

HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE TULALIP TRIBES and THE  
CONSOLIDATED BOROUGH OF QUIL CEDA  
VILLAGE,

Plaintiffs,

THE UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

THE STATE OF WASHINGTON, Washington  
State Governor JAY INSLEE, Washington State  
Department of Revenue Director VIKKI SMITH,  
SNOHOMISH COUNTY, Snohomish County  
Treasurer KIRKE SIEVERS, and Snohomish  
County Assessor LINDA HJELLE,

Defendants.

No. 2:15-cv-00940-BJR

PLAINTIFFS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT REGARDING  
GOVERNMENT SERVICES PROVIDED  
OUTSIDE THE BOUNDARIES OF QUIL  
CEDA VILLAGE AND NOT DIRECTLY  
SUPPORTING COMMERCE IN THE  
VILLAGE

NOTE ON MOTION CALENDAR:  
October 14, 2016

**INTRODUCTION**

Plaintiffs the Tulalip Tribes and its political subdivision the Consolidated Borough of Quil Ceda Village ("Tulalip") move for partial summary judgment regarding the legal effect of government services provided by Defendants outside the boundaries of the Consolidated Borough of Quil Ceda Village and that do not directly support the economic activities subject to the taxes in dispute. Tulalip and the United States ("Plaintiffs") challenge three taxes imposed

1 by the State of Washington and Snohomish County (“Defendants”) as applied to non-Indian  
2 businesses within the boundaries of the Village: retail sales and use tax, business and occupation  
3 tax, and personal property tax. Plaintiffs’ claims are grounded in the specific circumstances  
4 surrounding the development and operation of Quil Ceda Village, including the government  
5 services that sustain its economy. Plaintiffs do not challenge any state or county taxes outside  
6 the boundaries of the Village, including elsewhere on the Tulalip Reservation.

7 Supreme Court precedent requires that this Court conduct a “particularized inquiry” into  
8 the government services and investments made by the respective parties in connection with the  
9 activities subject to the taxes at issue. Here, the taxed activities all take place within the  
10 boundaries of the Consolidated Borough of Quil Ceda Village, which is a federally-recognized  
11 municipality chartered pursuant to tribal law with a distinct economy arising from the concerted  
12 efforts of the Tulalip and federal governments. Defendants nevertheless seek to litigate this case  
13 on the basis of a much broader factual universe, including unrelated services provided on the  
14 Tulalip Reservation and to the Tulalip Tribes, its members, and the general public. Attached as  
15 Appendices A and B are lists of services identified by the State and County that fall within this  
16 category. *See infra* at 23-32; Declaration of Cory J. Albright ¶¶ 3-6 (explaining appendices).

17 As a matter of law, government services provided by Defendants outside the boundaries  
18 of Quil Ceda Village and that do not directly support commerce in the Village have no legal  
19 effect. Rather, those services are subsumed by Defendants’ generalized interest in raising  
20 revenue. Accordingly, Tulalip respectfully requests partial summary judgment that services and  
21 investments provided by Defendants outside the boundaries of the Consolidated Borough of Quil  
22 Ceda Village and that do not directly support the economic activities subject to the taxes in  
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dispute, including those identified in Appendices A and B, have no legal effect and will not be considered by the Court for purposes of resolving the claims and defenses in this action. In so ruling, the Court will substantially focus the factual and legal issues in this case and foster greater efficiency in all phases of this litigation.

## BACKGROUND

### **I. The Unique Circumstances of the Consolidated Borough of Quil Ceda Village and Plaintiffs' Claims**

The Consolidated Borough of Quil Ceda Village is a political subdivision of the Tulalip Tribes recognized by the U.S. Department of the Interior and the U.S. Internal Revenue Service.<sup>1</sup> Dkt. 1 ¶¶ 18, 63. Within its boundaries, Quil Ceda Village exercises broad governmental powers, including the police power and the power of taxation. *Id.* ¶¶ 20-21. Beginning in the early 1990s, the Tulalip Tribes Board of Directors targeted the lands now comprising the Village (approximately 2,163 acres of land held in trust by the United States for the benefit of the Tribes) for economic development. *Id.* ¶¶ 8, 15, 19; *see also* Declaration of Eiko Toguchi at 5. At that time, the lands were vacant and devoid of infrastructure to support government functions or economic activities. Dkt. 1 ¶ 22. At a cost of tens of millions of dollars to Tulalip and the United States, Tulalip has planned, constructed, and maintained the comprehensive infrastructure necessary to attract and retain commercial investment, including the Village's own road and sidewalk system; water, sewer, and stormwater lines; sewage treatment plant; electrical substation; and telecommunications system. *Id.* ¶¶ 23-26.

Tulalip secured its first business within Quil Ceda Village in 1999, and today the Village is home to more than 150 businesses. *Id.* ¶¶ 32-40, 55. Tulalip, not an outside developer, has

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<sup>1</sup> Tulalip provides this brief factual summary based on the allegations of the Complaint.

1 selected and sited each business to maximize synergy between non-Indian and tribal enterprises,  
2 to establish the Village as a premier retail and entertainment destination, and to fulfill Tulalip's  
3 long-term development goals. *Id.* ¶¶ 31, 43, 60. Tulalip and the United States provide or fund  
4 the day-to-day government services that enable these businesses to thrive, including police  
5 protection, fire protection and emergency services, business licensing and permitting, leasing and  
6 land use regulations, building and health and safety inspections, and environmental protection.  
7 *Id.* ¶¶ 41-51. Through its sustained, concerted efforts to develop, manage, and govern Quil Ceda  
8 Village, Tulalip has furthered the intent of Congress in the Tulalip Leasing Act of 1970, the  
9 Native American Business Development, Trade Promotion, and Tourism Act of 2000, and other  
10 significant federal statutes and regulations. *See, e.g., id.* ¶ 62; Dkt. 24 ¶¶ 67-73.

11  
12 These facts make the Consolidated Borough of Quil Ceda Village unique. Out of nothing  
13 Tulalip has built an economy, and the government to support it, which provides thousands of  
14 jobs and generates hundreds of millions of dollars in annual sales. Dkt. 1 ¶¶ 55-56. The State of  
15 Washington and Snohomish County have played no meaningful role in the development of the  
16 Village. *Id.* ¶¶ 2, 27-28, 52-53. But it is the State and the County that collect 100% of the retail  
17 sales and use, business and occupation, and personal property tax generated by economic activity  
18 within the Village, totaling tens of millions of dollars annually, and thereby deprive Tulalip of  
19 the ability to enforce its own taxes to fund the very government services that underpin the  
20 Village economy. *Id.* ¶¶ 3, 77.

21 Tulalip brings this action to challenge the usurpation of its taxing authority in Quil Ceda  
22 Village by the State and County and thereby to vindicate its right under federal law as a  
23 sovereign government to earn the tax revenues that are the fruit of its efforts. Tulalip challenges  
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the State and County taxes only to the extent of otherwise applicable like taxes imposed by Tulalip within the Village. *See, e.g.*, Dkt. 1 ¶¶ 1, 58. Commerce in Quil Ceda Village has always been, and will always remain, fully taxed. Its success has turned not on the marketing of any tax exemptions, but on the sustained efforts of the Tulalip Tribes and the United States. Tulalip does not challenge any taxes imposed by Defendants outside the boundaries of Quil Ceda Village, including elsewhere on the Tulalip Reservation.

