MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF AIRWAY HEIGHTS AND THE SPOKANE TRIBE OF INDIANS REGARDING SERVICES AND IMPACTS OF TRIBAL GAMING ON INDIAN LANDS LOCATED ADJACENT TO OR WITHIN THE CITY OF AIRWAY HEIGHTS

This Memorandum of Agreement ("MOA") is entered into this 10th day of April, 2007, between the City of Airway Heights, a non-charter code city of the State of Washington ("City") and the Spokane Tribe of Indians, a federally recognized Indian Tribe ("Tribe"). The City and the Tribe shall collectively be referred to as the "Parties".

1.0 RECITALS

1.1 The City Council of the City of Airway Heights and the Tribal Council of the Spokane Tribe of Indians recognize that each is a sovereign governmental entity with responsibility for the welfare of its people.

1.2 The City recognizes that a certain parcel of land of 145 acres is held in trust by the United States for the benefit of the Spokane Tribe, more fully described in Attachment A, ("Trust Property") adjacent to or within the geographical boundaries of the City of Airway Heights and is subject to Spokane Tribal and applicable federal laws and regulatory authority.

1.3 The Tribe recognizes that non-trust unrestricted lands located within the corporate boundaries of the City of Airway Heights are subject to State law and City regulatory authority.

1.4 The City and the Tribe recognize that they are neighbors with legitimate concerns over safety, development, and the quality of life in Airway Heights and the Trust Property.

1.5 In 1988, Congress enacted the Indian Gaming Regulatory Act (P.L. 100-497, codified at 18 U.S.C. § 1166 *et seq.* and 25 U.S.C. § 2701, *et seq.*) ("IGRA") to regulate certain gaming on Indian lands in the United States.

1.6 IGRA provides a regulatory framework for the operation of gaming by Indian tribes as a means, among other things, of promoting tribal economic development, self-sufficiency, and strong tribal government.

1.7 IGRA allocates regulatory authority over gaming among the federal government, the state in which a tribe has Indian land, and the tribe itself.

1.8 IGRA makes Class III gaming activities lawful on the Trust Property only if the Secretary of the Interior determines pursuant to 25 U.S.C. § 2719(b)(1)(A) that gaming on the Trust Property is (i) in the best interest of the Tribe and (ii) not detrimental to the surrounding community, and the Governor of the State of Washington concurs in that result, and then only if such activities are conducted in conformity with a tribal-state compact entered into between the Indian tribe and the state and approved by the Secretary of the Interior.

1.9 On February 16, 2007 the Tribe and the State of Washington executed a Tribal – State Compact governing the regulation of Class III gaming on Spokane Indian lands.

1.10 On February 27, 2007 the Compact was formally submitted to the United States Department of the Interior for its approval.

1.11 This MOA is predicated on the assumption and expectation that approval of the Compact by the United States Department of the Interior is forthcoming.

1.12 Pursuant to IGRA and the Compact, the Tribe intends to obtain additional approval pursuant to 25 U.S.C. § 2719(b)(1)(A) to operate a casino on the Trust Property.

1.13 A formal written request for such an approval was received by the Department of the Interior on February 27, 2006.

1.14 If approval from the Secretary of the Department of the Interior is obtained, and the Governor of the State of Washington concurs, the Tribe intends to develop a first-class destination casino-hotel resort on the Trust Property ("the Project").

1.15 The Parties acknowledge that as a federally - recognized Indian tribe, with the Property held in trust for the Tribe by the United States, the Tribe has sovereign immunity and is not subject to state and local laws and regulations, including but not limited to taxation, zoning, and land use restrictions, except to the limited extent authorized by the Tribal - State Compact.

1.16 Nevertheless, the Parties have demonstrated their commitment to an open intergovernmental relationship by entering into this MOA that sets forth the understanding of the Parties.

1.17 The Parties acknowledge that it is to their mutual benefit to utilize the status and unique opportunities of each as separate governments to cooperate and, where possible, to partner in the development of the Tribe's Trust Property in such a manner as best serves the interests of the Parties and the interests of the public health and safety of the City and their residents, as well as the Tribe.

