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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

CRUISE LINES INTERNATIONAL
ASSOCIATION ALASKA, *et al.*,

Plaintiffs,

v.

THE CITY AND THE BOROUGH OF
JUNEAU, ALASKA, *et al.*,

Defendants.

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

**PLAINTIFFS' MOTION TO TAKE
JUDICIAL NOTICE IN
CONNECTION WITH PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT AND STATEMENT OF
FACTS IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

Plaintiffs Cruise Lines International Association Alaska and Cruise Lines International Association (collectively, "Plaintiffs") respectfully move this Court, pursuant to Federal Rule of Evidence 201 and Local Rule 7.1(d), to take judicial notice of 78 exhibits attached to Plaintiffs'

concurrently filed Motion for Summary Judgment and Statement of Facts in Support of Motion for Summary Judgment.¹

I. The Material to be Noticed and its Relevance to this Action

Plaintiffs respectfully request that the Court take judicial notice of the following materials submitted in connection with Plaintiffs' Motion for Summary Judgment and Statement of Facts in Support of Motion:

- A. **Exhibit 5 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Ordinance, Serial No. 2000-01am, "An Ordinance Amending the Revenue and Taxation Code to Impose a Marine Passenger Fee and to Provide for the Administration and Collection Thereof" (adopted Jan. 24, 2000), available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)
- B. **Exhibit 6 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Ordinance, Serial No. 2015-20(AJ)(b), "An Ordinance Transferring \$85,777 of Unexpended FY15 Marine Passenger Fees from the General and Roaded Service Area Funds to the Manager's Office for Tug Assists and to the Open Space Waterfront Land Acquisition Capital Improvement Project" (adopted Apr. 11, 2016), available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)
- C. **Exhibit 7 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Ordinance, Serial No. 2015-20(AL), "An Appropriation Transferring to the Manager the Sum of \$50,000 as Funding for the Law Department; Funding Provided by the Open Space Waterfront Land Acquisition Capital Improvement Project" (introduced Apr. 20, 2016), available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)
- D. **Exhibit 8 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Ordinance, Serial No. 2015-20(AV), "An Appropriation Transferring to the Manager the Sum of \$42,233 as FY16 Supplemental Funding for the Law Department; Funding Provided by the Open Space Waterfront Land Acquisition Capital Improvement Project" (introduced Aug. 1, 2016), available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)

¹ So as to avoid unnecessarily clogging the Court's docket, Plaintiffs are not attaching duplicate copies of these Exhibits to this Motion filing. All Exhibits referenced herein are being filed concurrently with Plaintiffs' Motion, as ECF attachments to Plaintiffs' Statement of Facts in Support of Motion for Summary Judgment.