## **II. Defendants' Initial Disclosures and Discovery Responses Regarding Government Services with No Connection to the Consolidated Borough of Quil Ceda Village**

Consistent with the scope of its claims, Tulalip has disclosed individuals likely to have discoverable information with respect to the development of the Consolidated Borough of Quil Ceda Village and the provision of government services underpinning the commerce within it, including, by way of example, officials such as the Quil Ceda Village Transportation Manager, Utilities Manager, and Facilities Maintenance Manager. *See* Albright Decl. at 46-66. Similarly, the United States has disclosed individuals likely to have discoverable information regarding the role of federal agencies in the development and operation of Quil Ceda Village, including, by way of example, individuals with knowledge of Bureau of Indian Affairs road projects and business licensing, Indian Health Service inspections, and Environmental Protection Agency wetlands programs. *See id.* at 69-78. Defendants' initial disclosures, however, contemplate a far more expansive case. The State has disclosed 147 individuals with information it may use to support its defenses, the vast majority of whom have no connection to Quil Ceda Village. *See* Dkt. 32 at 2-14. For example, the State includes a Department of Ecology employee with knowledge "regarding cleanup at a bulk head," a Washington State Dairy Products Commission employee with knowledge "about nutrition education," and Department of Archaeology and

1 Historic Preservation employees with knowledge of an agency agreement with the Tulalip  
2 Tribes. *Id.* at 3-4. The County has disclosed 77 individuals and unnamed employees of 25  
3 county departments and local entities with general knowledge of services provided by their  
4 respective departments throughout the County. *See* Albright Decl. at 80-104. The County has  
5 refused to identify which of those individuals, if any, have actual knowledge of county services  
6 provided within Quil Ceda Village. *See id.* at 107-109.

7         On November 23, 2015, Tulalip served discovery asking Defendants to identify all  
8 government services and investments they provided or funded within the boundaries of Quil  
9 Ceda Village, the associated cost, and the source of funding. *See id.* at 10, 23, 35, 39.  
10 Considering the breadth of their initial disclosures, Tulalip also asked Defendants to identify any  
11 other services or investments they contend are relevant to the claims, defenses, and arguments in  
12 this action, the associated cost, and the source of funding. *See id.* at 13-14, 24, 37, 39.  
13 Defendants' responses have confirmed their view that services provided outside the boundaries  
14 of Quil Ceda Village and that do not directly support the economic activities subject to the  
15 disputed taxes nevertheless have legal effect for purposes of this action.  
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17         The State answered bluntly: "[T]he State contends that all government services provided  
18 or funded by the State are relevant to the State's claims, defenses, and arguments." *Id.* at 14. It  
19 then provided a list characterized as "direct and indirect services to the Tulalip Tribe and its  
20 members." *Id.* at 15-22. This list includes payments by the Tulalip Tribes to the Department of  
21 Health for geoduck paralytic shellfish poisoning testing; the State Parks and Recreation  
22 Commission's management of state parks for the benefit of all citizens; and the Washington  
23 Lottery's provision of lottery services at three locations on the Tulalip Reservation outside of  
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1 Quil Ceda Village. *See id.* at 17-18, 20. The State has also produced thousands upon thousands  
2 of pages of documents pertaining to government services and investments outside of Quil Ceda  
3 Village that have no connection to commerce in the Village. *See id.* at 27-30. Attached as  
4 Appendix A is a more comprehensive list of the services and investments identified by the State  
5 that fall within this category. *See infra* at 23-29; *see also* Albright Decl. ¶¶ 3, 5, 6.

6 Similarly, the County responded broadly that it “delivers services to the public that the  
7 County contends are relevant to its claims, defenses, or arguments in this action. These services  
8 are delivered throughout Snohomish County, including the Tulalip Indian Reservation and Quil  
9 Ceda Village.” Albright Decl. at 37. The County, however, supplied no information pertaining  
10 to the provision of general countywide services within the boundaries of the Consolidated  
11 Borough of Quil Ceda Village. Instead the County, like the State, has produced documents  
12 regarding services and investments outside the boundaries of Quil Ceda Village unrelated to  
13 commerce in the Village, including voter registration and elections on the Tulalip Reservation,  
14 collaboration with the Tulalip Tribes to develop a countywide hazard mitigation plan, and the  
15 County’s purchase of fee lands on the Tulalip Reservation to provide access to other County-  
16 owned property. *See* Appendix B, *infra* at 30-32. Attached as Appendix B is a more  
17 comprehensive list of the services and investments identified by the County that fall within this  
18 category. *See infra* at 30-32; *see also* Albright Decl. ¶¶ 4-6.

19 The discovery promulgated by the State and County likewise reflects their effort to focus  
20 the case on governmental services having no apparent connection to Quil Ceda Village. The  
21 State, for example, asked Tulalip to identify “every essential government service . . . provided or  
22 offered to Tribal members or the Reservation community, and for each service, identify the total  
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1 annual amount spent on such service, to whom such service is provided, and the source of  
2 funding for each service.” Albright Decl. at 112. The County asked the United States to  
3 “identify all government services provided by the federal government that are delivered within  
4 the Tulalip Indian Reservation and are not generally available outside Indian County.” *Id.* at  
5 116. Tulalip and the United States have objected to such discovery requests because, among  
6 other reasons, they are directed at matters unrelated to services provided within the boundaries of  
7 Quil Ceda Village or directly supporting commerce in the Village. *See id.* at 112, 116-120.

### 8 **III. The July 29, 2016 Hearing and Discussion Regarding the Legal Effect of Categories** 9 **of Government Services**

10 On June 29, 2016, the parties filed a joint request to modify the scheduling order and to  
11 extend discovery and related deadlines by approximately six months. Dkt. 58. On July 29,  
12 2016, the Court held a hearing by video conference regarding the parties’ request. Dkt. 67  
13 (hearing transcript). At the outset of the hearing, the Court stated its desire to understand how  
14 discovery was proceeding, to learn more about the legal issues in the case and the facts necessary  
15 to resolve them, and to determine whether it could help the parties map out a more efficient  
16 litigation process. *See, e.g., id.* at 4-5, 27. The Court expressed some concern regarding the  
17 extent of discovery and suggested the parties “need the Court to give you some rulings”  
18 regarding “the actual facts you need to resolve” the legal issues. *Id.* at 36. The Court asked  
19 whether it would “be helpful for you to break it down by category of service” and get “a legal  
20 ruling on what counts for whom and what doesn’t.” *Id.* at 15. The Court reiterated at several  
21 junctures that it could provide rulings on the legal effect of different categories of government  
22 services, *see id.* at 18, and in doing so, potentially streamline the case and relieve the parties of  
23 substantial discovery burdens. *See id.* at 14.  
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1 To that end, in the parties' August 12, 2016 Joint Statement of Issues, Tulalip and the  
 2 United States stated their intent to request a ruling regarding the legal effect of government  
 3 services and investments provided by Defendants outside the boundaries of Quil Ceda Village  
 4 and that do not directly support the economic activities in the Village subject to the taxes in  
 5 dispute.<sup>2</sup> See Dkt. 69 at 2-3. In the same filing, Defendants confirmed their intent to rely on  
 6 such services for purposes of resolving the claims and defenses in this action. See Dkt. 69 at 15  
 7 (listing "[t]he nature and value of government services" provided generally to "the taxpayers"  
 8 and to "tribal members and the reservation community"). Tulalip now moves for partial  
 9 summary judgment with respect to these categories of government services pursuant to Federal  
 10 Rule of Civil Procedure 56(a) and the Court's August 22, 2016 Scheduling Order. See Dkt. 70.  
 11 Partial summary judgment is an appropriate method for the Court to narrow the factual and legal  
 12 issues in this case. See, e.g., *Continental Airlines, Inc. v. Goodyear Tire & Rubber Co.*, 819 F.2d  
 13 1519, 1525 (9th Cir. 1987).

