

YEA: Ruth Hansen
Neil Dutson
Kjell Jenkins

NAY: None

The resolution was then signed by the Mayor in open meeting and recorded by the City Recorder. The resolution is as follows:

RESOLUTION NO. 84-111

A RESOLUTION authorizing the issuance and confirming the sale of \$1,300,000 Excise Tax Revenue Bonds, Series 1984, of Delta City, Millard County, Utah, for the purpose of defraying all or a portion of the cost of constructing and/or repairing city streets; prescribing the form of bond, the terms and conditions of issuance and retirement and the security therefor; providing for the collection, handling and disposition of the revenues to be pledged for the payment of the Bonds; and related matters.

WHEREAS, the City of Delta (the "Issuer") desires to construct and/or repair certain streets within the Issuer, a list of streets and proposed improvements of which is attached hereto as Exhibit "B" (the "Project"), the cost thereof to be defrayed through the issuance of the Delta City, Utah Excise Tax Revenue Bond, Series 1984 (the "Bond") in a total principal amount of \$1,300,000; and

WHEREAS, the Utah Municipal Bond Act, Utah Code Annotated, Sections 11-14-1 et seq. (1953), as amended, authorizes the issuance of nonvoted excise tax revenue bonds payable in whole or in part from the excise tax revenues of cities, towns or counties, levied and collected by the said government entity or levied by the State of Utah and rebated pursuant to law; and

WHEREAS, the Issuer has obtained a grant in the amount of \$500,000 from the Intermountain Power Agency ("IPA") to be used (i) for the construction and repair of city streets or (ii) payment of bonds, the proceeds of said bonds having been used for the construction and/or repair of city streets; and

WHEREAS, the Issuer desires to pledge said grant moneys, together with any interest and earnings thereon, to the payment of principal and interest on the Bond herein authorized; and

WHEREAS, the State of Utah acting through the Permanent Community Impact Fund (the "CIB") has offered to purchase the Bond, bearing interest at the rate of four and one-half percent (4 1/2%) per annum; and

WHEREAS, the Issuer desires to accept the offer of CIB and to confirm the sale of its Excise Tax Revenue Bond, Series 1984, to CIB; and

WHEREAS, the Issuer hereby represents that the principal amount of that portion of the Bonds anticipated to be paid from excise tax revenues shall not at any one time

exceed an amount for which the average annual installments of principal and interest will exceed 75% of the net revenues to be derived from the collection or rebate of excise taxes at the rate established at the time of the adoption of this Resolution authorizing the issuance of these Bonds:

NOW, THEREFORE, Be It Resolved by the City Council of Delta City, Millard County, Utah, as follows:

ARTICLE I

Definitions

As used in this Resolution the following terms shall have the following meanings unless the context otherwise clearly indicates:

(A) "Annual Debt Service Requirement" means the total principal and interest payments due and payable on the Issuer's outstanding Bonds for any one Bond Fund Year.

(B) "Bond Fund" means the Bond Fund created by Section 3.1 of this Resolution.

(C) "Bond Fund Year" means the twelve-month period beginning on January 1 and ending on the next succeeding December 31.

(D) "Bondholder", "Registered Owner" or "Owner" means the registered owner of the Bond herein authorized.

(E) "Bond" or "Bonds" means the Excise Tax Revenue Bonds, Series 1984 herein authorized in the aggregate principal amount of \$1,300,000 and shall mean interchangeably the single Fully Registered Bond as herein defined.

(F) "Capitalized Reserve Fund" means the Delta City Excise Tax Revenue Bonds Reserve Fund created in Section 3.1 herein to be held by the Trustee.

(G) "Class C Road Funds" means those funds received by the Issuer from the State Transportation Fund on a quarterly

basis pursuant to Utah Code Annotated, Sections 27-12-127 and 27-12-129.

(H) "CIB" or "Community Impact Board" means the State of Utah Permanent Community Impact Fund, or any successor agency thereof.

(I) "Construction Fund" means the Construction Fund created by Section 3.1 of this Resolution.

(J) "Depository Bank" means the bank selected by the Issuer to receive deposits for the Excise Tax Revenue Account as herein described, which bank shall be insured by the Federal Deposit Insurance Corporation.

(K) "Excise Taxes" means all excise taxes levied and collected by the State for deposit in the State Transportation Fund and rebated to local governmental entities pursuant to Utah Code Annotated, Sections 27-12-127 and 27-12-129, including but not limited to the motor fuels tax, special fuels tax and drivers education tax.

(L) "Fully Registered Bond" means a single bond representing the total principal amount of the Series 1984 Bonds authorized herein registered as to principal and interest and in the denomination equal to the aggregate amount of the Bonds authorized herein.

(M) "Governing Body" means the City Council of the Issuer.

(N) "Installment" means the amount of Bonds due in any one year, represented by installments due pursuant to a Fully Registered Bond.

