

## City of Delta Junction

### Prison Lawsuit - Resolution of Settlement - April 16, 2001

#### RESOLUTION 2001-12

#### A RESOLUTION APPROVING SETTLEMENT OF CERTAIN DISPUTED CLAIMS, AUTHORIZING ISSUANCE OF CERTAIN REVENUE ANTICIPATION NOTES AND CREATING A SETTLEMENT FUND

The City Council of the City of Delta Junction, Alaska makes the following finds:

1. The City of Delta Junction, Alaska ("the City"), is a second class city organized and existing under the laws of the State of Alaska, possessed of those power conferred by the Alaska Constitution and the general laws of Alaska; and
2. The City has been engaged in litigation with Allvest, Inc., an Alaska corporation ("Allvest") and Delta Corrections Group, LLC ("DCG"), an Alaska limited liability company, as described in the pleadings in Allvest, Inc. and Delta Corrections Group, LLC v. City of Delta Junction, Case No. 4FA-99-2173 Civil, in the Fourth Judicial District for the State of Alaska ("the Litigation"); and
3. The City, Allvest and DCG have negotiated a written Settlement Agreement resolving the issues which were raised or which could have been raised in dispute in the Litigation, with no admission by any party of fault or liability ("the Settlement Agreement"); and
4. The Settlement Agreement must be approved by the City Council of the City to be a lawful, binding and enforceable agreement of the City; and
5. The Settlement Agreement contemplates that the City, as payor, will draw and issue certain Revenue Anticipation Notes to DCG as payee, and Revenue Anticipation Notes must be approved by the City Council of the City under AS 29.47.010; and
6. The Revenue Anticipation Notes are to be contingently secured in certain revenues that the City anticipates it will obtain, and those certain contingent revenues are not to be used for any other purpose, to the extent the principal balance of those Revenue Anticipation notes is unpaid; and
7. The City, without in any way admitting liability to Allvest or DCG, and without in any way admitting a default in the performance of the terms of the Revenue Anticipation Notes is likely to occur, in the event of such a default seeks to define in advance the authority of DCG in collecting any unpaid balance, as to some but not all of the Revenue Anticipation Notes.

NOW, THEREFORE, in consideration of those Findings, be it enacted by the City of Delta Junction, Alaska:

#### A.. Approval of Settlement Agreement.

1. The Settlement Agreement attached to this Resolution as Exhibit A-1 is approved and agreed to.

#### B. Issuance of Revenue Anticipation Notes.

1. The City shall issue a Revenue Anticipation Note, Note No. 2001-01, in the principal sum of \$100,000.00, in the form of Exhibit B-1 to this Resolution. Note No. 2000-01 is acknowledged to be contingently secured, recourse instrument, and the full faith and credit of the City shall be

given for the payment of that obligation.

2. The City shall issue a Revenue Anticipation Note, Note No. 2001-02, in the principal sum of \$1,500,000.00, in the form of Exhibit B-3 to this Resolution. Note No. 2001-02 is acknowledged to be a contingently secured, non-recourse instrument, but the full faith and credit of the City shall not be given for the payment of that obligation.

3. The City shall issue a Revenue Anticipation Note, Note No. 2001-03, in the principal sum of \$1,000,000.00, in the form of Exhibit B-2 to this Resolution. Note No. 2001-03 is acknowledged to be a contingently secured, recourse instrument, and the full faith and credit of the City shall be given for the payment of that obligation.

#### C. Creation of Special Fund.

1. To the extent permitted by the Alaska Constitution and Alaska law, the City creates a Revenue Anticipation Note Fund, to be used exclusively for the purposes satisfying the obligations of the City under Revenue Anticipation Notes 2001-01, 2001-02 and 2001-03.

2. The fund shall be eligible to receive monies from any source, including without limitation the State of Alaska and the United States. To the extent permitted by the Alaska Constitution and Alaska law, the City binds and commits itself to pay into the Special Fund created in this Resolution any appropriations from the State of Alaska or the United States made to the City specifically to help the City meet and satisfy the obligations described in Revenue Anticipation Notes 2001-01, 2001-02 and 2001-03. As discussed in paragraph 14 of the Settlement Agreement (attached as Exhibit A?1), amounts of funding obtained by the City from sources other than Senator Stevens office will be applied first to Note 2001?03, then to Note 2001?01 and last, if at all, to Note 2001?02, if any such funds are available to be applied to Note 2001?02.

3. Funds shall be disbursed from the Special Fund to satisfy the obligations of Revenue Anticipation Notes 2001-01, 2001-02 and 2001-03, as provided in the Settlement Agreement, Exhibit A-1 to this Resolution.

4. Funds shall not be disbursed from the Special Fund except to satisfy Revenue Anticipation Notes 2001-01, 2001-02 and 2001-03, except that if those obligations have been satisfied by payment according to their terms or as provided in the Settlement Agreement, Exhibit A-1, then the balance of the proceeds, if any, in the Special Fund shall be disbursed to the General Fund of the City and this Special Fund shall cease to exist.

#### D. Other Terms and Conditions.

1. If any term of condition of this Resolution should be deemed unlawful or unconstitutional by any court of competent jurisdiction, the City shall attempt to implement the settlement described herein under such altered terms and conditions as may still apply, with the goal of obtaining a fair and final resolution of the Litigation.

2. The Mayor and the City Clerk shall be authorized to sign such separate writings as may be necessary to accomplish the purposes and goals of this Resolution, including the Settlement Agreement attached as Exhibit A-1 and the Revenue Anticipation Notes attached as Exhibit B-1, B-2 and B-3 to this Resolution.

3. The City, after having made diligent inquiry, is aware of no fact or application of law to fact, that would invalidate the obligations set forth in Notes 2001-01, 2001-02, or 2001-03.

4. The City intends and believes that the obligations in Notes 2001-01, 2001-02, and 2001-03 are being duly adopted in accordance with all applicable law and will be enforceable in accordance with their terms.

5. The City understands that these representations are intended by the City to be relied upon by Allvest/DCG so as to induce it into entering into the Settlement Agreement.

6. The City understands that Allvest/DCG have in fact relied upon those representations and would not have entered into the Settlement Agreement except for the assurance that Notes 2001-01, 2001-02 and 2001-03 will be enforceable and collectable in accordance with their terms.

7. The City understands that it will be estopped from contesting or disputing the validity and enforceability of Notes 2001-01, 2001-02 or 2001-03 in accordance with their terms.

ADOPTED at Delta Junction, Alaska this 16th day of April 2001 by a quorum of the City Council, with 5 voting in Favor, 1 Opposed and 1 Abstaining.

CITY OF DELTA JUNCTION

By:  
Roy Gilbertson, Mayor

ATTEST:

Pamela Ellis  
City Clerk/Treasurer

[Settlement Agreement](#)