court shall be conducted in the Millard County Office located in Delta, Utah.

8.2. The court facilities furnished for the Court shall comply with requirements imposed by law, specifically including Utah Code Ann. § 78A-7-213, 214, and facility requirements imposed by rule of the Judicial Council.

8.3. The Court shall have regularly scheduled hours at which the judge of the Court and the court clerk shall be present. The hours of the Court shall be posted conspicuously at the Millard County Office located in Delta, Utah, and such posted hours shall be in compliance with Utah Code Ann. 78A-7-213 and rule of the Judicial Council.

9. **Court Staff and Expenses**

9.1. Clerical Staff:

9.1.1. The County shall provide adequate, competent and appropriate clerical staff to the Court to conduct the business of the Court.

9.1.2. Court clerical personnel shall be deemed employees of the County and therefore, subject to the selection, supervision, discipline and personnel policies and procedures of the County.

9.1.3. The cost and expense for travel and training of County employed clerical personnel shall be the responsibility of the County.

9.2. Prosecution:

9.2.1. The prosecution of all cases brought before the Court in which the City is a party or which the violation of City Ordinances is an issue shall be the responsibility of the City.

9.2.2. The City shall provide adequate, competent and appropriate prosecuting attorney(s) for criminal cases before the Court.

9.3. Indigent Defense Council:

9.3.1. The City shall provide adequate, competent and appropriate indigent defense counsel for criminal cases before the Court.

9.4. Court Interpreters:

9.4.1. The City shall provide adequate, competent and appropriate interpreter(s), for criminal cases before the Court.

9.5. Court Security:

9.5.1. When court security is reasonably necessary or appropriate, the City shall pay the County an hourly rate of $50 per every hour a Millard County Deputy is present to provide security for the Court.

9.6. Witness Fees:

9.6.1. The City shall pay any and all witness fees incurred through the prosecution of criminal cases of the Court.

10. **Records.**

10.1. The records of the Court shall be maintained by the County but shall be made available, as required by law, to parties and the general public in accordance with the Governmental Records Access and Management Act as well as applicable court rules.

10.2. The City and the County shall work together to complete the transfer of City Justice Court records as is necessary and appropriate from the Delta City Offices to the County to implement this Agreement, including records and files of open cases, collections, and other relevant matters. The transfer of records shall comply with any terms and conditions as required by the Judicial Council or the Utah Administrative Office of the Courts.

11. **Budget**. The County shall review, determine, and approve the budget for the Court.

12. **Distribution of Gross Revenue**. The Parties have reviewed and considered the various economic benefits and consequences to both Parties and other factors of the County and the City in order to determine in the full and unique circumstances of the Parties what is the appropriate and reasonable allocation of Court revenues. Based upon this review and consideration, as well as the negotiations involved, the Parties have determined that the allocation of Court gross revenues is as follows:

12.1. The allocation and distribution of the gross revenues of the Court shall be determined and made monthly on the following basis:

12.1.1. Fifty per cent (50%) of the gross revenues collected and attributable to citations issued by the Utah Highway Patrol, the Millard County Sheriff's Office and any other agency which would be cited into the Court shall be allocated and distributed to the County.

12.1.2. Fifty per cent (50%) of the gross revenues collected and attributable to citations issued by the Utah Highway Patrol, the Millard County Sheriff's Office and any other agency which would be cited into the Court shall be allocated and distributed to the City.

12.1.3. In those cases which are opened in the Delta City Justice Court and which are transferred as open cases to the Millard County Justice Court, if a fine has been imposed as part of a sentence and funds are continued to be collected on that case, the allocation of the revenues actually collected shall be Fifty Percent (50%) to the City and Fifty Percent (50%) to the County.

12.1.4. The allocation of revenues shall be reviewed annually by the Parties and may be adjusted by an addendum to this Agreement, approved and signed by both Parties.

12.1.5. An accounting of all revenues and expenses of the Court, as well as distribution of the revenues to the Parties should be made quarterly to the Parties.

12.2. "Gross Revenue" means, for the purposes of this Agreement, the total of all fines, filing fees, and surcharges actually received by the Court, and not those portion of fines, filing fees, and surcharges that are directed to the State Treasurer or other State entities by operation of State Law such as, for example, Utah Code Ann. § 51-9-402.

12.3. Neither Party shall be obligated to pay, nor receive any interest on the share of the gross revenues allocated and distributed amongst the Parties.

13. **Reports.**

13.1. In accordance with Utah Code Ann. § 78A-7-215 the Court judge shall file monthly reports regarding the Court with the Office of the Utah State Court Administrator as well as copies to the City and the County. The report shall include, at the least, the number of cases, the dispositions entered and other information as specified in forms provided by the State Court Administrator's Office.

13.2. Annually, the Court judge shall appear before the City Council, if requested to do so, for the purpose of making a personal report of the Court and its activities as they pertain to the City and to respond to any inquiries of the City Council.