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19 <sup>2</sup> Tulalip also stated its intent to request a ruling regarding the legal effect of government services provided by  
 20 Defendants but funded by sources other than the taxes in dispute. See Dkt. 69 at 3; see also Dkt. 67 at 19-20  
 21 (referring to state services funded by federal grants). Tulalip also noted at the July 29, 2016 hearing the existence of  
 22 services within Quil Ceda Village that Tulalip does not deliver directly but provides through fee-for-service  
 23 agreements, such as fire protection. See Dkt. 67 at 17-18. The Ninth Circuit "has required that the State  
 24 demonstrate a close relationship between the tax imposed on the on-reservation activity and the state interest  
 25 asserted to justify such tax." *Cabazon Band of Mission Indians v. Wilson*, 37 F.3d 430, 435 (9th Cir. 1994) (citing  
*Crow Tribe of Indians v. Montana*, 819 F.2d 895, 901 (9th Cir. 1987), *aff'd*, 484 U.S. 997 (1988)). Where it fails to  
 do so—for example, where the state is reimbursed for services outside of the state tax structure—its interest is  
 weakened. See *id.* Tulalip is not moving for partial summary judgment with respect to these issues at this time,  
 however, because they are fact-intensive and service-specific. The proper weight, if any, to accord the services  
 provided within Quil Ceda Village that fit within these categories under the *Bracker* balancing test, see *infra* at 11-  
 12, should be resolved on a more fully developed factual record.

**ARGUMENT**

**GOVERNMENT SERVICES PROVIDED OUTSIDE THE BOUNDARIES OF QUIL CEDA VILLAGE AND NOT DIRECTLY SUPPORTING COMMERCE IN THE VILLAGE HAVE NO LEGAL EFFECT FOR PURPOSES OF THE CLAIMS AND DEFENSES IN THIS ACTION**

Plaintiffs' claims in this action are limited to three taxes imposed by Defendants on economic activities within the political boundaries of the Consolidated Borough of Quil Ceda Village. Under Supreme Court precedent, to determine whether the taxes are preempted by federal law, this Court must conduct a "particularized inquiry" into the government services and investments made by the parties within Quil Ceda Village and in support of the activities subject to the disputed taxes.<sup>3</sup> Plaintiffs are developing evidence consistent with this body of law. *See* Dkt. 69 at 2-13. Perhaps because of the paucity of their involvement in Quil Ceda Village, Defendants, however, seek to shift the focus to a broader universe of government services having no direct connection to Quil Ceda Village, including unrelated services provided on the Tulalip Reservation and to tribal members. The Supreme Court has rejected Defendants' approach, holding as a matter of law that such services have no legal effect and are instead subsumed by Defendants' generalized interest in raising revenue.

Tulalip therefore requests partial summary judgment that government services and investments provided by Defendants outside the boundaries of the Consolidated Borough of Quil Ceda Village and that do not directly support the economic activities subject to the taxes in dispute, including those in Appendices A and B, have no legal effect and will not be considered

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<sup>3</sup> An example of investments made outside the boundaries of Quil Ceda Village that directly support commerce in the Village is the improvement and reconstruction of the Interstate-5 interchanges at 88th and 116th Streets, which are located just outside the Village but provide the principal access points to the Village. *See* Dkt. 1 ¶ 30.

by the Court for purposes of resolving the claims and defenses in this action.<sup>4</sup> This ruling will focus the factual and legal issues in this case and enable the parties to proceed more efficiently with the remaining discovery, development of the factual record, expert witness work, settlement discussions, and final resolution on the merits.

**I. The Doctrine of Federal Preemption and the *Bracker* Balancing Test Require a Particularized Inquiry into the Interests at Stake in the Specific Context at Issue**

Plaintiffs challenge Defendants’ taxes at Quil Ceda Village under three common law doctrines that are well-established in federal Indian law: federal preemption, the sovereign right of self-government, and the Indian Commerce Clause. *See* Dkt. 69 at 2, 11-13. Each doctrine provides an independent basis to invalidate the taxes and highlights different burdens they impose on Tulalip. *See* Dkt. 1 ¶¶ 94-114. Federal courts, however, consider the same body of evidence in connection with each claim, *see Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134, 154-57 (1980), and as the preemption case law elucidates the relevant scope of government services in the greatest detail, this motion focuses on it.

The legal test for preemption in the Indian law context is not controlled by standards of preemption developed in other areas and is not limited to situations in which Congress has announced its intent to preempt state authority. *See, e.g., White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143-44 (1980). “Instead, the traditional notions of tribal sovereignty, and the recognition and encouragement of this sovereignty in congressional Acts promoting tribal

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<sup>4</sup> While Tulalip has sought to be comprehensive in preparing these appendices, Defendants’ discovery responses are voluminous and often contain little explanation or detail. Therefore, to the extent Tulalip has not specifically identified a particular service in Appendix A or Appendix B that falls within this category, that omission should not be construed as an admission by Tulalip that the service has legal effect in this action. Rather, Tulalip requests partial summary judgment with respect to all services lacking a direct connection to Quil Ceda Village. By the same token, to the extent Defendants have provided information showing that a service is in fact provided within Quil Ceda Village, Tulalip does not request partial summary judgment with respect to it. *See* Albright Decl. ¶¶ 5-6.

1 independence and economic development, inform the pre-emption analysis that governs this  
 2 inquiry.” *Ramah Navajo Sch. Bd. v. Bureau of Revenue of N.M.*, 458 U.S. 832, 838 (1982).

3 Accordingly, where a state asserts authority to tax non-Indians engaged in commerce on  
 4 Indian trust lands, the Court conducts “a particularized inquiry into the nature of the state,  
 5 federal, and tribal interests at stake, an inquiry designed to determine whether, in the specific  
 6 context, the exercise of state authority would violate federal law.” *Bracker*, 448 U.S. at 145.  
 7 “State jurisdiction is preempted by the operation of federal law if it interferes or is incompatible  
 8 with federal and tribal interests reflected in federal law, unless the state interests at stake are  
 9 sufficient to justify the assertion of state authority.” *New Mexico v. Mescalero Apache Tribe*,  
 10 462 U.S. 324, 334 (1983). Thus, under what has come to be known as the *Bracker* balancing  
 11 test, the Court balances the parties’ respective interests to determine whether in the particular  
 12 context at hand the federal and tribal interests in the activities at issue outweigh the state interests  
 13 in taxing those activities.