- E. **Exhibit 9 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Ordinance, Serial No. 2016-09(L), “An Ordinance Transferring \$155,892 of Unexpended FY16 Marine Passenger Fees from the General Fund to the Open Space Waterfront Land Acquisition Capital Improvement Project” (draft, introduced Sept. 26, 2016), available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)
- F. **Exhibit 10 to Plaintiffs’ Motion:** CITY AND BOROUGH OF JUNEAU, AK., CODE OF ORDINANCES § 03.05.050, “Manager: Power and Duties,” available at: https://library.municode.com/ak/juneau/codes/code_of_ordinances (last visited Oct. 17, 2017)
- G. **Exhibit 11 to Plaintiffs’ Motion:** CITY AND BOROUGH OF JUNEAU, AK., CODE Ch. 69.20, “Marine Passenger Fee,” available at: https://library.municode.com/ak/juneau/codes/code_of_ordinances (last visited Oct. 17, 2017)
- H. **Exhibit 12 to Plaintiffs’ Motion:** CITY AND BOROUGH OF JUNEAU, AK., CODE Ch. 85.02, “Docks and Harbors Board,” available at: https://library.municode.com/ak/juneau/codes/code_of_ordinances (last visited Oct. 17, 2017)
- I. **Exhibit 13 to Plaintiffs’ Motion:** CITY AND BOROUGH OF JUNEAU, AK., ADMINISTRATIVE CODE CH. 15, “Fees and Charges,” available at: https://library.municode.com/ak/juneau/codes/code_of_ordinances (last visited Oct. 17, 2017)
- J. **Exhibit 15 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Res. No. 2423(b), “A Resolution Extending the Sunset Date on the Port Development Fee on Vessels Carrying Passengers for Compensation, and Repealing Resolution 2294b am,” available at: <https://beta.juneau.org/clerk/adopted-legislation> (last visited Oct. 17, 2017)
- K. **Exhibit 17 to Plaintiffs’ Motion:** ALASKA STAT. § 43.52.210, “Rate of Tax,” available at: <http://www.legis.state.ak.us/basis/folio.asp> (last visited Oct. 17, 2017)
- L. **Exhibit 18 to Plaintiffs’ Motion:** ALASKA STAT. § 43.52.220, “Liability for Payment of Tax,” available at: <http://www.legis.state.ak.us/basis/folio.asp> (last visited Oct. 17, 2017)
- M. **Exhibit 19 to Plaintiffs’ Motion:** ALASKA STAT. § 43.52.230, “Disposition of Receipts,” available at: <http://www.legis.state.ak.us/basis/folio.asp> (last visited Oct. 17, 2017)
- N. **Exhibit 20 to Plaintiffs’ Motion:** ALASKA STAT. § 43.52.255, “Tax Reduction for Local Levies,” available at: <http://www.legis.state.ak.us/basis/folio.asp> (last visited Oct. 17, 2017)

- O. **Exhibit 71 to Plaintiffs’ Motion:** E. Jenkins, “CBJ defends itself in cruise ship tax lawsuit using this one weird trick,” KTOO Public Media (May 4, 2016), available at: <https://www.ktoo.org/2016/05/04/cbj-defends-itself-in-cruise-ship-tax-lawsuit-using-this-one-weird-trick/> (last visited Oct. 17, 2017)
- P. **Exhibit 72 to Plaintiffs’ Motion:** “About CLIA Alaska,” available at: <http://www.cliaalaska.org/about-clia-alaska/> (last visited Oct. 18, 2017)
- Q. **Exhibit 73 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Assembly Finance Committee, Feb. 8, 2017 Packet, available at: <https://packet.cbjak.org/DisplayAgendaPDF.ashx?MeetingID=560> (last visited Oct. 17, 2017)
- R. **Exhibit 74 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Minutes – Assembly Finance Committee Meeting (Dec. 22, 2014), available at: <http://packet.cbjak.org/DisplayAgendaPDF.ashx?MinutesMeetingID=113> (last visited Oct. 18, 2017)
- S. **Exhibit 75 to Plaintiffs’ Motion:** Cruise Lines Int’l Ass’n, Press Release, “Alaska Welcomes Its 1,000,000 Cruise Ship Visitor in 2016” Sept. 22, 2016), available at: <https://www.cruising.org/about-the-industry/press-room/press-releases/alaska-welcomes-its-1-000-000-cruise-ship-visitor-in-2016> (last visited Oct. 16, 2017)
- T. **Exhibit 76 to Plaintiffs’ Motion:** Approved Jurisdictional Determination Form, U.S. Army Corps of Engineers, POA-1981-503 JD, Gastineau Channel (July 18, 2016), available at: <http://www.poa.usace.army.mil/LinkClick.aspx?fileticket=QruME-Y-kDs%3D&portalid=34> (last visited Oct. 17, 2017)
- U. **Exhibit 77 to Plaintiffs’ Motion:** “Fares and Passes – Capital Transit,” available at: <https://juneaucapitaltransit.org/fares/> (last visited Oct. 17, 2017)
- V. **Exhibit 78 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2016 (relevant excerpt), available at: <http://www.juneau.org/financeftp/FY16Bud/AdoptedBudget.php> (click on “FY16 Adopted Budget Book”) (last visited Oct. 17, 2017)
- W. **Exhibit 79 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 1997-1998, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr1998/CAFR98.pdf> (last visited Oct. 17, 2017)
- X. **Exhibit 80 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 1998-1999, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr1999/index.php> (links to sections of report) (last visited Oct. 17, 2017)

