



April 3, 2024

Alexandra Pierce, Tourism Manager
City and Borough of Juneau
City Hall
Juneau, Alaska

Dear Alix,

Thank you for our recent discussions regarding the FY25 Marine Passenger Fee (MPF) projects the City and Borough of Juneau (CBJ) has identified. As mentioned in our conversations, Cruise Lines International Association (CLIA) appreciates the opportunity to discuss the projects and find agreement where possible.

As you are aware, because of the Tonnage Clause of the U.S. Constitution (as well as Section 5(b) of the River and Harbors Act), proper use of the funds from the CPV tax is very restricted. As outlined in Judge Holland's ruling, "[F]ees for services that benefit a vessel (that facilitate marine operations) are constitutional, whereas those expenditures that do not benefit a vessel are unconstitutional." *CLIA v. Juneau*, 356 F.Supp.3d 831 852 (D. Alaska 2018). *The expenditure must also have a "nexus to the marine operations of a vessel." Id. at 852. Benefit to passengers is not enough, the benefit must be to the vessel itself. Id.* (emphasis added)

However, in the *2019 CLIA v. CBJ Settlement Agreement*, as part of a resolution of the underlying lawsuit by both sides, CLIA and CBJ did agree to some expenditures that do not strictly adhere to Judge Holland's ruling.

"The Parties acknowledge and agree to the collection and expenditure of Fees in the Maritime Industry Zone. Parties attach hereto as Exhibit D an area map of downtown Juneau wherein CBJ provides (Zone A) or could provide (Zone B) the infrastructure for cruise vessels, the support services for such vessels while in port, and infrastructure and services that further the marine enterprise/operation of such vessels, including: dockage, lightering, ship to shore infrastructure including utilities and debt service, ship to ship infrastructure including debt service, seawalks, restrooms, signage/wayfinding, motor coach staging, passenger queuing, terminal or emergency assembly facilities, access and parking facilities for vehicles serving a vessel, and any infrastructure required or recommended by the Department of Homeland Security (i.e. 8 USCG and USCBP)."

The agreement goes on to say,

"For the purposes of this Agreement, CLIA does not object to Capital improvements within Zone A of the Maritime Industry Zone *that further the marine enterprise/operation of vessels as described above.*" (emphasis added)



Based on these legal parameters, we are sharing concerns and objections with some of the proposed expenditures as follows.

While a number of the projects CLIA is taking exception to are located within Zone A as outlined in the Settlement Agreement, they do not meet the underlying requirements referenced above. We contend the projects below do not meet the necessary criteria set forth by either the law or the Settlement Agreement and therefore do not support the following expenditures.

Project	Direct Cost	Overhead	Total
Street Cleaning/Repair	\$339,200	\$3,900	\$343,100
JEDC - Mobile Data Purchase	\$100,000	\$-	\$100,000
Overstreet Park and Canoe Statue Lighting		\$-	\$-
NOAA - Blubber Cortisol Study	\$160,000	\$-	\$160,000
Marine Park Improvements	\$2,000,000	\$-	\$2,000,000
Capital Transit	\$1,000,000	\$-	\$1,000,000
Public Wi-Fi	\$1,000,000	\$-	\$1,000,000
Archipelago Museum	\$500,000	\$-	\$500,000
Revolving Loan Program	\$1,000,000	\$-	\$1,000,000

We understand it is difficult to reject projects the community has requested or that may have been funded previously with MPF. While industry is often criticized for questioning or opposing projects, we are not doing so to be adversarial – in fact, from a public relations perspective, agreeing to all proposals would be far easier. CBJ is unique with its Settlement Agreement, but we recognize the importance of restating the parameters of the law and will be having these conversations with all port communities that receive MPF.

It is also noteworthy that while the proposed list includes a number of projects that do not conform to the legal requirements of MPF, project requests in service of the vessels for infrastructure at privately owned docks were not included in list before the Assembly. There appears to be a reluctance to provide MPF to private docks. However, passengers arriving at those facilities who have been assessed a fee have the expectation, rightfully so, that the fees they pay are being used for the docks that service the vessels on which those passengers arrive. The law is clear that fees may only be assessed on arriving vessels for services rendered to those vessels. The law does not permit the assessment of fees on vessels or passengers for use at other docks or facilities.

Thank you again for the collaborative relationship CLIA continues to have with the CBJ. We look forward to working together to reenergize the process outlined in the Settlement Agreement for the expenditure of MPF. Working together, we believe we can return to a productive



process that serves the community and industry, while adhering to the legal requirements of the fees.

Sincerely,

A handwritten signature in blue ink, appearing to read "Renée", with a long, sweeping underline.

Renée Limoge Reeve
Vice President of Government and Community Relations
Cruise Lines International Association