14  
 15 **II. Under the *Bracker* Balancing Test, State Services Must Be Directly Connected to the**  
 16 **Activities Subject to the Taxes in Dispute in Order to Enjoy Legal Effect**

17 Supreme Court precedent is clear that a state must justify the taxation of activities on  
 18 Indian lands through government services provided in connection with those activities. In  
 19 *Bracker*, Arizona sought to impose motor carrier and fuel taxes on a non-Indian timber company  
 20 on the Fort Apache Reservation. But the state was “unable to identify any regulatory function or  
 21 service performed by the State that would justify the assessment of taxes for activities on Bureau  
 22 and tribal roads within the reservation,” *Bracker*, 448 U.S. at 148-49, and the Court was likewise  
 23 “unable to discern a responsibility or service that justifie[d] the assertion of taxes imposed for  
 24 on-reservation operations conducted solely on tribal and Bureau of Indian Affairs roads.” *Id.* at  
 25

1 150. The Court held that the state’s “general desire to raise revenue” was insufficient to avoid  
2 preemption. *Id.*; *see also id.* at 174 (Powell, J., concurring) (“The State has no interest in raising  
3 revenues from the use of Indian roads that cost it nothing and over which it exercises no  
4 control.”). Similarly, in *New Mexico*, the Court preempted “a tax in the form of a hunting and  
5 fishing license,” 462 U.S. at 343, where the state did not “contribute in any significant respect to  
6 the maintenance of these [fish and wildlife] resources, and can point to no other governmental  
7 functions it provides . . . in connection with hunting and fishing on the reservation by  
8 nonmembers that would justify the assertion of its authority.” *Id.* at 342 (quotation marks and  
9 citation omitted). The Court held that a tax “must ordinarily be justified by functions or services  
10 performed by the State in connection with the on-reservation activity.” *Id.* at 336.

11  
12 Accordingly, unrelated on-reservation services provided to a tribe or its members and  
13 unrelated off-reservation services provided to a business or the general public have no legal  
14 effect under the *Bracker* balancing test. In *Ramah*, New Mexico sought to impose a gross  
15 receipts tax on a non-Indian company building a school on the Navajo Reservation. The Court  
16 rejected “the State’s argument that the significant services it provides to the Ramah Navajo  
17 Indians justify the imposition of this tax” because “these benefits are [not] in any way related to  
18 the construction of schools on Indian land.” 458 U.S. at 845 n.10. The Court also rejected the  
19 argument that off-reservation services provided to the company in connection with its off-  
20 reservation activities justified the taxation of its on-reservation activities, *id.* at 844, finding that  
21 “[t]he State’s ultimate justification for imposing this tax amounts to nothing more than a general  
22 desire to increase revenues.” *Id.* at 845. “This case would be different,” the Court stated, “if the  
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1 State were actively seeking tax revenues for the purpose of constructing, or assisting in the effort  
2 to provide, adequate educational facilities for Ramah Navajo children.” *Id.* at 843 n.7.

3 The Ninth Circuit has likewise rejected states’ efforts to justify taxation based on the  
4 provision of services unconnected to the taxed activity. In *Hoopa Valley Tribe v. Nevins*, 881  
5 F.2d 657 (9th Cir. 1989), the Court held a state timber yield tax on non-Indian purchasers of  
6 reservation timber to be pre-empted, and in doing so deemed the State’s general provision of  
7 “public services for the reservation,” *id.* at 658, to be of no legal effect:

8 Although California points to a variety of services that it provides to residents of the  
9 reservation and the surrounding area, none of those services is connected with the  
10 timber activities directly affected by the tax. To be valid, the California tax must  
11 bear some relationship to the activity being taxed. . . . Showing that the tax serves  
legitimate state interests, such as raising revenues for services used by tribal  
residents and others is not enough.

12 *Hoopa Valley*, 881 F.2d at 661 (citing *Crow Tribe of Indians v. Montana*, 819 F.2d 895, 900-01  
13 (9th Cir. 1987), *aff’d*, 484 U.S. 997 (1988)).

14 The Supreme Court and Ninth Circuit have applied this same requirement in cases in  
15 which they have upheld state taxes under the *Bracker* balancing test. In *Cotton Petroleum Corp.*  
16 *v. New Mexico*, 490 U.S. 163, 185-86 (1989), the Court pointed to substantial on-reservation  
17 services provided by New Mexico directly to the non-Indian oil and gas producers challenging  
18 the oil and gas severance taxes, as well as to the state’s regulation of the spacing and mechanical  
19 integrity of the wells. Similarly, in *Gila River Indian Cmty. v. Waddell*, 91 F.3d 1232, 1238 (9th  
20 Cir. 1996), the Ninth Circuit upheld a state tax on ticket sales and concessions at an on-  
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1 reservation raceway and amphitheater, where Arizona provided “a number of governmental  
2 functions critical to the success” of the events, including police protection and traffic control.<sup>5</sup>

3 The Eleventh Circuit recently summarized this long-standing requirement.

4 A state’s interest in a particular tax can outweigh federal and tribal interests, but to  
5 do so the state’s tax must relate to the services it provides in connection with the  
6 entity and activity being taxed and not merely serve a generalized interest in raising  
revenue.

\* \* \*

7 To establish the state’s interest in imposing the Rental Tax, [Florida] points to the  
8 evidence [it] introduced of the services that the state provides on the reservation,  
including law enforcement, criminal prosecution, and health services, as well as  
9 “intangible off-reservation benefits . . . such as infrastructure and transportation  
services.” But none of these services are tied to the business of renting commercial  
10 property on Indian land. Both *Bracker* and *Ramah* note that the state tax must be  
sufficiently connected to the particular activity taxed to amount to more than just a  
11 generalized interest in raising revenue.

12 *Seminole Tribe of Fla. v. Stranburg*, 799 F.3d 1324, 1337, 1341-42 (11th Cir. 2015). In short,  
13 government services with no direct connection to the activities subject to the taxes in dispute,  
14 including unrelated services provided on the reservation and to a tribe, its members, and the  
15 general public, have no legal effect and are subsumed by the general interest in raising revenue.

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17 <sup>5</sup> In *Salt River Pima-Maricopa Indian Community v. Arizona*, 50 F.3d 734, 735 (9th Cir. 1995), the Ninth Circuit,  
18 after describing in the background section of its opinion the provision of various state, tribal, and local government  
19 services to the on-reservation shopping mall at issue, also noted that it was undisputed that Arizona and its political  
20 subdivisions provided off-reservation services used by patrons of the mall. There is no clear indication in the  
21 Court’s opinion whether it accorded those services any weight, as it never expressly referenced them again, but it  
would have been highly anomalous had it done so given the existing Supreme Court and Ninth Circuit precedent.  
22 Indeed, Judge Fletcher authored both *Salt River* and the Ninth Circuit’s prior decision in *Gila River Indian  
Community v. Waddell*, 967 F.2d 1404 (9th Cir. 1992) (*Gila River I*). In *Gila River I*, she summarized the governing  
23 Supreme Court precedent, noting the state failures in *Bracker* to “claim that the tax represented compensation for  
services provided in connection with the logging activities,” *id.* at 1409, and in *Ramah* to identify “services provided  
24 in connection with the tribal schools that the tax would fund.” *Id.* Judge Fletcher contrasted those situations with  
*Cotton Petroleum*, where the state “provided substantial services to both the Tribe and its lessees in connection with  
the tribal drilling operations.” *Id.* at 1410. *Gila River I* held that the district court in that case should not have  
25 granted Arizona’s motion to dismiss the plaintiff tribe’s claim because the tribe had alleged that the state tax was  
unrelated to any services provided by the state in support of the taxed activities. *Id.* at 1412. As discussed in the  
main text, in *Gila River Indian Cmty. v. Waddell*, 91 F.3d 1232 (9th Cir. 1996) (*Gila River II*), the Ninth Circuit  
found that the state on summary judgment had in fact adduced proof of such services.