- Y. **Exhibit 81 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 1999-2000, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2000/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- Z. **Exhibit 82 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2000-2001, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2001/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- AA. **Exhibit 83 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2001-2002, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2002/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- BB. **Exhibit 84 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2002-2003, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2003/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- CC. **Exhibit 85 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2003-2004, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2004/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- DD. **Exhibit 86 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2004-2005, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2005/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- EE. **Exhibit 87 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2005-2006, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2006/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- FF. **Exhibit 88 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2006-2007, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2007/index.php> (links to sections of report) (last visited Oct. 17, 2017)

- GG. **Exhibit 89 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2007-2008, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2008/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- HH. **Exhibit 90 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2008-2009, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2009/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- II. **Exhibit 91 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2009-2010, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2010/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- JJ. **Exhibit 92 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2010-2011, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2011/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- KK. **Exhibit 93 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2011-2012, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2012/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- LL. **Exhibit 94 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2012-2013, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2013/index.php> (links to sections of report) (last visited Oct. 17, 2017)
- MM. **Exhibit 95 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2013-2014, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2014/cafr2014.php> (links to sections of report) (last visited Oct. 17, 2017)
- NN. **Exhibit 96 to Plaintiffs' Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2014-2015, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2015/cafr2015.php> (links to sections of report) (last visited Oct. 17, 2017)

- OO. **Exhibit 97 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Comprehensive Annual Financial Report, FY 2015-2016, Special Revenue Funds (excerpt), available at: <http://www.juneau.org/financeftp/cafr2016/cafr2016.php> (links to sections of report) (last visited Oct. 17, 2017)
- PP. **Exhibit 98 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Sample Ballot, Regular Municipal Election – October 5, 1999, available at: https://www.juneau.org/beta_transfer/clerk/elections/1999/1999-10-05_Sample_Ballot.pdf (last visited Oct. 17, 2017)
- QQ. **Exhibit 99 to Plaintiffs’ Motion:** “City and Borough of Juneau - City Manager”, available at: <https://beta.juneau.org/manager> (last visited Oct. 17, 2017)
- RR. **Exhibit 100 to Plaintiffs’ Motion:** State of Alaska, “Commercial Passenger Vessel Excise Tax: Community Needs, Priorities, Shared Revenue, and Expenditures (Fiscal Years 2007 to 2016)” (Feb. 2017), available at: <https://www.commerce.alaska.gov/web/Portals/6/pub/TourismResearch/00%20FULL%20CPV%20RPT%2016%202017.pdf?ver=2017-03-23-160339-903> (last visited Oct. 17, 2017)
- SS. **Exhibit 101 to Plaintiffs’ Motion:** Cruise Lines Agencies of Alaska, Berth Codes (Apr. 12, 2017), available at: <http://claalaska.com/wp-content/uploads/2016/06/Berth-Codes.pdf> (last visited Oct. 17, 2017)
- TT. **Exhibit 102 to Plaintiffs’ Motion:** Cruise Lines Agencies of Alaska, Cruise Ship Calendar for 2017 (Juneau Only) (Apr. 12, 2017), available at: <http://claalaska.com/wp-content/uploads/2016/06/Juneau-JNU-2017.pdf> (last visited Oct. 17, 2017)
- UU. **Exhibit 103 to Plaintiffs’ Motion:** Cruise Lines Agencies of Alaska, Port Codes (Apr. 12, 2017), available at: <http://claalaska.com/wp-content/uploads/2016/06/Port-Codes.pdf> (last visited Oct. 17, 2017)
- VV. **Exhibit 104 to Plaintiffs’ Motion:** Cruise Lines Agencies of Alaska, Ship Codes (Apr. 12, 2017), available at: <http://claalaska.com/wp-content/uploads/2016/06/Ship-Codes.pdf> (last visited Oct. 17, 2017)
- WW. **Exhibit 105 to Plaintiffs’ Motion:** Cruise Lines Int’l Ass’n (CLIA), 2013 North America Cruise Industry Update – February 2013, available at: <https://www.cruising.org/docs/market-research/cruiseindustryupdate2013final.pdf> (last visited Oct. 17, 2017)
- XX. **Exhibit 106 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Docks and Harbors, Port of Juneau Cruise Ship Terminal Project Brochure, available at: <http://www.juneau.org/harbors/documents/DocksHarborscruiseterminalbrochure.pdf> (last visited Oct. 17, 2017)