1.18 The Tribe will cause to be prepared an Environmental Impact Statement pursuant to the National Environmental Policy Act ("NEPA") before the commencement of the Project.

1.19 The Tribe and the City will contemporaneously enter into an Intergovernmental Agreement that addresses mutual issues and concerns regarding use of the Trust Property prior to and/or other than the Project.

1.20 The Tribe is committed to provide timely mitigation of any significant effect on the environment on or near the Trust Property where such effect is attributable in whole or in part to the Project unless the particular mitigation is infeasible.

1.21 Part of that mitigation will necessarily relate to compensation for law enforcement, fire protection, emergency medical services, routine road maintenance and repair, and any other public services to be provided by the City to the Tribe as a consequence of the Project.

1.22 The Tribe and the City have an outstanding, government-to-government relationship based on mutual respect and consideration of their respective sovereign rights, jurisdiction, laws, regulations and duties to their citizens.

1.23 The parties enter into this MOA to cooperate to prepare for needed federal approvals and to provide mutual support for the project that will benefit both the City and the Tribe.

1.24 The parties further enter into this MOA, pursuant to the Interlocal Cooperation Act, RCW 39.34, Article VII Sections (b) and (c) of the Constitution of the Spokane Tribe, and the Tribal-State Compact for Class III Gaming between the Spokane Tribe and the State of Washington, to enable the City to extend certain services to the Tribe that are needed for the Project in exchange for agreed-upon compensation.

1.25 The Parties hereby agree that this MOA sets forth:

1.25.1 the City and Tribe's obligations to provide Mitigation Measures (identified in Section 2) for effects on the Environment on or near the Trust Property related to the Project;

1.25.2 the provisions relating to compensation for law enforcement, fire protection, emergency medical services, routine road maintenance and repair and any other public services to be provided by the City to the Tribe as a consequence of the Project;

1.25.3 provisions providing for further mitigation of any effect on public health or safety attributable to the Project;

1.25.4 conditions upon which the City will support the Project as the Tribe seeks a determination that the Project (a) is in the best interest of the Tribe and (b) is not detrimental to the surrounding community, and (c) support as the Tribe seeks concurrence of the Governor in that determination, and

1.25.5 provisions upon which to continue strengthening the government-to-government relationship between the City and the Tribe.

2.0 MITIGATION MEASURES ASSOCIATED WITH THE PROJECT

2.1 Environmental Impacts. Pursuant to NEPA, the Tribe will, prepare the Environmental Impact Statement for the Project, and in preparing information for submission to the Department of the Interior for a determination that gaming is eligible on the Trust Property pursuant to 25 U.S.C. § 2719(b)(1)(A), the Tribe will consult with the City as necessary, including meetings between technical staff, to analyze the impacts of the Project on the environment.

2.2 Law Enforcement and Security Services.

2.2.1 Tribe's Security Responsibilities.

2.2.1(a) The Tribe agrees to provide an adequate level of on-site security at the Project during all hours of operation.

2.2.1(b) The Tribe acknowledges that assistance from the City may be required from time to time with respect to the apprehension and arrest of persons engaged in suspected criminal activity.

2.2.2 City's Law Enforcement Responsibilities.

2.2.2(a) The parties acknowledge that pursuant to the Tribal – State Compact and jurisdiction assumed by the State and its political subdivisions pursuant to Public Law 280, as expressly set forth in RCW 37.12 *et seq.*, the State has jurisdiction over specific prohibitory crimes committed on the Trust Property.

2.2.2(b) The parties acknowledge that the City and the County will be the entities with jurisdiction and prosecute misdemeanors and felonies committed by non-Indians on the Trust Property.

2.2.2(c) The City agrees to be the primary responder to criminal activity on the Trust Property and to provide an adequate level of police services and response.

2.2.3 City's Commitment to Prosecute.

2.2.3(a) The City agrees to use best efforts to prosecute all cases over which the City has Jurisdiction (e.g. misdemeanors and gross misdemeanors) and issued a citation or made an arrest, including referrals by businesses operating on the Trust property and including referrals by the Spokane Tribal Gaming Commission, which are properly prepared and evidenced for prosecution and which fall within the City's jurisdiction.

2.2.3(b) The City agrees to use best efforts to cause the County to prosecute cases over which the County exercises jurisdiction (e.g. felonies) referred by the Tribe, including referrals by businesses operating on the Trust property and including referrals by the Spokane Tribal Gaming Commission, which are properly prepared and evidenced for prosecution.

2.2.4 Tribe's Commitment to Mutual Aid. The Tribe agrees to use best efforts to assist the City in any law enforcement matter where individuals pursued by the City may seek flight onto the Trust Property, and to detain individuals when requested by the City, to the extent allowable under applicable law.

2.2.6 Annual Meeting. At least annually, the Tribe and the City shall meet, together with appropriate staff, to discuss ways to improve police services and prosecution of crimes associated with the Project.

2.3 Public Health and Safety.

2.3.1 Fire and Life Safety Services.

2.3.1(a) The City of Airway Heights Fire Department, which is staffed by professional and volunteer firefighters certified as emergency medical technicians, equipped with adequate fire-fighting equipment and ambulance services, shall be the primary responder and will provide full-time fire protection and emergency medical services to the Trust Property.

2.3.1(b) The Tribe will have medical technicians on staff at the Project.

2.3.1(c) The Tribe will provide medical and fire protection training to staff as appropriate for the scope of the Project.

2.3.1(d) The Tribe agrees to maintain or establish standards no less stringent than any City or County Ordinances and Washington State law addressing fire safety, including applicable building code provisions.

2.3.2 Emergency Plan.

2.3.2(a) The Tribe and the City will coordinate emergency services programs to facilitate public safety in the event of an emergency.

2.3.2(b) The Tribe and the City will exchange emergency response policies and procedures, as needed and agreed upon by the Parties.

2.4 Routine Road Maintenance and Repair.

2.4.1 The parties acknowledge that roads to and from the Project will suffer wear and tear due to increased traffic associated with the Project.

2.4.2 As part of the consultation between the Tribe and the City in connection with the Environmental Impact Statement, and consistent with the Intergovernmental Agreement between the parties, the Tribe commits to take reasonable efforts to cause necessary improvements to the roads (e.g. turn-out lanes, traffic signals and/or round-a-bouts) to reasonably mitigate traffic-related impacts.

2.4.3 The City commits to provide routine maintenance and repair to the streets providing access to the Trust Property. The level of service for street maintenance and repair will be the same as provided for similar City streets.

2.4.4 The Tribe will allow appropriate City Officials reasonable access to all areas of the Project to assess needs and develop plans to enable the City to meet its obligations under this MOA.

2.4.5 The City acknowledges that access to secure areas of the gaming operation must occur pursuant to applicable regulations or rules of the Spokane Tribal Gaming Commission.

3.0 IMPACT ON INTERGOVERNMENTAL AGREEMENT

3.1 Contemporaneous with the execution of this MOA, the parties have entered into an Intergovernmental Agreement ("IGA") regarding services to the Trust Property.

3.2 It is the intent of the parties that the terms and conditions of the IGA remain in full force and effect, with the one exception that the amounts to be paid by the Tribe pursuant to IGA shall be supplanted by the payments made under this MOA, so long as such payments exceed the annual payment set forth in Section 5 of the IGA.

3.3 In the event payments under this MOA supplant payments under the IGA, the City shall be responsible for payments to the County pursuant to an agreement between the City and the County.

4.0 DISPUTE RESOLUTION

4.1 In an effort to foster productive government-government relationships, and to assure that the Spokane Tribe is not unreasonably prevented from engaging in activities authorized under the Compact and benefiting therefrom, the City and the Tribe agree to the following:

4.1.1 The Tribe and the City shall make their best efforts to resolve disputes that occur under this MOA by good faith negotiations whenever possible.

4.1.2 Disputes between the Tribe and the City shall first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation and efficiency in the administration of the terms, provisions, and conditions of this MOA as follows:

4.1.2(a) Either party shall give the other, as soon as possible after the event giving rise to the concern, a written notice setting forth, with specificity, the issues to be resolved.

4.1.2(b) The parties shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than ten (10) days after receipt of the notice, unless both parties agree in writing to an extension of time.

4.1.2(c) If the Parties are unable to resolve the dispute amongst themselves within 20 business days, the parties shall engage in mediation and shall use the rules of the CPR Institute for Dispute Resolution.

4.1.2(d) The parties shall agree on a mediator of acceptable experience and background.

4.1.2(e) The Parties involved in the mediation shall share the mediator's fees and costs equally.

4.1.2(f) If the dispute is not resolved to the satisfaction of the parties within thirty (90) calendar days after the first meeting, then upon the request of either party in writing, the dispute shall be submitted to binding arbitration in accordance with this section.

4.1.2(g) The Tribe and the City will submit to any arbitration proceeding as described in this section, and consent to the jurisdiction of the United States District Court for the Eastern District of Washington and, if the United States District Court for the Eastern District of Washington finds that it lacks jurisdiction, to the jurisdiction of the Superior Court for the County of Spokane, State of Washington, and if the Superior Court for the County of Spokane, State of Washington, finds that it lacks jurisdiction, to the jurisdiction of the Spokane Tribal Court, in each case for the purpose of compelling arbitration in the event either party refuses to arbitrate any arbitral dispute as contemplated herein, and for the enforcement of any decision and collection of any award (with interest) of the arbitrator as contemplated herein.

4.1.2(h) The disputes to be submitted to arbitration shall be limited to claims of breach or violation of this MOA.

4.1.2(i) The arbitrator shall reach decisions, issue orders and judgment, within ninety (90) days of the disputes or issues being first submitted to him or her.

4.2 Arbitration Rules.

4.2.1 Any dispute between the Tribe and the City arising out of or relating to this MOA, or the breach thereof, shall be settled in accordance with the CPR Institute for Dispute Resolution to the extent such rules are consistent with this Sections 4.1.1 and 4.1.2 of this MOA.

4.2.2 The arbitration shall be held on the Spokane Tribe's land or within the external boundaries of the City or, if unreasonably inconvenient under the circumstances, at such other location mutually agreeable to the parties.

4.2.3 Each side shall bear its own costs, attorneys' fees, and one-half the costs and expenses of the American Arbitration Association and the arbitrator, unless the arbitrator rules otherwise.

4.2.4 The arbitration shall be administered by a single neutral arbitrator.

4.2.5 The Parties shall agree on an arbitrator of acceptable experience and background.

4.2.6 If either party requests an oral hearing, the Arbitrator shall set the matter for a hearing.

4.2.7 Otherwise, the Arbitrator shall determine whether to set the matter for oral hearing.

4.2.8 Discovery shall be allowed only to the limited degree allowed by the arbitrator.

4.2.9 The decision of the arbitrator shall be in writing, give reasons for the decision, and shall be binding.

4.3 No Waiver or Preclusion of Other Means of Dispute Resolution. This Dispute Resolution Section shall be the final, exclusive remedy available to the parties, unless the parties, by mutual agreement in writing, agree to another method of dispute resolution.

5. CONSENT TO JURISDICTION: LIMITED EXPRESS WAIVER OF SOVEREIGN IMMUNITY

5.1 Any party to an arbitration in which an award has been made pursuant to this MOA may petition any federal, state or tribal court of competent jurisdiction, per the priority set forth in subsection 4.1.2.(e), above, to confirm the award.

5.2 The City and the Tribe expressly consent to be sued in such courts for the purposes of confirmation of such an award.

5.3 The Tribe expressly waives its sovereign immunity specifically and exclusively to the City for the limited purposes of enforcement of this MOA.

5.4 The City and the Tribe waive any other immunity they may have solely for the limited purpose of enforcing the Parties' agreement to arbitrate and the final decision of the arbitrator.

5.5 The waivers of the parties set forth in this section shall commence on the date the parties execute this MOA.

5.6 An award shall be confirmed, provided that:

5.6.1 The award is limited to the purposes of arbitration stated in this MOA.

5.6.2 No monetary damages are awarded other than decisions requiring the payment of sums pursuant to obligations of the parties under this MOA

5.6.3 Awards (i.e. judgments) may be made by the arbitrator for only such payments, for injunctive relief, for creation or enforcement of provisions of such agreements, and for declaratory relief, all in respect only to this MOA. Pre and post judgment interest shall accrue on the award at the prime rate of interest published in the Wall Street Journal or other reputable source.

5.6.4 If an award is confirmed, judgment shall be entered in conformity therewith.

5.6.5 The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced like any other judgment of the court in which it is entered.

5.7 The express waivers and consents provided for under this Section shall extend to civil actions authorized by this MOA, including, but not limited to, actions to compel arbitration, any arbitration proceeding herein, any action to confirm or enforce any judgment or arbitration award as provided herein, and any appellate proceedings emanating from a matter in which an immunity waiver has been granted.

5.8 Except as stated herein or elsewhere in this MOA, no other waivers or consents to be sued, either express or implied, are granted by either party.

5.9 Notwithstanding any other provision of this MOA, the Tribe's waiver of sovereign immunity shall not extend to any assets of the Tribe other than revenues generated by activities that occur on the Trust Property.

5.10 The Tribe does not waive any aspect of its sovereign immunity with respect to actions by third parties.

5.11 The Tribe's waiver of sovereign immunity is granted only to the City and not to any other individual or entity.

5.12 In any court action brought pursuant to this MOA, neither party shall be entitled to recover attorney fees and costs.

5.13 In no instance shall the Parties be entitled to consequential damages, punitive damages, or lost profits.

6.0 PAYMENTS BY THE TRIBE

6.1. The Tribe shall pay to the City, beginning with the first full calendar quarter subsequent to commencement of any gaming activities authorized under the Compact on the Trust Property, as follows:

6.1.1 $600,000 for the first full year (in quarterly payments of $ 150,000 each);

6.1.2 $700,000 for the second full year (in quarterly payments of $ 175,000 each);

6.1.3 $800,000 for the third full year (in quarterly payments of $ 200,00 each);

6.1.4 $900,000 for the fourth full year (in quarterly payments of $ 225,000 each);

6.1.5 $1,000.000 for the fifth full year (in quarterly payments of $ 250,000 each);

6.1.6 $1,100,000 for the sixth full year (in quarterly payments of $ 275,000 each);

6.1.7 $1,200,000 for the seventh full year (in quarterly payments of $ 300,000 each) and for each year thereafter.

6.1.8 Beginning in year 8, and each year thereafter, the payment shall be increased by 3% per year.

6.1.9 Upon the annual payment exceeding $2,000,000, the parties pursuant to Section 8 of this MOA shall review the terms of this Agreement and Annual Payment and upon mutual agreement modify the same. If the parties do not agree to modify this Agreement, the annual payment shall continue in the above amount plus each year be adjusted by the annual consumer price index for the Western United States as reported by the US Department of Commerce, instead of the 3% annual increase set forth in section 6.1.8.

6.2 The Tribe will continue to pay, or cause to be paid, to the City the prevailing rate for water and sewer services provided by the City to the Project that is otherwise applicable to non-tribal entities, consistent with Section 2 of the IGA.

6.2.1 The Tribe shall construct water and sewer systems as set forth in the Intergovernmental Agreement Section 2.1.5.(including but not limited to pipes, pumps and appurtenances) to serve the Trust Property. Capital facility charges established pursuant to AHMC applicable to all similar classes of property shall be paid by the Tribe provided a deduction of such charges will be negotiated with a credit for grants or monies for capital construction obtained or paid for by the Tribe

6.3 Nothing herein shall prevent the City from applying for and receiving funds dispersed through sections XIV C, and Appendix X of the Tribal State Compact.

6.3.1 If the City receives funds through section XIV C and Appendix X of the Compact, such funds shall be credited against payments by the Tribe pursuant this MOA, provided such funds are used for the purposes set forth in this MOA.

6.3.2 The Tribe agrees to use best efforts to obtain for the City a voting position on the Impact Mitigation Fund Committee as set forth in section XIV C of the Tribal State Compact.

6.3.3 The Tribe agrees to allow the City reasonable access to inspect financial records relating to the Gaming Operation located on the Trust Property, although the Tribe is not obligated to provide written copies of such financial records to the City to include review of the State audit provided for in Appendix A of the Compact.

6.3.4 Any financial records, or copies thereof, that the City may possess at any time shall remain the property of the Tribe and shall be returned upon the Tribe's request.

6.3.5 Any financial records reviewed or obtained by the City pursuant to this section shall be deemed strictly confidential and proprietary information of the Tribe and shall not be subject to public disclosure in any manner or form whatsoever.

7.0 CITY COOPERATION AND SUPPORT RE 2719 APPLICATION

7.1 The City, by approving this MOA, extends its official support of the Tribe's application to the United States Department of the Interior pursuant to 25 U.S.C. § 2719(b)(1)(A), seeking a determination that the Project (1) is in the best interest of the Tribe and (2) is not detrimental to the surrounding community, and as the Tribe seeks concurrence of the Governor in that determination, the City agrees to communicate such support as reasonably requested by the Tribe.

7.2 The City further agrees to meet or communicate with officials of the United States Department of the Interior, the Office of the Governor and other entities as may be reasonably requested by the Tribe, as needed.

7.3 In consideration for the obligations undertaken by the Tribe herein, the City shall provide correspondence and/or a formal City resolution to the Governor of Washington, the United States Department of Interior, and the Bureau of Indian Affairs, in support of the Tribe's application for a Two Part Determination and the Governor's concurrence with such determination and the City will respond to inquiries about the Tribe's applications from the Governor, and the Department of the Interior and its Bureau of Indian Affairs in a manner that is consistent with such letter and/or resolution.

7.4 Unless a default or breach of this MOA occurs, the City agrees not to oppose any efforts by the Tribe to obtain a Two Part Determination pursuant to 25 U.S.C. 2719(b)(1)(A) and the Governor's concurrence therewith and to otherwise develop the Project.

7.5 The City further agrees to:

7.5.1 sign letters, execute and deliver such agreements and take such other action as the Tribe may reasonably request from time to time in furtherance of the objective of the Tribe in obtaining a Two Part Determination and the Governor's concurrence therewith, and consistent with this MOA;

7.5.2 upon request of the Tribe, schedule meetings with and meet with the Tribe and its representatives and designees; and

7.5.3 take such other appropriate actions as the Tribe may reasonably request consistent with this Section relating to the efforts of the Tribe identified in this MOA.

8.0. REOPENERS

8.1 Either party may request in writing that the other party renegotiate one or more terms of this MOA if there is a significant change in circumstances that directly or indirectly relate to the parties expectations under this MOA and that change materially impacts the party.

8.2 The parties acknowledge under section 8.1 a "significant change in circumstances" is: (1) if the Gaming Operation does not achieve eighty percent (80%) of the projected Gross Gaming Revenue set forth in the application submitted by the Tribe to the Department of the Interior, which shall include projections for a minimum of 5 years, that the Tribe makes available to City at the time the Gaming Operation is fully built-out according to the Compact; or (2) evidence from the City that the cost of providing the services described herein exceeds the payments by the Tribe pursuant to Section 6.0 provided the city demonstrates that the services exceed the payment with such services attributable to mitigation of direct impacts created by the Project. The Parties

reserve the right to contest the existence of a significant change of circumstances related to mitigation of direct impacts pursuant to the dispute resolution section of this Agreement.

8.3 The parties acknowledge that section 8.1 shall be triggered if the direct costs and expenses of the Gaming Operation, including payments made by the Tribe pursuant to this MOA, exceed 75% of the Tribe's "Net Win" within the previous fiscal years, as that term is defined in the State-Tribal Compact.

8.4 Notwithstanding sections 8.1, 8.2, and 8.3, upon the fifth year of the effective date of this MOA, either party may request in writing that the other party renegotiate one or more terms of this MOA.

8.5 Nothing in this section shall prevent the parties from renegotiating one or more terms of this MOA by mutual agreement.

8.6 In the event that any of the criteria set forth in sections 8.1, 8.2 and 8.3 are met, the parties shall commence renegotiations in good faith.

8.6.1 Each party shall attempt to negotiate terms that allow the other to achieve the intended benefits of this MOA.

8.6.2 Regarding renegotiation of fee amounts, the intended benefits of this agreement are that the Tribe receives the needed services set forth herein and the City receives a reasonable fee that covers the costs incurred by the City to provide such services.

8.7 If the parties are unable to reach agreement concerning the need to renegotiate pursuant to this section, such disagreement shall be subject to dispute resolution under the terms and conditions set forth in this MOA.

9.0 NOTICE

9.1 Written notice shall be provided as follows:

To the Tribe: Spokane Tribe of Indians
Attn: Executive Director
P.O. Box 100
Wellpinit, WA 99040

To the City: City of Airway Heights
Attn: City Manager
1208 S. Lundstrom Avenue
:on City of Airway Heights, WA 99001-9000

9.2 In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

To Tribe: Spokane Tribe
Fax: 458-6553

To City: City of Airway Heights
Fax: 244-3413

9.3 Any party may change the address or facsimile number to which such communications are to be given by providing the other party with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

9.4 All notices will be effective upon receipt and will be deemed received at the time of delivery if personally served or served using facsimile machines, or on the 5th day following deposit in the mail if sent by first class mail.

10.0 MISCELLANEOUS PROVISIONS

10.1. Term of Agreement.

10.1.1 The term of this MOA commences on the date of execution however, the financial obligations of the Tribe pursuant to Section 6 shall not be begin until commencement of gaming activities on the Trust Property pursuant to the Compact.

10.1.2 This MOA shall remain in effect until gaming is discontinued on the Trust Property, in which event this MOA shall automatically terminate on the last day of the gaming operation, and the present value of the annual payment under Section 5 of the IGA shall resume.

10.2 Tribal Council Resolution.

10.2.1 Attached to this Agreement is a resolution of the Spokane Tribal Council approving this Agreement and amendments thereof executed by representatives of the Tribe.

10.2.2 Notwithstanding any other provision of this Agreement, this Agreement shall not be effective until the Tribe has provided such a resolution to the City.

10.3 No Third Party Beneficiaries. This MOA is not intended to, and will not be construed to, confer a benefit or create any right on a third party, or the power or right of any third party to bring an action to enforce any terms of this MOA.

10.3 Amendments. This MOA may be amended only by a written instrument duly signed and executed by the City and the Tribe.

10.4 Waiver. Waiver by either party or any of its officers, agents or employees, or the failure of either party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or

responsibility of this MOA, will not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this MOA, unless such waiver is expressly set forth in writing in a document signed and executed by the appropriate authority of the City or of the Tribe, and then only to the limited degree set forth in such writing.

10.5 Authorized Representatives.

10.5.1 The persons executing this MOA on behalf of the parties affirmatively represent that each has the requisite legal authority to enter into this MOA on behalf of their respective party and to bind their respective party to the terms and conditions of this MOA.

10.5.2 The persons executing this MOA on behalf of their respective party understand that both parties are relying on the representations set forth in subsection 10.5.1 in entering into this MOA.

10.6 Severability.

10.6.1 The provisions of this MOA are severable, and the adjudicated invalidity of any provision or portion of this MOA shall not in and of itself affect the validity of any other provision or portion of this MOA, and the remaining provisions of the MOA shall remain in full force and effect.

10.6.2 If a court of competent jurisdiction determines that a provision of this MOA is invalid or unenforceable, then the parties agree to promptly use good faith efforts to amend this MOA to reflect the original intent of the parties in accordance with applicable law and consistent with the Tribal – State Compact.

10.6.3 If the parties are unable to reach agreement, the parties will resolve the dispute in accordance with the Section 4 of this MOA.

10.7 Construction of Agreement.

10.7.1 This MOA shall be construed and enforced in accordance with the laws of the United States, the State of Washington, and the Tribe.

10.8 Force Majeure. In the event of a forced delay in performance by either the Tribe or the City due to causes beyond the reasonable control of that party, including but not limited to fire, floods, catastrophic weather events or other natural disasters, epidemics, embargoes, war, acts of war (whether or not war is declared), insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances, acts of God, acts or inaction by the other party its employees or agents, unusual delay in transportation, unavailability of materials, the time for performance shall be extended for the period of the forced delay.

IN WITNESS WHEREOF, the parties have executed this MOA as of the day and year set forth above.

TRIBE:

SPOKANE TRIBE OF
INDIANS, a federally
recognized Indian Tribe
By:

Richard Sherwood, Chairperson

APPROVED AS TO FORM:

Scott Wheat, Deputy Legal Counsel
Office of the Spokane Tribal Attorney

CITY:

CITY OF AIRWAY HEIGHTS
a political subdivision of the State
of Washington
By:

Charles Freeman
City Manager
ATTEST:

Richard G Cook
City Clerk/Treasurer

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney

RESOLUTION
Spokane Tribal Resolution 2007-276

AUTHORIZING THE CHAIRMAN TO SIGN THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF AIRWAY HEIGHTS AND THE SPOKANE TRIBE OF INDIANS REGARDING SERVICES AND IMPACTS OF TRIBAL GAMING ON INDIAN LANDS LOCATED ADJACENT TO OR WITHIN THE CITY OF AIRWAY HEIGHTS

WHEREAS, the Spokane Tribal Business Council is the duly constituted governing body of the Spokane Tribe of Indians by authority of the Constitution of the Spokane Tribe; and

WHEREAS, under the Constitution of the Spokane Tribe, the Spokane Tribal Business Council is charged with the duty of protecting the general welfare of the Spokane Tribe and all Reservation residents; and

WHEREAS, under the Constitution of the Spokane Tribe, the Spokane Tribal Business Council is charged with administering the affairs and assets of the Spokane Tribe including Tribal lands and is charged withy the duty of negotiating with and representing the Spokane Tribe before federal, state and local governments and their departments and agencies; and

WHEREAS, the United States holds certain lands, in trust for the Spokane Tribe, designated by the Spokane County Auditor as Parcel Numbers 152224.9013 and 15224.9012 (the "West Plains Property"); and

WHEREAS, the West Plains Property is located off, and non-contiguous to, the Spokane Indian Reservation; and

WHEREAS, in 1988, Congress enacted the Indian Gaming Regulatory Act (P.L. 100-497, codified at 18 U.S.C. § 2701, *et seq.*) ("IGRA") to regulate certain gaming on Indian lands in the United States; and

WHEREAS, IGRA provides a regulatory framework for the operation of gaming by Indians tribes as a means, among other things, of promoting tribal economic development, self-sufficiency, and strong tribal government; and

WHEREAS, IGRA makes Class III gaming activities lawful on the Trust Property only if the Secretary of the Interior determines pursuant to 25 U.S.C. § 2719(b)(1)(A) that gaming on the Trust Property is (i) in the best interest of the Tribe and (ii) not detrimental to the surrounding community, and the Governor of the State of Washington concurs in that result, and then only if such activities are conducted in conformity with a tribal-state compact entered into between the Indian tribe and the state and approved by the Secretary of the Interior; and

WHEREAS, pursuant to IGRA, the Tribe intends to obtain additional approval pursuant to 25 U.S.C. § 2719(b)(1)(A) to operate a casino on the Trust Property; and

WHEREAS, the Tribe is committed to provide timely mitigation of any significant effect on the environment on or near the Trust Property where such effect is attributable in whole or in part to the Project unless the particular mitigation is infeasible; and

WHEREAS, part of that mitigation will necessarily relate to compensation for law enforcement, fire protection, emergency medical services, routine road maintenance and repair, and any other public services to be provided by the City to the Tribe as a consequence of the Project; and

WHEREAS, the Spokane Tribal Business Council has reviewed the proposed Memorandum of Agreement ("MOA") between the Spokane Tribe and the CAWH and determines that the MOA, if executed, would facilitate mutual cooperation between the Tribe and the City to ensure that impacts of the Project are mitigated by services provided by the City in exchange for compensation by the Tribe; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Spokane Tribal Business Council Chairman, or his designee, is hereby authorized the sign the MOA on behalf of the Spokane Tribe of Indians.

Certification

The foregoing was duly enacted by the Spokane Tribal Business Council on the 10th day of April, 2007, by the vote of 4 for 0 against and 0 abstain under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

Chairman
Spokane Tribal Business Council

	Yes	No	Abstain	Absent
RS	x			
WS	x			
GN	x			
CW	x			
RG				x