**III. Government Services Provided by Defendants Outside the Boundaries of Quil Ceda Village and that Do Not Directly Support the Economic Activities Subject to the Taxes in Dispute Have No Legal Effect in This Action**

Consistent with the body of case law described above, Plaintiffs will support their claims with evidence of their investments in the development of the Consolidated Borough of Quil Ceda Village and their provision of comprehensive government services that make possible the economic activities subject to the disputed taxes. *See supra* at 5; Dkt. 69 at 2-13. Defendants, however, seek to litigate this case in significant part on the basis of services with no connection to activities in Quil Ceda Village. *See supra* at 5-7; Dkt. 32 at 15, 19 (disclosing documents the State may use to support its claims or defenses, including documents “Related To Services Provided To The Tribe, Its Members, [and] Within the Reservation” and documents “Related To The State’s Provision Of Services To The General Public”). Appendices A and B make plain Defendants’ effort to identify and rely on every connection between the state and county governments and the Tulalip Reservation or the Tulalip Tribes or its members, the lack of any connection to Quil Ceda Village notwithstanding. The State thus seeks to defend its taxation of commerce at Quil Ceda Village based on the fact that, for example, the Governor’s Office of Indian Affairs acts as a liaison between state and tribal governments; Washington State University maintains archival collections relating to the Tulalip Tribes; and the Tulalip Tribes and the Department of Fish and Wildlife have entered co-management agreements regarding treaty fishing, hunting, and other natural resources. *See Appendix A, infra* at 23.

The Supreme Court and Ninth Circuit precedent canvassed above makes clear that these and other services provided by Defendants on the Tulalip Reservation and to the Tulalip Tribes or its members, which are unrelated to commerce in Quil Ceda Village, have no legal effect



1 under the *Bracker* balancing test. *See, e.g., Ramah*, 458 U.S. at 845 n.10; *Hoopa Valley*, 881  
2 F.2d at 661; *see also Seminole Tribe*, 799 F.3d at 1341-42 (summarizing Supreme Court  
3 precedent). Similarly, other services with no connection to the activities subject to the taxes at  
4 issue, including services provided to businesses and the general public outside the boundaries of  
5 the Consolidated Borough of Quil Ceda Village, are likewise to no effect. *See Ramah*, 458 U.S.  
6 at 844; *see also New Mexico*, 462 U.S. at 342-43; *Bracker*, 448 U.S. at 148-49. All of these  
7 services are subsumed by Defendants' general interest in raising revenue.<sup>6</sup> Tulalip therefore  
8 requests partial summary judgment that services and investments provided by Defendants  
9 outside the boundaries of Quil Ceda Village and that do not directly support commerce in the  
10 Village, including those in Appendices A and B, have no legal effect and will not be considered  
11 by the Court for purposes of resolving the claims and defenses in this action.

12  
13 The circumstances of this case fully support application of the Supreme Court's rule.  
14 Plaintiffs' claims are limited to three taxes imposed by Defendants on non-Indian businesses  
15 within the political boundaries of the Consolidated Borough of Quil Ceda Village. Plaintiffs do  
16 not challenge any taxes imposed by Defendants outside the boundaries of the Village, including  
17 elsewhere on the Tulalip Reservation. Regardless of the outcome of this case, Defendants will  
18 continue to collect taxes paid by persons throughout other areas of the Tulalip Reservation, taxes  
19 paid by Village businesses in connection with their activities outside of the Village, and taxes  
20 paid by employees and patrons of Village businesses outside of the Village. Defendants will also  
21 continue to collect taxes paid by the Tulalip Tribes and its members when they engage in  
22 economic activities outside the boundaries of the Tulalip Reservation. *See Mescalero Apache*

23  
24 <sup>6</sup> Tulalip of course does not dispute that the State and County provide government services within their respective  
jurisdictions and have a general interest in raising revenue to support those services.

1 *Tribe v. Jones*, 411 U.S. 145, 148-49 (1973). All of these taxes may be used to support state and  
2 county services provided outside the boundaries of Quil Ceda Village.

3 Plaintiffs' claims are limited to the political boundaries of Consolidated Borough of Quil  
4 Ceda Village because it is unique. With its own people and resources, Tulalip has transformed  
5 barren lands into a federally-recognized municipality with a thriving economy supported by  
6 comprehensive tribal infrastructure and government services. *See supra* at 3-4. The facts of  
7 daily life at Quil Ceda Village are very different from the rest of the Tulalip Reservation.  
8 Whereas 100% of Village lands are held in trust by the United States for the benefit of the  
9 Tulalip Tribes, only 43% of the Tulalip Reservation as a whole is held in trust. *See Toguchi*  
10 *Decl.* at 5. The vast majority of the remaining 57% of reservation lands are held in fee  
11 ownership by non-Indians—a legacy of the failure of Congress' nineteenth century allotment  
12 policy. *See id.* Overall, non-Indians comprise approximately 75% of the population of the  
13 Tulalip Reservation. *See Albright Decl.* at 124, 129 (showing 10,944 total reservation residents  
14 as of July 1, 2015, and 2,631 Tulalip tribal members residing on the reservation as of December  
15 31, 2014). These circumstances dictate a different role for the state and county governments in  
16 providing services on the Tulalip Reservation outside the boundaries of Quil Ceda Village.

17  
18 Moreover, if the Court were to consider services provided by Defendants outside the  
19 boundaries of the Village and that do not directly support commerce in the Village, it would also  
20 have to consider services of the same scope provided by Plaintiffs. As a sovereign government,  
21 the Tulalip Tribes provides a broad range of government services to its members and other  
22 persons on the Tulalip Reservation, including the thousands of non-Indians residing there. The  
23 governmental departments of the Tulalip Tribes include police, utilities, housing, health and  
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25

1 dental clinics, tribal court, family and youth services, and natural resources, to name only a few.  
 2 *See* Albright Decl. at 132-133. The United States, as its treaty partner and trustee, also funds and  
 3 provides a broad range of services to the Tulalip Tribes and its members. As the United States  
 4 explained in objecting to the County’s discovery request, a single federal agency such as the  
 5 Indian Health Service provides an enormous array of services on the Tulalip Reservation. *See id.*  
 6 at 116-117. To date, Plaintiffs have not produced evidence of this reservation-wide scope. Nor  
 7 have Plaintiffs produced evidence of the services and financial support they provide generally to  
 8 the state and county governments and their citizens.<sup>7</sup> If such services are deemed to have legal  
 9 effect, however, Plaintiffs will need to ensure the record before the Court reflects the full range  
 10 of relevant tribal and federal services and funding. *See* Dkt. 69 at 11. Plaintiffs will also need to  
 11 conduct further written discovery and extensive depositions to answer the many questions  
 12 surrounding the State and County services listed in Appendices A and B, including how often  
 13 and to whom they have been provided, at what cost, and with what funds. *See id.*

15 Under Defendants’ approach, the Court would be required to weigh this staggering body  
 16 of evidence for purposes of the *Bracker* balancing test. No court has ever done so. Rather, this  
 17 Court must undertake a “particularized inquiry” into the parties’ respective interests in “the  
 18 specific context” at issue. *Bracker*, 448 U.S. at 145. Here, that context is the Consolidated  
 19 Borough of Quil Ceda Village. What Defendants seek is not particularized at all—it is a  
 20 generalized inquiry into services provided on the Tulalip Reservation and to the Tulalip Tribes,  
 21 its members, and the general public. The Supreme Court has squarely rejected Defendants’

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23 <sup>7</sup> It bears noting that the United States plays a very significant role in providing government services throughout the  
 24 State of Washington and Snohomish County. For example, more than \$15 billion and more than \$60 million in  
 federal grant funds were expended respectively by the State and the County in 2014. *See* Albright Decl. at 148, 153.  
 These sums do not include expenditures by federal agencies on direct services provided to state and county citizens.