- YY. **Exhibit 107 to Plaintiffs’ Motion:** City and Borough of Juneau Homepage, “Downtown Cruise Ship Berths,” available at: <http://www.juneau.org/harbors/DowntownCruiseShipBerths.php> (last visited Oct. 15, 2017)
- ZZ. **Exhibit 108 to Plaintiffs’ Motion:** McDowell Group, for State of Alaska, Dept. of Commerce, Community, and Economic Development, “Economic Impact of Alaska’s Visitor Industry” (March 2010), available at: https://www.commerce.alaska.gov/web/portals/6/pub/Visitor_Industry_Impacts_3_30.pdf (last visited Oct. 17, 2017)
- AAA. **Exhibit 109 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., The Future of Juneau’s Waterfront: The Seawalk and Juneau’s Long Range Waterfront Plan, available at: www.juneau.org/harbors/documents/downtown_waterfront_projects.pdf (last visited Oct. 17, 2017)
- BBB. **Exhibit 110 to Plaintiffs’ Motion:** City and Borough of Juneau, Capital Improvement Program, FY 2018 CIP Project Descriptions (FY 2018-2023), available at: <http://www.juneau.org/engineering/CIP/FINAL/documents/Prj-Descripts.pdf> (last visited Oct. 17, 2017)
- CCC. **Exhibit 111 to Plaintiffs’ Motion:** City and Borough of Juneau, Docks and Harbors, FY18 Moorage Rates, available at: <https://www.juneau.org/harbors/documents/RateFeeChartupdated092517.pdf> (last visited Oct. 17, 2017)
- DDD. **Exhibit 112 to Plaintiffs’ Motion:** Letter from R. Hauck, Special Projects Manager, Goldbelt, Inc., to S. Phillips, City and Borough of Juneau, Request for Marine Passenger Fee Grants (Dec. 15, 2016), available at: <https://cdn.juneau.org/wp-content/uploads/2017/03/GoldbeltSeadromeMarineComplex.pdf> (last visited Oct. 17, 2017)
- EEE. **Exhibit 113 to Plaintiffs’ Motion:** “History of the Alaska cruise industry – CLIA Alaska,” available at: <http://www.cliaalaska.org/economy/alaska-cruise-history/> (last visited Oct. 17, 2017)
- FFF. **Exhibit 114 to Plaintiffs’ Motion:** Juneau Seawalk, Frequently Asked Questions, “How long is this segment of the seawalk?”, available at: <http://www.juneauseawalk.com/main-3.html> (last visited Oct. 17, 2017)
- GGG. **Exhibit 115 to Plaintiffs’ Motion:** Juneau Seawalk, Frequently Asked Questions, “How did this project come into being?”, available at: <http://www.juneauseawalk.com/main-3.html> (last visited Oct. 17, 2017)
- HHH. **Exhibit 116 to Plaintiffs’ Motion:** Total Project Snapshot Report, “Juneau – Docks & Harbors – Statter Harbor Improvements,” available at: https://www.omb.alaska.gov/ombfiles/13_budget/CapBackup/Juneau%20Statter%20Harbor.pdf (last visited Oct. 17, 2017)

