

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2692

**Resolution No. 2692, A Resolution of the Assembly of the Ketchikan Gateway Borough Calling on the Governor and Legislature of the State of Alaska to Designate that All Shipyard(s) Owned by AIDEA Qualify for the Mandatory Exemption in AS 29.45.030(a)(1)(A)**

### RECITALS

- A. WHEREAS**, the Ketchikan Shipyard is owned by the Alaska Industrial Development and Export Authority (AIDEA), a public corporation of the State of Alaska, created by the Alaska Legislature "in the interests of promoting the health, security, and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment and expansion of manufacturing, industrial, energy, export, small business, and business enterprise"; and
- B. WHEREAS**, the Ketchikan Shipyard is managed by AIDEA as a public-private partnership (P<sub>3</sub>) among the State of Alaska, Ketchikan Gateway Borough, City of Ketchikan, and Ketchikan Public Utilities (KPU). Through a 30-year Memorandum of Understanding (MOU) executed in November 2005 expiring in November 2035, these entities mutually agreed that in order for the AIDEA owned shipyard to be competitive and successful the Shipyard Operator must be given real property tax relief and competitive electric rates during the 30 year term of the MOU; and
- C. WHEREAS**, AIDEA contracts the operation, maintenance, and commercial business dealings of the Ketchikan Shipyard to a Shipyard Operator through a long term Operating Agreement enacted in November of 2005, renewable every 10 years to November 2035; and
- D. WHEREAS**, in furtherance of the MOU the Ketchikan Gateway Borough adopted a code provision allowing for exemption of the private leasehold interest in the Ketchikan Shipyard from Borough property taxes, but reserved the ability to call for a payment in lieu of taxes (PILT); and
- E. WHEREAS**, the reversionary, private, leasehold interest in the Ketchikan Shipyard has traditionally been treated as if it were mandatorily exempt by the Ketchikan Gateway Borough; and

- F. WHEREAS**, the Ketchikan Gateway Borough believes that the Shipyard Operator's private interest in the AIDEA owned Ketchikan Shipyard is mandatorily exempt under AS 29.45.030(a)(1)(A) for the same reasons as the private operator's interest in the similarly situated AIDEA-owned Delong Mountain Transportation Facility; and
- G. WHEREAS**, the mandatory exemption in AS 29.45.030(a)(1)(A) is subject to a sunset provision and will expire in July 2017, unless extended by amendment; and
- H. WHEREAS**, it is in the best interests of the AIDEA, the Northwest Arctic Borough, and the Ketchikan Gateway Borough for the mandatory exemption in AS 29.45.030(a)(1)(A) to be extended and clarified with respect to its application to the Ketchikan Shipyard; and
- I. WHEREAS**, to assure the mandatory exemption under AS 29.45.030(a)(1)(A) is applied equally to the private leasehold interest in the AIDEA-owned Ketchikan Shipyard and the similarly situated AIDEA-owned Delong Mountain Transportation Facility, and that the reversionary interest of the Shipyard Operator is not included in the FVD of the Ketchikan Gateway Borough's assessed property, AS 29.45.030(a)(1)(A) should be extended and amended to make this intention clear; and
- J. WHEREAS**, the Assembly finds that if a mandatory exemption does not apply to the private leasehold interest, the Ketchikan Gateway Borough may find it necessary to require a PILT, which would impair the purpose and intent of the MOU and Operating Agreement which both recognize that a tax on the leasehold interest of the Shipyard Operator could jeopardize the economic viability and sustainability of the Ketchikan Shipyard operations; and
- K. WHEREAS**, the Ketchikan Shipyard generates significant cost savings to the Alaska Marine Highway System and a significant economic benefit to the State of Alaska, Ketchikan Gateway Borough, and the City of Ketchikan in both jobs and spending, the loss of which would have a direct and adverse impact on the economic health of the State, City of Ketchikan, and the Ketchikan Gateway Borough; and
- L. WHEREAS**, to assure the continued viability and sustainability of the Ketchikan Shipyard, the Assembly finds that AS 29.45.030(a)(1)(A) should be extended and be amended to make clear that the Ketchikan Shipyard is subject to the mandatory exemption from real property tax assessment provided by that statute.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH as follows:**

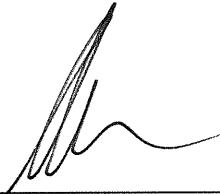
**Section 1.** The Ketchikan Gateway Borough supports legislation amending AS 29.45.030(a)(1)(A) to hereafter read:

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by an operating agreement or nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a shipyard operator or a user of an integrated transportation and port facility owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes.

**Section 2.** The Borough Clerk is directed to provide copies of this resolution to Governor Walker, the Commissioner of the Department of Commerce Community and Economic Development, the Commissioner of the Department of Transportation; Senator Stedman, Representative Ortiz, and the Executive Director of AIDEA.

**Section 3.** This resolution shall be effective immediately.

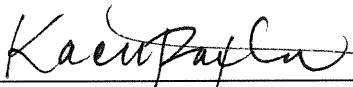
ADOPTED this 6<sup>th</sup> day of February, 2017.



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David Landis, Borough Mayor

ATTEST:



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Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:



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Scott A. Brandt-Erichsen, Borough Attorney