1 approach, and this Court should do the same. In doing so, the Court will substantially focus the  
2 factual and legal issues and enable the parties to litigate this case in a far more efficient manner.

3 **CONCLUSION**

4 For the foregoing reasons, Tulalip respectfully requests that the Court enter partial  
5 summary judgment that government services and investments provided by Defendants outside  
6 the boundaries of the Consolidated Borough of Quil Ceda Village and that do not directly  
7 support the economic activities subject to the taxes in dispute, including those in Appendices A  
8 and B, have no legal effect for purposes of resolving the claims and defenses in this action.  
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1 DATED this 22nd day of September, 2016.

2  
3 Respectfully submitted,

4 /s/ Cory J. Albright

5 /s/ Jane G. Steadman

6 /s/ Phillip E. Katzen

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 22, 2016, I electronically filed PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING GOVERNMENT SERVICES PROVIDED OUTSIDE THE BOUNDARIES OF QUIL CEDA VILLAGE AND NOT DIRECTLY SUPPORTING COMMERCE IN THE VILLAGE ("PLAINTIFFS' MOTION"), the DECLARATION OF CORY J. ALBRIGHT IN SUPPORT OF PLAINTIFFS' MOTION, the DECLARATION OF EIKO TOGUCHI IN SUPPORT OF PLAINTIFFS' MOTION, and [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION using the CM/ECF system, which will send notification of the filing to all parties in this matter who are registered with the Court's CM/ECF filing system.

DATED this 22nd day of September, 2016.

/s/ Cory J. Albright

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**APPENDIX A**

State of Washington: Government Services and Investments Provided Outside the Boundaries of  
Quil Ceda Village and Not Directly Supporting Commerce in the Village

State Agency	Alleged Service or Investment	Source of Information
Department of Health	Payments by Tulalip Tribes for paralytic shellfish poisoning (PSP) testing	Answer to Tulalip Interrogatory No. 6
State Parks and Recreation Commission	Management of state parks for benefit of people of State of Washington, including Tulalip tribal members	Answer to Tulalip Interrogatory No. 6
Washington State Lottery	Unspecified lottery services at three locations on Tulalip Reservation outside of Quil Ceda Village	Answer to Tulalip Interrogatory No. 6
Governor's Office of Indian Affairs (and other unspecified state agencies)	Liaison between state and tribal governments and members, and efforts to coordinate with tribal governments, including Tulalip Tribes	Answer to Tulalip Interrogatory No. 6; STATE-00023128 to STATE-00023714
Washington State University	Archival collections relating to Tulalip Tribes	Answer to Tulalip Interrogatory No. 6
Department of Archeology	Data sharing agreement with Tulalip Tribes	Answer to Tulalip Interrogatory No. 6; STATE-00001141 to STATE-00001153
Department of Fish and Wildlife (Fish Program)	Co-management agreements with Tulalip Tribes regarding hatchery operations, egg collections, and shared broodstock; fishery agreements, including cooperation in North of Falcon Process; and sharing of harvest and population data	Answer to Tulalip Interrogatory No. 6
Department of Fish and Wildlife (Wildlife Program)	Co-management hunting agreement regarding harvest sharing, data sharing, survey coordination and cost sharing, and elk damage coordination	Answer to Tulalip Interrogatory No. 6
Department of Fish and Wildlife	Coordination with tribes on North Cascades Elk Herd Program	STATE-00001407 to STATE-00001417
Department of Fish and Wildlife	Coordination with Tulalip Tribes on Wildlife Areas, including Leque Island restoration	Answer to Tulalip Interrogatory No. 6
Department of Fish and Wildlife (Habitat Program)	Partnership with Tulalip Tribes on local salmon recovery projects, including Puget Sound Nearshore Estuary Restoration Project and Floodplains by Design	Answer to Tulalip Interrogatory No. 6

1	Department of Fish and Wildlife (Habitat Program)	Acceptance of comments from Tulalip Tribes on hydraulic project approvals	Answer to Tulalip Interrogatory No. 6
2	Department of Fish and Wildlife (Enforcement Program)	Coordination with Tulalip Tribes on enforcement of fish and wildlife laws, including cooperative patrols, intelligence sharing, and coordination on large investigations	Answer to Tulalip Interrogatory No. 6
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5	Department of Ecology	Inspection of salvage shops on Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
6	Department of Ecology	Partnership between Tulalip Tribes, State, federal government, and private interests for Qwuloolt estuary restoration and environmental damages mitigation, including grants for setback levee construction and Allen Creek channel partial construction	Answer to Tulalip Interrogatory No. 6
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10	Department of Ecology	Provision and/or administration of grants related to Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
11		Clean Water Act enforcement on reservation lands owned by non-members	Answer to Tulalip Interrogatory No. 6
12	Department of Ecology	Coordination between Spill Response and Tulalip Tribes to respond to incidents on Reservation, including sinking boats, sheens, meth labs and other waste dumps	Answer to Tulalip Interrogatory No. 6
13			
14	Department of Ecology	Coordination with Tulalip Tribes to clean up tires on bulkhead	Answer to Tulalip Interrogatory No. 6
15	Department of Ecology	Equipment grant to Tulalip Tribes	Answer to Tulalip Interrogatory No. 6
16	Department of Natural Resources	Coordination with Tulalip Tribes on natural resource management	Answer to Tulalip Interrogatory No. 6
17		Forest & Fish Program grant to Tulalip Tribes	Answer to Tulalip Interrogatory No. 6
18	Recreation and Conservation Office	Ten grants to Tulalip Tribes for environmental planning, land acquisition, habitat restoration, and enhancement work	Answer to Tulalip Interrogatory No. 6
19			
20	Department of Ecology, Department of Fish and Wildlife, Department of Natural Resources, Recreation and Conservation Office	Miscellaneous grants, contracts, agreements, and related documents	STATE-00000001 to STATE-00000279, STATE-00000306 to STATE-00000485, STATE-00001397 to STATE-00001592, STATE-00001601 to STATE-00002054, STATE-00022170 to
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1			STATE-00022730
2	Environmental and Land Use Hearing Office	Hearing of cases to which Tulalip Tribes has been party	Answer to Tulalip Interrogatory No. 6
3	Community Economic Revitalization Board	2012 grant to Tulalip Tribes for pilot project at biogas facility	Answer to Tulalip Interrogatory No. 6; STATE-00001102 to STATE-00001140
4			
5	Department of Agriculture	Energy Freedom Loan to Tulalip Tribes and Qualco Energy Corp. for biogas facility	STATE-00000280 to STATE-00000299
6	Department of Agriculture	Unspecified food safety program	Answer to Tulalip Interrogatory No. 6
7	Dairy Products Commission	Unspecified nutrition education materials	Answer to Tulalip Interrogatory No. 6
8	Emergency Food Assistance Program	Unspecified grants to Tulalip Tribes (2003, 2007, 2009)	Answer to Tulalip Interrogatory No. 6
9			
10	Administrative Office of the Court	Agreement with Tulalip Tribal Court for access to JIS-Link service	Answer to Tulalip Interrogatory No. 6; STATE-00000491 to STATE-00000502
11			
12	Administrative Office of the Courts	Unspecified grants pertaining to "Encourage Arrest" program	Answer to Tulalip Interrogatory No. 6
13	Office of Crime Victim Advocacy Sexual Assault Program	Unspecified grants to one unspecified statewide organization and two unspecified Snohomish County organizations, which may have provided services to tribal members	Answer to Tulalip Interrogatory No. 6
14			
15	Office of Crime Victim Service Center	Negotiations with Tulalip Tribes and U.S. Department of Justice for federal funding for victims of Marysville shooting	Answer to Tulalip Interrogatory No. 6
16	University of Washington	Work in conjunction with Tulalip Tribes to provide defense counsel in Tulalip Tribal Court	Answer to Tulalip Interrogatory No. 6
17			
18	Edmonds Community College	Coordination with Tulalip Tribes to offer unspecified coursework	Answer to Tulalip Interrogatory No. 6
19	Renton Technical College	Construction Trade Preparation training on Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
20	Skagit Valley College	Unspecified training for members of unspecified tribes	Answer to Tulalip Interrogatory No. 6
21			
22	Evergreen State College	Unspecified grants to Tulalip tribal artists	Answer to Tulalip Interrogatory No. 6
23			
24	Office of Education Ombuds	Unspecified support to Tulalip tribal members to resolve academic complaints	Answer to Tulalip Interrogatory No. 6

1	Office of Superintendent of Public Instruction	Unspecified supplemental food and nutrition assistance programs that benefit Tulalip tribal members	Answer to Tulalip Interrogatory No. 6
2			
3	Office of Superintendent of Public Instruction	Unspecified grants for before and after school extended learning programs within Marysville School District and technical assistance for McKinney Vento homeless liaison	Answer to Tulalip Interrogatory No. 6
4			
5	Office of Superintendent of Public Instruction	Summer Feeding Program for Marysville School District, including Tulalip Boys and Girls Club	STATE-00000486
6			
7	State Board of Education	Unspecified support and oversight to Marysville School District, which includes Quil Ceda Tulalip Elementary School and other schools that Tulalip tribal members attend	Answer to Tulalip Interrogatory No. 6; STATE-00022757 to STATE-00022777
8			
9			
10	Department of Commerce	Unspecified seminars and conferences attended by Tulalip Tribes members	Answer to Tulalip Interrogatory No. 6
11	Human Rights Commission	Unspecified training offered to Tulalip Tribes and tribal members	Answer to Tulalip Interrogatory No. 6
12	Office of Insurance Commissioner	Unspecified training by Statewide Health Insurance Benefits Advisors on Medicare, Medicaid, and Social Security offered to tribes, including Tulalip Tribes	Answer to Tulalip Interrogatory No. 6
13			
14	Department of Labor and Industries	Partnership with Tulalip Tribes to develop pre-apprenticeship programs in building trades	Answer to Tulalip Interrogatory No. 6
15			
16	Department of Licensing	Issuance of 12 exempt licenses to Tulalip Police Department and registration of "944 vehicles in the 98271 zip code with the Native American flag"; issuance of other professional licenses, driver's licenses, and identification cards; maintenance of driver records, vehicle titling and registration records; issuance of exempt plates for tribes, special plates for law enforcement purposes; unspecified agreements to provide unspecified tribes with access to data	Answer to Tulalip Interrogatory No. 6; STATE-00001592 to STATE-00001596
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22	Washington Military Department (Emergency Management Division)	Partnership with Tulalip Tribes and local governments to develop emergency preparedness response plans, offer disaster response training, and provide equipment grants and disaster funding	Answer to Tulalip Interrogatory No. 6; STATE-00014513 to STATE-00021730
23			
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1	Attorney General (Office of Consumer Protection Division)	Generally available information regarding identity theft, debt management, refund rights, and scams targeting elderly individuals	Answer to Tulalip Interrogatory No. 6
2			
3	Department of Financial Institutions	Availability to respond to consumer complaints and enforcement of financial and consumer protection regulations	Answer to Tulalip Interrogatory No. 6
4			
5	Office of Financial Management	K-20 Network's provision of technology services to Northwest Indian College, Tulalip campus	Answer to Tulalip Interrogatory No. 6; STATE-00021984 to STATE-00021986
6			
7	Office of Financial Management	Maintenance of ARF database (containing financial records of payments to tribes and tribal organizations)	Answer to Tulalip Interrogatory No. 6
8			
9	Office of Financial Management	Maintenance of P-20 warehouse (containing education related data, including data from tribal schools)	Answer to Tulalip Interrogatory No. 6
10			
11	Office of Regulatory Assistance	Unspecified assistance to Tulalip Tribes in navigating regulatory processes in Washington State	Answer to Tulalip Interrogatory No. 6
12			
13	Gambling Commission	Co-regulatory oversight for Tulalip Tribes' gaming facilities outside of Quil Ceda Village, including employee background checks and certifications	Answer to Tulalip Interrogatory No. 6
14			
15	Health Care Authority (Tribal Affairs Office)	Liaison to tribes and provision of unspecified services	Answer to Tulalip Interrogatory No. 6
16	Health Care Authority	Management of Basic Health Program and Medicaid Program for qualified individuals, which may include Tulalip tribal members	Answer to Tulalip Interrogatory No. 6
17			
18	Department of Services for the Blind	Unspecified assistance to Tulalip tribal members	Answer to Tulalip Interrogatory No. 6
19	Department of Health	Unspecified programs and services regarding illness and injury prevention, informed health decisions, and emergency preparedness throughout State, including unspecified support for Tulalip Tribal Health Clinic	Answer to Tulalip Interrogatory No. 6
20			
21			
22	Department of Health	Volunteer/Retired Provider Malpractice Insurance Program providing no-cost malpractice insurance to volunteer healthcare providers has "program site" on Tulalip Reservation	STATE-00022027 to STATE-00022030
23			
24	Department of Revenue	Administration of business licensing	Answer to Tulalip

		services, unclaimed property and statewide collection of taxes, including public education for businesses and consumers engaging in business activities with all Indian tribes, including Tulalip Tribes	Interrogatory No. 6
	Housing Finance Commission	Administration of Low Income Housing Tax Credit Program and allocation of Low Income Tax Credits to three housing projects on the Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
	Department of Social and Health Services (Children's Administration)	Unspecified child welfare services; recruitment, licensure, investigation, and monitoring of homes and facilities with tribal affiliation; training of tribal child welfare workers; handling of child abuse and neglect allegations; and unspecified grant funding	Answer to Tulalip Interrogatory No. 6
	Department of Social and Health Services	Coordination with Tribal Governments to support overall health and safety, improve case management, and support Indian Policy Advisory Committee	STATE-00022097 to STATE-00022104
	Department of Social and Health Services	Grants to tribal Temporary Assistance for Needy Families (TANF) programs, including Tulalip Tribes	STATE-00022092
	Department of Social and Health Services (Developmental Disabilities Administration)	Unspecified care services for tribal members	Answer to Tulalip Interrogatory No. 6
	Department of Social and Health Services (Division of Behavioral Health and Recovery)	Contract with Tulalip Tribes for provision of substance abuse and prevention treatment; administration of unspecified grant funding	Answer to Tulalip Interrogatory No. 6
	Department of Social and Health Services (Residential Care Services)	Licensure and regulation of Tulalip adult family home and any other licensed facility where tribal members may receive treatment or care	Answer to Tulalip Interrogatory No. 6
	Department of Social and Health Services (Financial Services Administration)	Unspecified payment processing; 120 unspecified contracts between the Operations Support and Services Division and Tulalip; possible performance of unspecified background checks	Answer to Tulalip Interrogatory No. 6
	Department of Social and	Unspecified vocational rehabilitation	Answer to Tulalip

1	Health Services (Division of Vocational Rehabilitation)	services available to tribal members	Interrogatory No. 6
2			
3	Department of Social and Health Services (Office of Deaf and Hard of Hearing)	Unspecified services potentially utilized by Tulalip tribal members	Answer to Tulalip Interrogatory No. 6
4			
5	Department of Social and Health Services (Adult Protective Services)	Availability to investigate allegations of abuse and other mistreatment of vulnerable adults; protective services available to vulnerable adults on Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
6			
7	Washington State Patrol	Lease of building on Tulalip Reservation from Tulalip Tribes	Answer to Tulalip Interrogatory No. 6
8	Washington State Patrol	Unspecified traffic law enforcement, collision investigation, criminal interdiction and terrorism prevention incident response and motorist assistance on roads throughout State, including those leading to Quil Ceda Village and Tulalip Reservation	Answer to Tulalip Interrogatory No. 6
9			
10			
11			
12	Traffic Safety Commission	Unspecified work with Tulalip Tribes to reduce deaths and serious injuries from traffic crashes on tribal lands	Answer to Tulalip Interrogatory No. 6
13			
14	Department of Transportation	Unspecified services that facilitate transportation that generally benefit the public, including members of Tulalip Tribes; work with unspecified tribes on transportation projects	Answer to Tulalip Interrogatory No. 6
15			
16	State Utilities and Transportation Commission	Regulation of unspecified companies that provide utility and transportation services, including inspection of pipeline and railroad crossings within Reservation	Answer to Tulalip Interrogatory No. 6
17			
18	Washington State Legislature	Washington State Historical Society-nominated grant to Tulalip Tribes	Answer to Tulalip Interrogatory No. 8
19	Consolidated Technology Services	Invoices to Tulalip Tribes for technological services	STATE-00001154 to STATE-00001171
20	Division of Alcohol and Substance Abuse	Proposal for problem gambling treatment program	STATE-00022033 to STATE-00022034
21	Office of the Code Reviser	Sale of Washington State Code materials to Tulalip Tribes' gaming agency and criminal investigations division	STATE-00022731 to STATE-00022733
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**APPENDIX B**

**Snohomish County: Government Services and Investments Provided Outside the Boundaries of Quil Ceda Village and Not Directly Supporting Commerce in the Village**

County Department	Alleged Service or Investment	Source of Information
Auditor	Voter registration and election administration activities on Tulalip Reservation	SC_014759 to SC_014792
Auditor	Animal control in Marysville and on the Tulalip Reservation	SC_017045
Department of Emergency Management	Coordination with Tulalip Tribes to develop and implement countywide Hazard Mitigation Plan	SC_013425 to SC_014758
Department of Parks and Recreation	Acquisition of lands within Tulalip Reservation to allow public access to land donated to County for park	SC_022413 to SC_022417
Department of Parks and Recreation	Cooperative Extension partnership between U.S. Department of Agriculture, University of Washington, and Snohomish County, including unspecified activities on Tulalip Reservation regarding community food gardening, 4-H and other youth programs, nutrition education under food stamp grant, horticulture classes and demonstrations, and donated supplies	Snohomish County Budgets: Program Descriptions (SC_006388, SC_006389, SC_006390, SC_006760, SC_007122, SC_007473)
Department of Parks and Recreation	Unspecified Parks Construction funding for project titled "Resource – Tulalip Tribes"	Snohomish County Budget: Program Description (SC_007835)
Department of Parks and Recreation	Unspecified park mitigation and restoration project in area identified as "District # 16 Tulalip"	Snohomish County Budgets: Program Description (SC_006403, SC_006409, SC_006775, SC_007486, SC_007489)
Department of Planning & Development Services	Participation in Snohomish County Tomorrow inter-jurisdictional forum (including Snohomish County, Tulalip Tribes, and 19 cities) to develop countywide planning policies	Snohomish County Budgets: Department Overviews and Program Descriptions (SC_006330, SC_006700, SC_007065, SC_007416, SC_007765, SC_008107, SC_008435, SC_008784, SC_009157, SC_009534,



		SC_009887, SC_010256, SC_010640, SC_011051, SC_011062, SC_011489, SC_011500, SC_011928, SC_011939, SC_012984, SC_013079)
Department of Planning & Development Services	“Professional services” relating to work on an unidentified Memorandum of Understanding with the Tulalip Tribes	Snohomish County Budget: Department Overview (SC_012888)
Sherriff, Prosecutor, Public Defender	General law enforcement, prosecutorial, and indigent criminal defense services, which may include services in connection with incidents arising on the Tulalip Reservation	SC_015307 to SC_015351, SC_015423 to SC_015424, SC_015484 to SC_015870, SC_015992 to SC_016000, SC_022234 to SC_022412, SC_034113 to SC_034250
County Clerk (Customer Service Division)	Unspecified coordination with Tulalip Tribes regarding domestic violence incidents	Snohomish County Budget: Department Overview (SC_010951, SC_011387, SC_011827, SC_012272)
Unidentified Court System(s)	Monthly statistics regarding civil, criminal, and juvenile filings	SC_016747 to SC_016937
Department of Public Works	County Arterial Pavement Preservation activities, including on the Tulalip Reservation	SC_016001 to SC_016033, SC_016038 to SC_016052
Department of Public Works	County Road Condition Surveys, including on the Tulalip Reservation	SC_016034 to SC_016037
Department of Public Works	Operation and maintenance of six traffic signals on County roads on the Tulalip Reservation	SC_016054
Department of Public Works	Environmental mitigation at three project sites on Tulalip Reservation, including monitoring and survey work, tree planting, and herbicidal sprays	SC_016057 to SC_016072
Department of Public Works	Drainage facility inspection and maintenance in and around the Tulalip Reservation	SC_016073 to SC_016240
Department of Public Works	General traffic analysis, road maintenance, roads conditions surveys, collision investigations, and other activities on County roads on the Tulalip Reservation	Answer to Tulalip Interrogatory No. 4; SC_022422 to SC_033905
Department of Human Services	U.S. Department of Housing and Urban Development has allowed some	Answer to Tulalip Interrogatory No. 4

(Office of Housing and Community Development)	Community Development Block Grant funding used for unspecified minor home repair projects on the Tulalip Reservation	
Office of Medical Examiner	Statistics of all Native American deaths in County and all deaths (all races) on Indian reservation lands in County	SC_015425 to SC_015483