

Introduced by:	Sprague, Navarre
Date:	05/01/01
Hearing:	06/05/01
Action:	Enacted
Vote:	6 Yes, 3 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2001-13
(NAVARRE) SUBSTITUTE**

**AN ORDINANCE TO WAIVE PENALTIES AND INTEREST ON THE
TAXES ACCRUED ON PARCEL 06012016**

WHEREAS, the City of Soldotna ("the city") is the current record owner of parcel No. 06012016 ("the property") described as:

Lot Two (2), Block Two (2), Soldotna Central Properties, according to Plat No. 77-18, in the Kenai Recording District, Third Judicial District, State of Alaska.

WHEREAS, the property has been significantly impacted by a release of petroleum products that have resulted in contamination of the groundwater and subsoil of the property; and

WHEREAS, the property has not been in productive use since 1989, and no taxes have been paid on the property since 1996; and

WHEREAS, as of May 16, 2001, the city is owed \$6,286.56 in tax and \$5,116.01 in interest, and the borough is owed \$32,922.82 in taxes and \$3,824.95 in penalties and \$22,357.37 interest as of the same date; and

WHEREAS, the city has foreclosed on the property for delinquent special assessments unpaid by the prior owners, and the borough has a lien for taxes, penalty, and interest pursuant to AS 29.45.300(b); and

WHEREAS, Q-1 Corporation ("Q-1") has acquired repurchase rights pursuant to AS 29.45.470 and agrees to transfer the repurchase rights to Denali Property II LLC ("Denali"), an Alaska limited liability company. Q-1 is the sole owner of Denali and created Denali for the purpose of acquiring and redeveloping the property; and

WHEREAS, Denali agrees to repurchase the property before September 1, 2001, and agrees to pay the borough, as tax collector for the city and the borough, the full amount of taxes due on the property as though the property continued in private ownership to the date of repurchase; and

WHEREAS, Denali agrees to use its best efforts to promote expedited cleanup of the contamination of the property in compliance with all applicable laws and regulations; and

WHEREAS, the assembly finds that, due to contamination, the sale price of the property at a foreclosure sale is expected to be substantially less than the total amount of taxes due on the property; and

WHEREAS, the borough supports putting the property back into productive use by a taxpaying private property owner;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. In consideration of the above, the assembly finds that a waiver of the penalties and interest due on the delinquent taxes on the property is in the best interests of the borough.

SECTION 2. Upon fulfillment of the agreements and conditions stated herein, the assembly authorizes the mayor to waive all penalties and interest on the taxes owed on the property to the date of repurchase and to relinquish the tax lien that has arisen pursuant to AS 29.45.300(b).

SECTION 3. That the mayor is authorized to execute the attached agreement, incorporated herein as Attachment A, and any other necessary documents to fulfill the intents and purposes of this ordinance, provided that all such documents be executed prior to September 1, 2001.

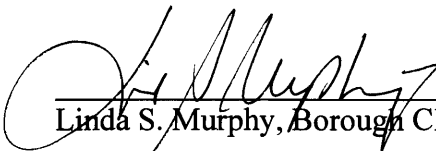
SECTION 4. That the authorization contained in Sections 2 and 3 of this ordinance is conditioned upon the prior passage of a similar ordinance by the Soldotna City Council waiving the interest and penalty due the City of Soldotna on delinquent special assessments and fulfillment of the requirements of the city ordinance and of the terms of all agreements to effectuate the requirements of the city ordinance.

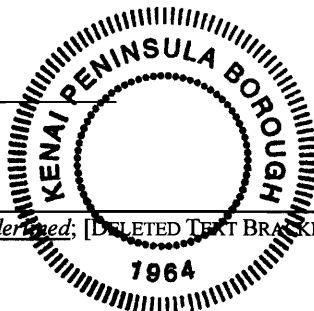
SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF JUNE, 2001.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



**AGREEMENT BETWEEN
KENAI PENINSULA BOROUGH,
Q-1 CORPORATION,
AND DENALI PROPERTY II, LLC**

To effectuate the requirements of KPB Ordinance 2001-13 Kenai Peninsula Borough (KPB), Q-1 Corporation (Q-1), and Denali Property II, LLC (Denali) hereby agree as follows:

1. On or before the date of repurchase, Denali will provide recorded documentation establishing that Denali has obtained repurchase rights for parcel 06012016 (the property) in accordance with AS 29.45.470; and
2. Denali will repurchase the property before September 1, 2001, through payment to KPB, as tax collector for the city and the borough, the full amount of taxes due on the property as though the property continued in private ownership to the date of repurchase. The amount of taxes due on parcel 06012016 through May 16, 2001, is \$39,209.38. The amount allocated the City of Soldotna is \$6,286.56. The amount allocated to KPB is \$32,922.82; and
3. Upon fulfillment of the requirements of Ordinance 2001-13 and of the terms of this agreement, KPB hereby waives all penalties and interest on the taxes owed on the property to the date of repurchase. [IN THE EVENT THAT THE WAIVER OF PENALTY AND/OR INTEREST ON THE PROPERTY IS CHALLENGED AS INVALID OR ILLEGAL AND/OR FOUND BY A COURT OF LAW TO BE INVALID OR ILLEGAL, EITHER PRIOR TO OR AFTER REPURCHASE, Q-1 COVENANTS AND AGREES TO HOLD HARMLESS AND INDEMNIFY KPB FROM AND AGAINST ALL LIABILITIES, CLAIMS, SUITS, DEMANDS, COSTS, AND ALL CHARGES AND ACTUAL FULL ATTORNEYS' FEES OCCASIONED AS A RESULT OF THAT WAIVER AND BY DEFENSE OF THE ALLEGATIONS(S) AND SHALL ALSO PAY TO KPB IMMEDIATELY UPON DEMAND BY KPB THE FULL AMOUNT OF ANY WAIVED PENALTY AND/OR INTEREST FOUND, BY A COURT HAVING JURISDICTION OVER THE MATTER, TO BE INVALID OR ILLEGAL. THIS PROVISION SHALL NOT BE CONSTRUED AS AN INDEMNITY FOR ANY CLAIMS, SUITS, DEMANDS, COSTS, FEES OR LIABILITIES OCCASIONED BY A FIRST PARTY SUIT BY KPB AGAINST Q-1 OR DENALI DIRECTLY]; and
4. Denali will use its best efforts to secure expedited cleanup of the contamination of the parcel in compliance with all applicable laws and regulations.

KENAI PENINSULA BOROUGH

Q-1 CORPORATION

Dale L. Bagley, Mayor

Dated: _____

Chuck Kim, President

Dated: _____

ATTEST:

Borough Clerk

Missey Horn, Secretary

Dated: _____

* Second corporate officer.

DENALI PROPERTY II, LLC

Chuck Kim

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Notary Public for State of Alaska
My Commission Expires: _____

Notary Public for State of Alaska
My Commission Expires: _____

Notary Public for State of Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2001, by Chuck Kim, the _____ of Denali Property II LLC for and on behalf of Denali Property II LLC.

Notary Public for State of Alaska
My Commission Expires: _____