- III. **Exhibit 117 to Plaintiffs’ Motion:** Map of the Geographic Boundaries of the entire City and Borough of Juneau, Ak. (Area Map), available at: <http://www.juneau.org/community/maps/areamap.php> (last visited Oct. 17, 2017)
- JJJ. **Exhibit 118 to Plaintiffs’ Motion:** Map of the Geographic Boundaries of the entire City and Borough of Juneau, Ak. (Downtown Map), available at: <http://www.juneau.org/community/maps/downtownmap.php> (last visited Oct. 17, 2017)
- KKK. **Exhibit 119 to Plaintiffs’ Motion:** Map of the Geographic Boundaries of the entire City and Borough of Juneau, Ak. (Borough Map), available at: <http://www.juneau.org/community/maps/boroughmap.php> (last visited Oct. 17, 2017)
- LLL. **Exhibit 120 to Plaintiffs’ Motion:** Memorandum from J. Corso, City and Borough Attorney, to Mayor and Assembly, Passenger Fee Litigation (July 22, 1999), available at: http://206.223.197.179/docs/2012/ASSY/20120101_104/834_Attachment%201%20-%202007-22-1999%20Memo%20from%20CBJ%20Attorney.pdf (last visited Oct. 17, 2016)
- MMM. **Exhibit 121 to Plaintiffs’ Motion:** City and Borough of Juneau Homepage, Finance Department, Comprehensive Annual Financial Reports, available at: http://www.juneau.org/financeftp/controller_CAFR.php (last visited Oct. 17, 2017)
- NNN. **Exhibit 122 to Plaintiffs’ Motion:** City and Borough of Juneau Homepage, Juneau Docks and Harbors, Don D. Statter Harbor/Auke Bay, available at: <http://www.juneau.org/harbors/statterharbor.php> (last visited Oct. 17, 2017)
- OOO. **Exhibit 123 to Plaintiffs’ Motion:** City and Borough of Juneau Capital Improvement Program, Summary of FY 2018 Capital Improvement Projects Funding Sources (FY 2018-2023), available at: <http://www.juneau.org/engineering/CIP/FINAL/documents/Summary.pdf> (last visited Oct. 17, 2017)
- PPP. **Exhibit 124 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2008 (relevant excerpt), available at: <http://www.juneau.org/finance/FY08AdoptedBudget.php> (click on “Title page” and “Nondepartmental Special Revenue Funds”) (last visited Oct. 18, 2017)
- QQQ. **Exhibit 125 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2009 (relevant excerpt), available at: <http://www.juneau.org/finance/FY09AdoptedBudget/FY09AdoptedBudget.php> (click on Title page” and “Nondepartmental Special Revenue Funds”) (last visited Oct. 18, 2017)

- RRR. **Exhibit 126 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2010 (relevant excerpt), available at: <http://www.juneau.org/finance/FY10AdoptedBudget.php> (click on Title page” and “Nondepartmental Special Revenue Funds”) (last visited Oct. 18, 2017)
- SSS. **Exhibit 127 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2011 (relevant excerpt), available at: <http://www.juneau.org/finance/FY11AdoptedFY12Approved.php> (click on Title page” and “Nondepartmental Special Revenue Funds”) (last visited Oct. 18, 2017)
- TTT. **Exhibit 128 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2012 (relevant excerpt), available at: <http://www.juneau.org/finance/FY12AdoptedBudget.php> (click on Title page” and “Nondepartmental Special Revenue Funds”) (last visited Oct. 18, 2017)
- UUU. **Exhibit 129 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2013 (relevant excerpt), available at: http://www.juneau.org/finance/documents/Complete_Doc_FY13andFY14.pdf (last visited Oct. 18, 2017)
- VVV. **Exhibit 130 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2014 (relevant excerpt), available at: <http://www.juneau.org/finance/FY14Bud/FY14AdoptedBudget.php> (click on “FY14 Adopted Budget Book”) (last visited Oct. 18, 2017)
- WWW. **Exhibit 131 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2015 (relevant excerpt), available at: <http://www.juneau.org/finance/FY15Bud/AdoptedBudget.php> (click on “FY15 Adopted Budget Book”) (last visited Oct. 18, 2017)
- XXX. **Exhibit 132 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2017 (relevant excerpt), available at: <http://www.juneau.org/finance/FY17Bud/AdoptedBudget.php> (click on “FY17/18 Adopted Budget Book”) (last visited Oct. 18, 2017)
- YYY. **Exhibit 133 to Plaintiffs’ Motion:** City and Borough of Juneau, Ak., Biennial Budget – FY 2018 (relevant excerpt), available at: <http://www.juneau.org/finance/documents/FY18BudgetBookAdopted-ForInternet.pdf> (last visited Oct. 18, 2017)
- ZZZ. **Exhibit 134 to Plaintiffs’ Motion:** “CLIA Global Cruise Line Members,” available at: <http://www.cliaalaska.org/about-clia-alaska/member-lines/> (last visited Oct. 18, 2017)

Each of these exhibits, which are attached to Plaintiffs’ Statement of Facts, may be judicially noticed by this Court and may be referenced and relied upon by the Court as it

considers Plaintiffs' request for judgment in their favor on the claims asserted in Plaintiffs' *First Amended Complaint* (ECF No. 28).

II. Legal Authority for Taking Judicial Notice of this Material

Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are “generally known within the territorial jurisdiction of the trial court “ or can be “accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b); *Hansen v. City of San Francisco*, No. 12-CV-04210-JST, 2014 WL 1310282, at *2 (N.D. Cal. Mar. 31, 2014) (a “court shall take judicial notice of a fact “not subject to reasonable dispute in that it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned”). Pursuant to the Rule, the court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” FED. R. EVID. 201(c)(2). This motion is filed pursuant to Local Rule 7.1(d) which provides that when a “citation or reference is made to materials or information not readily available to the public in printed form, or to an internet site, the citing party must attach a copy as an exhibit to the motion . . . [and] file a separate motion that the court take judicial notice of the materials or information cited under Federal Rules of Evidence, Rule 201.”

A. Statutes, Ordinances, Resolutions, and Code Provisions

State statutes, city charters, and city and municipal ordinances are proper subjects of judicial notice. *See Hansen*, 2014 WL 1310282, at *2 (citing *Newcomb v. Brennan*, 558 F.2d 825, 829 (7th Cir. 1977) (“[C]ity ordinances fall within the category of ‘common knowledge’ and are therefore proper subjects for judicial notice.”)); *Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist.*, 498 F.3d 1031, 1039 (9th Cir. 2007) (municipal ordinances are proper subjects for judicial notice); *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d

1022, 1025 (9th Cir. 2006) (taking judicial notice of municipal ordinances); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (noting that judicial notice may be taken of public records); *see also CuvIELLO v. City of Vallejo*, No. 216CV2584KJMKJNPS, 2017 WL 1534277, at *2 (E.D. Cal. Apr. 28, 2017), *report and recommendation adopted*, No. 216CV2584KJMKJNPS, 2017 WL 3840256 (E.D. Cal. Sept. 1, 2017) (granting request for judicial notice of municipal code chapters).

Exhibits 5 through 13 and 15 are ordinances, resolutions, and codes adopted by CBJ, an Alaska municipality, and therefore are public records and a proper subject of judicial notice. Moreover, this Court has already taken judicial notice of two such exhibits that were previously offered in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss (ECF No. 34), and that are now being offered in support of Plaintiffs' Motion (*see* Exhibits 10 and 11).

Exhibits 17 through 20 are Alaska state statutes adopted by the Alaska legislature. These Exhibits are proper subjects for judicial notice (to the extent such judicial notice is necessary) because Alaska statutory provisions fall within the "common knowledge" of this Court and are public records.

B. CBJ Documents Available Publicly Online

Similarly, courts routinely take judicial notice of documents and information made publicly available online by government entities. *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998–99 (9th Cir. 2010) (taking judicial notice of list of approved vendors displayed publicly on school district websites) (citing, among others, *In re Amgen Inc. Sec. Litig.*, 544 F. Supp. 2d 1009, 1023–24 (C.D. Cal. 2008) (taking judicial notice of drug labels taken from the FDA's website); *Cty. of Santa Clara v. Astra USA, Inc.*, 401 F. Supp. 2d 1022, 1024 (N.D. Cal. 2005) (taking judicial notice of information posted on a Department of Health and Human Services

web site)); *Gerritsen v. Warner Bros. Entm't Inc.*, 112 F. Supp. 3d 1011, 1033–34 (C.D. Cal. 2015) (“Under Rule 201, the court can take judicial notice of “[p]ublic records and government documents available from reliable sources on the Internet,” such as websites run by governmental agencies”) (citing, among others, *Paralyzed Veterans of Am. v. McPherson*, No. C 06–4670, 2008 WL 4183981, at *5 (N.D. Cal. Sept. 8, 2008) (“Information on government agency websites has often been treated as properly subject to judicial notice”)).

Here, Exhibits 73, 74, 77 through 99, 106, 107, 109 through 112, 114, 115, 117 through 119, and 121 through 133 are properly subject to judicial notice by this Court, as they are CBJ documents available publicly online or information that CBJ has made available online. For example, Exhibit 78 and Exhibits 124 through 133 are excerpts from CBJ’s own Biennial Budget documents for FY 2008 through FY 2016, and Exhibits 79 through 97 are excerpts from CBJ’s own Consolidated Annual Financial Reports. CBJ created these documents and made them publicly available. CBJ cannot dispute their accuracy, particularly for the limited purposes relied upon by Plaintiffs. Moreover, this Court has already taken judicial notice of one such exhibit (*see* Order at ECF No. 34) that is again being offered in support of Plaintiffs’ Motion (*see* Exhibit 96). All of these documents and information contained in the Exhibits referenced in this paragraph came from one or more websites run by CBJ or one of its departments. Therefore, these materials are proper subjects of judicial notice.

Exhibits 100, 108, and 116 are documents and information made available publicly by the State of Alaska, on websites run by the State of Alaska. Therefore, these materials are proper subjects of judicial notice.

Exhibit 76 is the Approved Jurisdictional Determination Form for the Gastineau Channel, available publicly online courtesy of the U.S. Army Corps of Engineers, a government agency. Therefore, the jurisdictional form is a proper subject of judicial notice.

C. Documents Available Publicly Online From Reliable Sources

Finally, in “this new technological age[,]” courts may take judicial notice of documents “insofar as they are available via the worldwide web” when the Court is supplied with the necessary information to access the website and confirm the accuracy of the document’s content. *In re Tourism Assessment Fee Litig.*, No. 08CV1796-MMA WMC, 2009 WL 10185458, at *4–5 (S.D. Cal. Feb. 19, 2009) (quoting *In re Agribiotech Sec. Litig.*, 2000 U.S. Dist. LEXIS 5643, *4–5 (D. Nev. Mar. 2, 2000)), *aff’d*, 391 F. App’x 643 (9th Cir. 2010); *see also Barnes v. Marriott Hotel Servs., Inc.*, No. 15-cv-01409-HRL, 2017 WL 635474, at *4 (N.D. Cal. Feb. 16, 2017) (“It is not uncommon for courts to take judicial notice of factual information found on the world wide web.”) (citations omitted).

Exhibits 71, 72, 75, 101 through 105, 113, 120, and 134 are properly subject to judicial notice by this Court, as they are documents available publicly online. Plaintiffs have provided the Court with website addresses (in hyperlinks) for each of these documents in this Motion and in Plaintiffs’ Index of Exhibits, enabling the Court to access the websites and confirm the accuracy of the documents’ content. Also, some of the materials are proper subjects of judicial notice apart from their public availability on the internet. *See In re Am. Apparel, Inc. S’holder Derivative Litig.*, No. CV 10-06576 MMM RCX, 2012 WL 9506072, at *19 (C.D. Cal. July 31, 2012) (taking judicial notice of the contents of press releases and new articles). Therefore, these materials are proper subjects of judicial notice.

III. Conclusion

For the reasons outlined above, Plaintiffs respectfully move the Court to take judicial notice of Exhibits 5 through 13, 15, 17 through 20, and 72 through 134 to Plaintiffs' concurrently filed Motion for Summary Judgment and Statement of Facts in Support of Motion for Summary Judgment.

DATED: October 24, 2017

Respectfully submitted,

By: /s/ C. Jonathan Benner

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CERTIFICATE OF SERVICE

I certify that on October 24, 2017, I caused a true and correct copy of the foregoing Motion to be filed using the Court's Electronic Case Files System ("ECF"). The document is available for review and downloading via the ECF system, and will be served by operation of the ECF system upon all counsel of record.

/s/ Kathleen E. Kraft

Kathleen E. Kraft