(O) "IPA Grant" means that grant awarded by the IPA to the Issuer in the total principal amount of \$500,000.

(P) "Issuer" means Delta City, Millard County, Utah.

(Q) "Paying Agent" means Valley Bank and Trust, 80 West Broadway, Salt Lake City, Utah 84101, or its successor.

(R) "Pledged Revenues" means (i) 100% of that portion of the Class C Road Funds received by the Issuer pursuant to Utah Code Annotated, Sections 27-12-127 and 27-12-129 Utah Code Annotated (1953), as amended derived from Excise Taxes, as certified for each Bond Fund Year by the Utah State Department of Transportation, and (ii) all interest and earnings of the Capitalized Reserve Fund.

(S) "Project" means the construction and/or repair of certain Class C streets within the Issuer as fully described in Exhibit B attached hereto.

(T) "Qualified Investments" means:

(a) Direct obligations of, or obligations which are unconditionally guaranteed or insured by, the United States of America.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following agencies: the Federal

National Mortgage Association, the Federal Financing Bank, Farmers Home Administration, Export-Import Bank of the United States, the Federal Housing Administration, the Maritime Administration and the Public Housing Authority.

(c) Negotiable or non-negotiable time deposits evidenced by certificates of deposit issued by banks, savings and loan associations, trust companies or national banking associations (which may include the Trustee) which are members of the F.D.I.C. or F.S.L.I.C., provided such obligations are continuously secured by obligations described in clauses (a) and (b).

(U) "Registrar" means Valley Bank and Trust Company, Salt Lake City, Utah, or its successors.

(V) "Resolution" means this Resolution adopted by the Issuer on August 6, 1984, authorizing the sale and issuance of the Bonds, as from time to time amended and supplemented.

(W) "Revenue Fund" means the Revenue Fund created in Section 3.1 of this Resolution.

(Y) "Revenues" means the 100% of the Class C Road Funds received by the Issuer from the State pursuant to Utah Code Annotated, Sections 27-12-127 and 27-12-129..

(Z) "State" means the State of Utah.

(AA) "Trustee" means Valley Bank and Trust Company, 80 West Broadway, Salt Lake City, Utah 84101, or its successors and assigns.

ARTICLE II

Excise Tax Revenue Bonds

Section 2.1 Amount, Issuance and Purpose of Bonds.

The Issuer shall issue its Bonds for the purpose of paying a portion of the costs of the Project, together with costs of issuance of the Bonds. The Bonds shall be issued by the Issuer in the aggregate principal amount of \$1,300,000 and shall be payable solely from a first lien pledge of the Pledged Revenues hereinafter specified.

Section 2.2 Description of Bonds. The Bonds shall be issued initially in the form of a single Fully Registered Bond, which shall be dated as of the date of its delivery to CIB, and which shall bear interest at the rate of four and one-half percent (4 1/2%) per annum. Principal and interest shall be payable as provided in the form of Bond set forth in Section 2.5 of this bond resolution.

Principal and interest on the Bond shall be payable in any coin or currency which, on the respective dates of payment, is legal tender for the payment of debts to the United States of America and, except as hereinafter otherwise provided, shall be made by check or draft mailed by the Paying Agent to the office of the Utah State Department of Community and Economic Development, 6259 State Office Building, Salt Lake City, Utah 84114, or to such other address as the Community Impact Board may direct in writing.

The Issuer shall have the right to redeem and prepay at any time any unpaid Installment of principal of such Fully Registered Bond, in whole or in part, in multiples of \$100 in inverse order of maturity, without premium or penalty.

Notice of the prepayment of all or part of an Installment shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days prior to the date fixed for prepayment, to the office of the Utah State Department of Community and Economic Development, State Office Building, Room 6259, Salt Lake City, Utah 84114.

Failure to give such notice or any defect therein or in the mailing thereof shall not affect the effectiveness of the call for the redemption or prepayment.

Section 2.3 Execution of Bonds. The Bonds shall be signed by the manual signature of the Mayor and shall be countersigned by the manual signature of the City Recorder and shall have the seal of the Issuer imprinted thereon. The acts of the Mayor and the City Recorder or the Issuer in so doing, are and shall be the act and deed of the Issuer, and the authority granted to such officers shall apply to all persons now or hereafter holding such offices. All of the covenants, statements, representations and agreements contained in the Bonds and all of the recitals and representations of this Resolution are hereby considered and understood, and it is hereby ordered and declared that the covenants and promises of the Issuer and the representations

and statements therein and herein are the representations and statements of the Issuer.

Section 2.4 Authentication. The Trustee is hereby authorized to sign the Certificate of Authentication on the Bonds upon receipt by the Issuer of the purchase price of the Bonds from CIB. The Bonds shall not be valid or become obligatory for any purpose nor be entitled to any security or benefit until the Trustee has signed such Certificate of Authentication on the Bonds.

Section 2.5 Form of Bond. The single Fully Registered Bond shall be in substantially the following form: