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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

CRUISE LINES INTERNATIONAL
ASSOCIATION ALASKA, and CRUISE
LINES INTERNATIONAL
ASSOCIATION,

Plaintiffs,

v.

THE CITY AND BOROUGH OF
JUNEAU, ALASKA, a municipal
corporation, RORIE WATT, in his
official capacity as City Manager,

Defendants.

Case No.: 1:16-cv-00008-HRH

**(PROPOSED) ORDER ON THE CITY AND BOROUGH OF JUNEAU'S
MOTION TO DETERMINE THE LAW OF THE CASE ON THE TONNAGE
CLAUSE AND RIVERS AND HARBORS ACT**

The Defendants, collectively CBJ, having filed a Motion to Determine the Law of the Case and to Stay the Briefing Schedule¹ and Decision on the Plaintiffs' Motion for

¹ There is a separate order on the briefing schedule.

Summary Judgment, and the Court having reviewed all the pleadings filed by both parties, IT IS ORDERED THAT:

1. The use of the CBJ Marine Passenger and Port Development Fees to provide services that benefit the passengers are not unconstitutional under the Tonnage Clause, even if the services do not directly benefit the vessels. The test as to each challenged expenditure is whether the fees are a fair approximation of the cost of the services provided to the passengers and whether the fees impose no more than a minimal burden on interstate commerce, for which CLIA has the burden of proof for each specific expenditure alleged to be unconstitutional.
2. The CBJ Marine Passenger and Port Development Fees may be used to provide services to the passengers or the vessels, and the Tonnage Clause does not constitutionally limit the use of fees to services that benefit both the passengers and the vessel.
3. The CBJ Marine Passenger and Port Development Fees may be used to provide services to the passengers or the vessels even if the services may be available to the public, and the Tonnage Clause does not limit the use of fees to services that exclude use by the public.
4. The use of the CBJ Marine Passenger and Port Development Fees to provide services that benefit the passengers does not contravene the Rivers and Harbors Act, even if the services do not directly benefit the vessels. The test as to each challenged expenditure is whether the fees are a fair approximation of the cost

of the services provided to the passengers and the fees do not impose more than a minimal burden on interstate commerce, for which CLIA has the burden of proof for each specific expenditure alleged to be unconstitutional.

5. The CBJ Marine Passenger and Port Development Fees may be used to provide services to the passengers or the vessels, and the Rivers and Harbors Act does not limit the use of fees to services that benefit both the passengers and the vessel.
6. The CBJ Marine Passenger and Port Development Fees may be used to provide services to the passengers or the vessels even if the services may be available to the public, and the Rivers and Harbors Act does not limit the use of fees to services that exclude use by the public.

Dated: _____, 2017

H. Russel Holland
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that on October 30, 2017 a true and correct copy of the foregoing **(PROPOSED) ORDER ON THE CITY AND BOROUGH OF JUNEAU'S MOTION TO DETERMINE THE LAW OF THE CASE ON THE TONNAGE CLAUSE AND RIVERS AND HARBORS ACT** was served on the following parties of record via ECF and U.S. First Class Mail: -

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