14. **Effective Date.** This Agreement shall become effective within the meaning of the Interlocal Cooperation Act upon approval and execution hereof by the governing bodies of the County and the City and filing of the same with the keeper of records of each of the Parties pursuant to Utah Code Ann. § 11-13-209. This Agreement shall continue until June 30, 2016, and unless terminated as provided herein, shall automatically renew for successive one year terms. The term Anniversary, as used in this Agreement, shall mean the first day of July of each year. This Agreement shall not, in any event, continue to renew for a period longer than fifty (50) years from the effective date hereof.

15. **Administration of Agreement.**

15.1. Pursuant to Utah Code Ann. 11-13-207, the Parties do not contemplate nor intend to establish a separate legal or administrative entity under the terms of this Agreement. The Parties agree that no joint real or personal property will be acquired, held, or disposed of as part of this Agreement.

15.2. Unless otherwise noted below, primary administration of this Agreement, including primary Court functions, *e.g.*, receiving court filings, calendaring and scheduling court dockets, providing notice to parties, conducting hearings and trials, shall be administered by the County.

15.3. The Parties agree that all filings with the Court, including payment of fees or fines in the form of cash or check, shall be directed only to the Millard County Office located in Delta, Utah, the facility provided for under Paragraph 8.

15.4. The County shall be responsible for:

15.4.1. The receipt of payment of fees or fines in the form of cash or check.

15.4.2. The County clerical staff shall complete a daily reconciliation of payments received by the Court (the "County Daily Reconciliation"). The County shall maintain the County Daily Reconciliations, along with reconciled cash and checks until delivered or received by City staff.

15.5. The City shall be responsible for:

15.5.1. Upon receipt of the County Daily Reconciliations, along with reconciled cash and check, the City shall account for and deposit cash and checks.

15.5.2. Delta City shall maintain and be responsible for all other accounting (receipts and payments) for the Court. This includes making quarterly distribution to the County pursuant to Paragraph 12.

15.5.3. Delta City shall maintain financial books and records of Court operations in such a form and manner to the satisfaction of the County Auditor, and shall be made available to the County Auditor, Court judge, or clerical staff of the County upon request.

15.6. The Parties acknowledge that at the effective date of this Agreement the Millard County Justice Court and Delta City Justice Court are utilizing different merchant account providers to receive online payments to the Court. The City agrees to provide training and assistance to County clerical staff sufficient for the County to complete the Daily Reconciliation. However, should, in the County's determination, the use of different merchant account providers prove to be cumbersome for County Staff, the City shall transition its merchant account provider for Court payment to the same provider utilized by the Millard County Justice Court.

16. **Transition.** The Parties desire to commence the transition of cases from the Delta City Justice Court to the Millard County Justice Court as efficiently and timely as possible. Subject to final approval by the Utah Judicial Council and the Administrative Office of the Courts, the Parties desire to start transitioning new cases from the Delta City Justice Court to the Court as soon as this Agreement becomes effective.

17. **Termination.** Either Party shall have the right to terminate this Agreement on any Anniversary thereof, by delivering written notice to the other Party, by regular mail, no later than 90 days prior to said anniversary date, or at any other time mutually agreed to by the Parties.

18. **Amendments.** This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be (a) approved by Resolution of the governing body of each of the Parties, (b) executed by a duly authorized official of each of the Parties, (c) submitted to an Authorized Attorney as required by Utah Code Ann. § 11-13-202.5, and (d) filed in the official records of each Party.

19. **Resolution of Approval.** This agreement shall be conditioned upon adoption by resolution of the legislative body of each Party in accordance with Utah Code Ann. § 11-12-202.5.

20. **Authorization**. The individual executing this Agreement on behalf of the Parties confirm that they are the duly authorized representative of the Parties and are lawfully enabled to execute the Agreement on behalf to the Parties.

In Witness Whereof, the Parties have signed and executed this Interlocal Cooperation Agreement, after resolutions duly and lawfully passed, on the dated listed below.

[Signature Pages to Follow]

DELTA CITY

Authorized by Resolution No. 15-385, authorized and passed on the 18 day of June, 2015.

BY: Gayle Bunker, Delta City Mayor

Attest:
Gregory Jay Schafer, Delta City Recorder

ATTORNEY APPROVAL

The undersigned, the authorized attorney for Delta City, approves the foregoing interlocal cooperation agreement as to form and compatibility with state law.

Todd Anderson, Delta City Attorney

MILLARD COUNTY

Authorized by Resolution No. 15-06-16A, authorized and passed on the 16 day of June, 2015.

BY: James I. Withers, Chairman
Millard County Board of Commissioners

Attest:
Marki Rowley, Millard County Clerk

ATTORNEY APPROVAL

The undersigned, the authorized attorney for Delta City, approves the foregoing interlocal cooperation agreement as to form and compatibility with state law.

Patrick Finlinson, Millard County Attorney