

RECORD OF DECISION

**SECRETARIAL DETERMINATION PURSUANT TO THE INDIAN GAMING
REGULATORY ACT FOR THE 145-ACRE SITE IN THE CITY OF AIRWAY
HEIGHTS, WASHINGTON, FOR THE SPOKANE TRIBE OF INDIANS**

U.S Department of the Interior
Bureau of Indian Affairs
May 2015

U.S. Department of the Interior

AGENCY: Bureau of Indian Affairs

ACTION: Issuance of a Record of Decision (ROD) for a Secretarial Determination pursuant to the Indian Gaming Regulatory Act (IGRA) to allow for the development of the 145-acre West Plains Casino and Mixed-Use Development Project in the City of Airway Heights, Washington, for the Spokane Tribe of Indians.

SUMMARY: On February 24, 2006, the Spokane Tribe of Indians (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) asking that the Secretary of the Interior (Secretary) determine whether the site is eligible for gaming pursuant to Section 20 of IGRA, 25 U.S.C. § 2719. The Tribe seeks to develop a phased construction of a mixed-use development that includes a class II and class III casino and resort on a 145-acre site currently held in trust for the Tribe located in the City of Airway Heights, Washington (Site).

The issuance of a Secretarial Determination (Proposed Action) and the resulting West Plains Casino and Mixed-Use Development Project were analyzed in an Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act under the direction and supervision of the BIA Northwest Regional Office. The Draft EIS was issued for public review and comment on March 2, 2012. After an extended comment period, public hearing, and consideration and incorporation of comments received on the Draft EIS, BIA issued the Final EIS on February 1, 2013. The Draft and Final EIS evaluated a reasonable range of alternatives that would meet the purpose and need for the Proposed Action, analyzed the potential effects of those alternatives, and identified feasible mitigation measures.

With this ROD, the Department of the Interior (Department) announces the issuance of the Secretary's Determination that the Tribe's proposed project would be in the best interest of the Tribal government and its members and not detrimental to the surrounding community. *See* 25 U.S.C. § 2719 (b)(1)(A); 25 C.F.R. Part 292 Subpart C. This ROD also announces that the action to be implemented is the Preferred Alternative (Alternative 1 in the Final EIS). The Preferred Alternative would allow the phased construction of a casino-resort facility, parking facilities, retail space, tribal cultural center, commercial space, a fire and police station, and corresponding mitigation measures.

The Secretary has determined that the Preferred Alternative will best meet the purpose and need for the Proposed Action by promoting long-term economic tribal self-sufficiency, self-determination, and self-governance. Implementing the Preferred Alternative will provide the Tribe with the best opportunity for developing and maintaining a sufficient, stable, long-term source of governmental revenue. Implementing the Preferred Alternative will also create the best

opportunity for developing and improving a wide range of tribal governmental programs, including health, education, housing, social, cultural, environmental remediation, and other tribal government programs, as well as employment and career development opportunities for its members.

The Department has considered potential effects to the environment, including potential impacts to local governments and other tribes, has adopted all practicable means to avoid or minimize environmental harm, and has determined that potentially significant effects will be adequately addressed by the mitigation measures, as described in this ROD.

This ROD is based on the thorough review and consideration of the Tribe's request for a Secretarial Determination, Supplemental Application, and materials submitted pursuant to IGRA; the applicable statutory and regulatory authorities governing the eligibility of the land for gaming; the Draft EIS; the Final EIS; administrative record; and comments received from the public, nearby Indian tribes, and Federal, state, and local agencies.

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ATTACHMENTS

Attachment I Final EIS Notices

Attachment II Response to Comments on the Final EIS

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Attachment IV Secretarial Determination

1.0 INTRODUCTION

1.1 SUMMARY

On August 16, 2001, the United States acquired a 145-acre+/- parcel (Site) of land located in the City of Airway Heights, Spokane County, Washington, in trust for the Spokane Tribe of Indians (Tribe) for economic development purposes. On February 24, 2006, the Tribe submitted a request to the Bureau of Indian Affairs (BIA) asking that the Secretary of the Interior (Secretary) determine whether the Site is eligible for gaming pursuant to Section 20 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719. The Tribe seeks to develop a phased construction of a mixed-use development that includes a class II and class III casino and resort. The Proposed Action consists of the issuance of a Secretarial Determination finding that: 1) gaming on the newly acquired lands would be in the best interest of the tribe and its members, and 2) would not be detrimental to the surrounding community. The Secretarial Determination is provided in **Attachment IV** of this Record of Decision (ROD). Pursuant to IGRA, gaming may only occur if the governor of the state in which the gaming activity is to be located concurs in the Secretarial Determination.

The Tribe's request was analyzed in an Environmental Impact Statement (EIS) prepared by the BIA pursuant to the Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) regulations located at 40 C.F.R. §§ 1500-1508. The Draft EIS, issued for public review on March 2, 2012, and Final EIS, issued February 1, 2013, considered various alternatives to meet the stated purpose and need for the Proposed Action, and analyzed in detail potential effects of various reasonable alternatives.

The Department of the Interior (Department) has determined that Alternative 1, consisting of a phased construction of a casino-resort facility, parking facilities, retail space, tribal cultural center, commercial space, a fire and police station, ancillary infrastructure, and mitigation measures presented in Section 5.0 of the Final EIS, is the Preferred Alternative to be implemented. The Secretary has determined that the Preferred Alternative would best meet the purpose and need for the Proposed Action. The decision to issue a Secretarial Determination for the Preferred Alternative is based on thorough review and consideration of the Tribe's request letter and Supplemental Application, and materials submitted therewith; the applicable statutory and regulatory authorities governing the eligibility of the land for gaming; the Draft EIS; the Final EIS; the administrative record; and comments received from the public, potentially affected Indian tribes, and federal, state, and local agencies.

1.2 DESCRIPTION OF THE PROPOSED PROJECT

Within the trust property, the Tribe seeks to develop a phased construction of a mixed-use development that includes a class II and class III casino and resort on the Site (Project). The Project will include approximately 2,500 electronic gaming devices, 50 table games, and 10 poker room tables within a 98,442 square foot (s.f.) gaming floor area. The facility will include a 300-room hotel with a fully enclosed 71,719 s.f. indoor swimming pool area, a spa and wellness center, and a fitness center. The facility will also include a cafe, steakhouse, three restaurants, food court, two bars, and a convention and banquet area. In addition, 96,634 s.f. of lifestyle retail (traditional retail combined with leisure amenities) will be

located on the southwest side of the casino-resort facility, and a 107,490 s.f. specialty retail box store (large retail establishment, usually part of a chain) with direct access to the casino floor will be constructed. An additional 155,145 s.f. of retail space would be included on the Site. A total of 4,753 surface parking spaces would be provided, and 1,500 parking spaces would be provided in a four-story concrete parking structure to be located on the west side of the casino-resort facility. The Tribe will construct a 10,480 s.f. tribal cultural center, a 14,036 s.f. tribal police and fire station, and a 41,633 s.f. two-story commercial building. A 13.25-acre area in the northwestern portion of the Site would be set aside as open space to protect the wetland/vernal pool located in that area. At final completion, the development will have a footprint of 986,366 s.f. excluding the parking structure.

1.3 PURPOSE AND NEED FOR THE PROPOSED ACTION (ISSUANCE OF A SECRETARIAL DETERMINATION)

The purpose and need for the Proposed Action, the issuance of a Secretarial Determination, is to enable the Tribe to meet its need for economic development, self-sufficiency, and self-governance, and to provide its rapidly growing Tribal member population with employment, educational opportunities, and needed social services. The Spokane tribal government is responsible for providing a full range of services to its members, including education, health and recreation, public safety and law enforcement, tribal court, public utilities, natural resources management and environmental remediation, economic development, and community assistance. In addition to overseeing governmental services, the Tribal Council charters and oversees the Tribe's economic enterprises. In particular, the Tribe's needs include improving its short-term and long-term economic condition and promoting self-sufficiency, both with respect to its government operations and its members.

The purpose and need for the Proposed Action are to:

- Improve the socioeconomic status of the Tribe by creating a sufficient and sustained income source that will enable the tribal government to fund programs and services necessary to improve the overall condition of the tribal membership, including social, housing, governmental, administrative, educational, health and welfare services.
- Enable the Tribe to become a completely self-sufficient entity, and eliminate reliance on grant funds from other sources.
- Provide employment opportunities for tribal members.
- Develop the Tribe's trust property within Airway Heights for tribal economic enterprises.
- Re-establish cash reserves to ensure the stability of the Tribe during difficult economic conditions.
- Improve services and quality of life for tribal members and their families.
- Help to improve local communities through job creation and providing economic opportunities.

1.4 PROCEDURAL BACKGROUND

The BIA published the Notice of Intent (NOI) to prepare an EIS for the Project in the *Federal Register* on August 19, 2009 that described the Proposed Action, announced BIA's intent to prepare an EIS for the Proposed Action, and invited public and agency comments

(74 Fed. Reg. 41,928 (Aug. 19, 2009)).¹ The NOI comment period closed on October 31, 2009, and a scoping meeting was held in Airway Heights on September 16, 2009. A report outlining the results of scoping was issued in March 2011. The scoping report summarized the major issues and concerns from the comments received during the scoping process. Scoping comments were considered by BIA in developing the Proposed Project alternatives and analytical methodologies presented in the EIS. During the scoping process, BIA identified seven Cooperating Agencies: (1) the Tribe, (2) the Washington State Department of Transportation (WSDOT), (3) the National Indian Gaming Commission, (4) the City of Airway Heights, (5) Spokane County, (6) the Federal Aviation Administration, and (7) the U.S. Air Force.

The BIA circulated an administrative version of the Draft EIS the Cooperating Agencies in May 2011 for review and comment. The BIA took the Cooperating Agencies' comments into consideration and made revisions as appropriate prior to public release. In March 2012, BIA distributed the Draft EIS (EIS No. 20120047) to Federal, tribal, state, and local agencies and other interested parties for a 75-day review and comment period. The review and comment period for the Draft EIS began after the Notice of Filing with the Environmental Protection Agency (EPA) in the *Federal Register* on March 2, 2012 (77 Fed. Reg. 12835 (2012)). The BIA published a Notice of Availability (NOA) in the *Federal Register* on March 2, 2012 (77 Fed. Reg. 12873 (2012)) that provided information concerning the Proposed Project, the public comment period, and the time and location of the public hearing to receive comments concerning the Draft EIS. The BIA also published the NOA in *The Spokesman Review*, which circulated in Spokane County on March 2 and 4, 2012. The BIA also published the NOA on March 8, 2012, in *The Cheney Free Press*, which also circulated in the Spokane County area. The BIA held a public hearing at the Sunset Elementary School Gymnasium in Airway Heights on March 26, 2012. In response to public requests, the BIA re-opened the comment period on the Draft EIS on April 26, 2012 (77 Fed. Reg. 24976 (2012)), and closed it on May 16, 2012. The BIA published notice of the reopening of the comment period in *The Spokesman Review* on April 15 and 16, 2012, and in *The Cheney Free Press* on April 19, 2012. The total comment period for the Draft EIS was 75 days.

The BIA considered the public and agency comments it received during the comment period, including those submitted or recorded at the public hearing. The BIA received approximately 277 individual comment letters during the comment period for the Draft EIS. Substantive comments received on the Draft EIS during the comment period, including those submitted or recorded at the public hearing, are discussed and addressed in Volume I of the Final EIS. Volume II of the Final EIS is composed of the revised text of the EIS, as well as supplementary appendices. The BIA circulated an administrative version of the Final EIS to Cooperating Agencies in July 2012. The BIA considered all comments received from the Cooperating Agencies, and made changes to the Final EIS as appropriate. The BIA published the NOA for the Final EIS (EIS No. 20130018) in the *Federal Register* on February 1, 2013 (78 Fed. Reg. 7427 (2013)). The BIA also published the NOA for the Final EIS in local and regional newspapers, including *The Spokesman Review* on February 1 and 3, 2013, and *The Cheney Free Press* on February 7, 2013. The 30-day waiting period was formally extended by BIA to May 1,

¹ The NOI published on August 19, 2009, contained incorrect dates for the close of the comment period and public scoping meeting. A corrected NOI was published on August 27, 2009. 74 Fed. Reg. 43,715 (Aug. 27, 2009).

2013, through the publication of a notice in the *Federal Register* on March 8, 2013 (78 Fed. Reg. 15040 (2013)). With the extension, the waiting period following the Final EIS totaled 90 days.

2.0 ANALYSIS OF ALTERNATIVES

2.1 ALTERNATIVE SCREENING PROCESS

A range of possible alternatives to meet the purpose and need for the Proposed Action were considered in the EIS, including non-casino alternatives, alternative development configurations, and alternative sites. As described above, the purpose and need for the Proposed Action is to enable the tribal government to engage in the economic development necessary to fund governmental programs, provide employment opportunities for its members, facilitate economic self-sufficiency, and achieve self-determination. Alternatives, other than the No Action Alternative, were screened to determine whether they met the purpose and need for the Proposed Action. Alternatives were selected for the EIS based on three criteria: 1) their ability to meet the purpose and need; 2) their feasibility; and 3) their ability to reduce environmental impacts.

Alternatives Eliminated from Further Consideration

The alternatives discussed below were considered and ultimately rejected from full EIS analysis because it was determined that these alternatives would not fulfill the purpose and need for the Proposed Action or were deemed to be infeasible.

Expansion of the Tribe's Existing Facilities

The expansion of the Tribe's existing gaming establishments, the Chewelah Casino and the Two Rivers Casino, were considered as possible alternatives. Feasibility studies were conducted for each facility to estimate the revenue potential of an expansion. The market assessment for the Chewelah facility concluded that the level of income resulting from the expansion would be insufficient to cover the costs of investment. Thus, the expansion of the Chewelah Casino was eliminated from further consideration, because it would not be economically viable and would fail to meet the purpose and need for the Proposed Action. The market assessment for the Two Rivers facility similarly concluded that an expansion would not be economically viable. This alternative was eliminated because it would fail to meet the purpose and need for the Proposed Action.

Off-site Locations for the Proposed Casino

Other properties currently owned by the Tribe were examined to determine their feasibility for development, including lands located within the Tribe's 157,376 acre Reservation. The potential revenue from a casino-resort located anywhere on the Reservation was found to be insufficient to meet the Tribe's unmet needs because these locations would be far from a profitable gaming market.

Additionally, the Tribe owns two properties in fee in the City of Spokane, located at 232 East Lyons Avenue and 1025 West Indiana Avenue. The facility on Lyons Avenue houses the Spokane Tribal Temporary Assistance for Needy Families Program and the facility on Indiana

Avenue houses the Center for School to Work. Development of a casino-resort at either of these two locations was found to be infeasible due to the limited area for development, potentially significant traffic and circulation restraints, and the displacement of existing charitable programs currently located at the sites. Further, these sites are not held in Federal trust for the Tribe. Therefore, these sites were eliminated from detailed evaluation within the EIS because they were determined to be infeasible and failed to meet the purpose and need for the Proposed Action.

2.2 REASONABLE ALTERNATIVES CONSIDERED IN DETAIL

The Draft EIS and Final EIS evaluated three development alternatives (Alternatives 1, 2, and 3) and a No-Action/No-Development Alternative (Alternative 4):

2.2.1 Alternative 1 (Preferred Alternative) – Proposed Casino and Mixed-Use Development

The Preferred Alternative consists of the issuance of a Secretarial Determination finding the Site to be eligible for gaming, and the development of the casino-resort facility, a retail, commercial building, tribal cultural center, and police and fire station. This alternative, which constitutes the Department's Preferred Alternative, most suitably meets all aspects of the purpose and need for issuing a Secretarial Determination by promoting the Tribe's long-term economic development and capability for self-governance. Additionally, the Preferred Alternative may include the National Indian Gaming Commission's (NIGC) approval of a gaming management contract, as well as BIA's approval of lease agreements between the Tribe and commercial developers for the purpose of allowing non-tribal commercial venues on trust land. Components of the Preferred Alternative are described below.

Secretarial Determination: The Preferred Alternative includes the issuance of a Secretarial Determination pursuant to Section 20 of IGRA finding that a gaming establishment on the trust lands would be in the best interest of the Tribe and its members would not be detrimental to the surrounding community. The Secretarial Determination is provided in **Attachment IV** of this ROD.

Proposed Facilities: Within the trust property, the Tribe seeks to develop a phased construction of a mixed-use development that includes a class II and class III casino and resort on the Site (Project). The Project will include approximately 2,500 electronic gaming devices, 50 table games, and 10 poker room tables within a 98,442 s.f. gaming floor area. The facility will include a 300-room hotel with a fully enclosed 71,719 s.f. indoor swimming pool area, a spa/wellness center, and a fitness center. The facility will also include a cafe, steakhouse, three restaurants, food court, two bars, and a convention/banquet area. In addition, 96,634 s.f. of lifestyle retail (traditional retail combined with leisure amenities) will be located on the southwest side of the casino-resort facility, and a 107,490 s.f. specialty retail box store (large retail establishment, usually part of a chain) with direct access to the casino floor will be constructed. An additional 155,145 s.f. of retail space would be included on the Site. A total of 4,753 surface parking spaces would be provided, and 1,500 parking spaces would be provided in a four-story concrete parking structure to be located on the west side of the casino-resort facility. The Tribe will construct a 10,480 s.f. tribal cultural center, a 14,036 s.f. tribal police and fire station, and a 41,633 s.f. two-story commercial building. A 13.25-acre area in the northwestern portion of the

Site would be set aside as open space to protect the wetland/vernal pool located in that area. At final completion, the development will have a footprint of 986,366 s.f. excluding the parking structure.

Gaming Development and Management Contract: The IGRA grants NIGC the authority to review and approve management contracts between tribal governments and outside management groups. Implementation of class III gaming operations under the Preferred Alternative may involve National Indian Gaming Commission approval of a proposed management contract between the Tribe and its management group.

Agreements with State and Local Agencies: The Tribe entered into two agreements with local governments on April 10, 2007, (amended on August 26, 2010) that include provisions compensating the City of Airway Heights and Spokane County for impacts to local government services from the Proposed Project: a Memorandum of Agreement (MOA) with Airway Heights, and an Intergovernmental Agreement (IGA) with Airway Heights and Spokane County (see Final EIS Appx. C).

The MOA identifies the payments that the Tribe will provide to the City, which will begin with the first full calendar quarter subsequent to commencement of any gaming activities under the Tribal-State Compact. The payments are as follows:²

- \$600,000 for the first full year
- \$700,000 for the second full year
- \$800,000 for the third full year
- \$900,000 for the fourth full year
- \$1,000,000 for the fifth full year
- \$1,100,000 for the sixth full year
- \$1,200,000 for the seventh full year

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

Environment: In Section 1.20 of the MOA, the Tribe committed to providing timely mitigation of any significant effect on the environment on or near the Site where such effect is attributable in whole or in part, to the Project, unless the particular mitigation is infeasible.

Law Enforcement: Law enforcement services and prosecution, court, and jail services for non-tribal offenders would be provided by Airway Heights pursuant to Section 2.2 of the MOA between the Tribe and City. The on-site tribal police station would facilitate the security responsibilities of the Tribe, as outlined within the MOA, including the Tribe's agreement to assist Airway Heights in any law enforcement matter where individuals pursued by Airway Heights flee to and/or take refuge within the trust property, up to and including detention of the individual.

² Spokane Tribe's First Supplement at 45; see MOA § 6.1.1-6.1.9.

Fire Protection: Fire protection services would be provided by the on-site Tribal fire station. In addition, Airway Heights would provide fire protection services pursuant to Section 2.3 of the MOA. As stated therein, the Tribe and Airway Heights agree to coordinate emergency service programs and exchange emergency response policies.

Pursuant to Section 3.3 of the MOA, the City of Airway Heights and Spokane County entered into the IGA that provides a mechanism for ensuring adequate public services for the Project, including sewer and water service, stormwater, and street improvements to offset project-related traffic impacts. The Tribe would provide annual compensation for non-gaming related impacts to the City and County. Since 2010, the Tribe has provided funding to the City of Airway Heights and Spokane County pursuant to the IGA. If gaming is conducted on the Site, annual payments under the MOA would replace the IGA annual payments.

Utilities: Pursuant to Section 2.0 of the IGA, the City's public water and sewer services shall serve the Site through the City's municipal utilities with connections to be provided to the Site at the Tribe's sole cost and expense. Upon connection to the City's sewer and water system, the Tribe would pay the current sewer and water capital connection charges, as well as the monthly service fees.

Traffic Mitigation: Pursuant to Section 3.0 of the IGA, the Tribe agrees to make street and intersection improvements as identified in the traffic impact analysis in the EIS to provide for the safe and efficient vehicle and pedestrian movements and maintain traffic levels of service at their pre-development levels, unless otherwise agreed by the City or County, and be in reasonable conformity with applicable City or County standards. The Tribe shall contribute to the costs of street and intersection improvements through fair-share payments to the City and County as required by the IGA. These street and intersection improvements and the Tribe's estimated fair-share payments, as identified in the traffic impact analysis, are listed within Section 5.2.7 of the Final EIS.

Pursuant to the MOA, Airway Heights and Spokane County entered into an Interlocal Agreement (ILA) on August 17, 2010, which outlined the terms and conditions by which Airway Heights was to share the MOA annual payments with Spokane County in order to compensate the County for additional costs incurred as a result of the gaming component of the Proposed Project. However, on January 25, 2013, the Spokane County Board of County Commissioners passed Spokane County Resolution No. 2013-0085, which terminated the ILA with Airway Heights. Termination of the ILA does not, however, affect the validity or enforceability of the IGA or the MOA. Under Section 3.3 of the MOA, Airway Heights remains obligated to provide a share of MOA annual payments to the County. Pursuant to this section, Airway Heights and the County would negotiate an agreement no later than the first full calendar quarter subsequent to the commencement of any gaming activities on the Site. Such an agreement would ensure that the County will receive sufficient funds from the annual payments set forth in Section 6.0 of the MOA to mitigate impacts from the Proposed Project associated with law enforcement services and transportation planning and funding.

In addition to these local agreements, the Tribal-State Compact for class III Gaming between the Tribe and the State of Washington includes mechanisms for the Tribe to contribute funding to

non-tribal service agencies to address excessive and/or unanticipated increases in service demands as a result of the Proposed Project, including contributions dedicated to problem gambling support services.³

Water Supply: Airway Heights' municipal public water system would supply the Proposed Project with water for domestic use, emergency supply, and fire protection in accordance with Section 2.0 of the IGA. Under the Preferred Alternative, the Proposed Project would connect to the existing Airway Heights' system at two locations: one at the west end of 6th Street and one near the intersection of 12th Street and Craig Road. This would allow the water system to be looped, providing both better flow capacity and better operating pressure throughout the Site. In accordance with Airway Heights' Municipal Code and Public Works Standards, a minimum pipe diameter of 8 inches would be installed throughout the Site for domestic and fire flow, with the exception of connection lines between mains and fire hydrants where 6-inch lines will be used. Each structure will have a separate fire supply line with appropriate appurtenances, as required by the Airway Heights' Fire Marshall and in accordance with Section 2.3 of the IGA. Moreover, booster pumps with standby emergency generators will be installed to ensure required pressure levels are met. In order to off-set the Proposed Project's impacts to Airway Heights' water system, the Tribe would either install an on-site water storage facility, or contribute funding towards the development of a City-owned and operated off-site storage tank. Upon connection to Airway Heights' water system, the Tribe would pay the current water capital connection charges prior to operation, as well as the monthly service fees pursuant to Section 2.3 of the IGA.

Recycled Water Supply: Airway Heights has recently constructed Phase I of the Wastewater Treatment, Reclamation, and Recharge Facility (WTRRF) to help meet future development growth, including the development of the Proposed Project on the Site. Recycled water would be utilized where appropriate to reduce the demand for water supply from Airway Heights. Recycled water would be used for landscape irrigation, the potential use of a water-cooling system for the central plant, and other uses.

Wastewater Treatment and Disposal: The projected average daily wastewater flow for the Proposed Project would be approximately 199,410 gallons per day. Consistent with the IGA, wastewater service for the Proposed Project would be provided through a connection to Airway Heights' WTRRF via a proposed pipeline at the Tribe's sole cost and expense. The proposed pipeline would be installed underground and would extend from a lift station on the eastern portion of the Site south where it would connect directly to the WTRRF. In accordance with the Airway Heights Municipal Code and Airway Heights' Public Works Standards, a minimum pipe diameter of 8 inches would be used for all pipes on-site for the proposed sewer system. A wastewater pretreatment system would be installed as part of the proposed on-site sewer system in accordance with Chapter 13.06, Article IV of the Airway Heights Municipal Code. Upon connection to Airway Heights' wastewater collection and treatment infrastructure, the Tribe would pay the current sewer capital connection charges prior to operation as well as the standard monthly service fees.

³ The Tribe submitted an Amendment to the Compact April 22, 2015.

Site Drainage: Fourteen bio-filtration swales would be located within the Site to provide optimum drainage. The bio-filtration swales are considered a Low Impact Development technique to reduce impacts to surface waters. In accordance with Section 2.4 of the IGA, swales have been designed to ensure all runoff is contained within the Site during a 25-year storm event and to meet Airway Heights' storm water treatment criteria.

Best Management Practices: Construction and operation of the Proposed Project would incorporate a variety of Best Management Practices (BMPs) in accordance with industry standards. In many instances, such as the preparation of storm water pollution and prevention plans for issuance of National Pollutant Discharge Elimination System permits, certain BMPs are requisite conditions of permit approval.

Sound Attenuation: All buildings within the Site shall be constructed with appropriate sound attenuation features to achieve an average A-weighted day/night interior noise level (Ldn) of 45 decibels (dB). For the hotel structure, this shall be accomplished through the use of sound reduction materials with a Sound Transmission Class (STC) rating of 39 and exterior doors and windows with a STC rating of 25.

2.2.2 Alternative 2 – Reduced Casino and Mixed-Use Development

Alternative 2 is similar to the Preferred Alternative in most aspects, including the issuance of a Secretarial Determination and the potential federal approval of a gaming management contract and commercial lease agreements. Alternative 2 also consists of a mixed-use development similar to the Preferred Alternative, but on a reduced scale. Operation of the casino-resort facility, project construction, water supply, wastewater treatment and disposal, site drainage, BMPs, and sound attenuation would be otherwise identical to Phase I of the Preferred Alternative. Components of Alternative 2 are described below.

Proposed Facilities: Alternative 2 consists of the construction of a 214,107 s.f. casino-resort facility, parking facilities, 155,145 s.f. of retail space, a 10,480-square-foot tribal cultural center, 14,036-square-foot tribal police and fire station, and a 41,633-square-foot two-story commercial building to be constructed on the Site. As with the Preferred Alternative, a 13.25-acre area in the northwestern portion of the Site would be set aside as open space to protect the wetland/vernal pool located in that area. Under Alternative 2, the gaming component of the facility would consist of approximately 1,500 electronic gaming devices, 32 table games, and 10 poker tables within a 61,000 square-foot gaming floor area. Other facilities within the casino-resort facility include a cafe, a steakhouse, a food court, two bars, and a 12,600 square-foot multi-purpose bingo room. No hotel or parking structure is proposed under Alternative 2. No parking structure would be constructed, but a total of 4,624 surface parking spaces would be provided for Alternative 2.

Site Drainage: Under Alternative 2, only 13 bio-filtration swales would be located around the Site to take advantage of topography and building placement in order to provide optimum Site drainage. The bio-filtration swales are considered a Low Impact Development technique to reduce impacts surface waters. In accordance with Section 2.4 of the IGA, the swales have been designed to ensure all runoff is contained within the site during a 25-year storm event and to meet Airway Heights' treatment criteria.

Infrastructure and Public Health and Safety Services: Under Alternative 2, the infrastructure components related to water supply, recycled water supply, wastewater treatment, BMPs, law enforcement, and fire protection are similar to those described under the Preferred Alternative. However, due to the decreased size of this alternative, the demand for services would be proportionally reduced. For more detail, refer to the description of each component under the Preferred Alternative above (Section 2.2.1 of this ROD).

2.2.3 Alternative 3 – Non-Gaming Mixed-Use Development

Under Alternative 3, the overall development would be similar in size to that of the Preferred Alternative. However, a casino would not be developed. Therefore, the issuance of a Secretarial Determination and potential approval of a gaming management contract would not be necessary. This alternative may require BIA's approval of lease agreements between the Tribe and commercial developers for the purpose of allowing non-tribal commercial venues on trust land. Project construction, water supply, wastewater treatment and disposal, site drainage, and sound attenuation would be similar to the Preferred Alternative. Components of Alternative 3 are described below.

Proposed Facilities: Alternative 3 consists of the construction of a mixed-use development complex, a 300-room hotel, parking facilities, 155,145 s.f. of retail space, a 10,480 s.f. tribal cultural center, 14,036 s.f. tribal police and fire station, and a 41,633 s.f. two-story commercial building to be constructed on the Site. At build-out, the entertainment components would consist of a 55,850 s.f. children's arcade, a 45,202 s.f. bowling alley, and an 8,593 s.f. lounge area. Food facilities within the complex would include a coffee shop, a food court with 10 venues, a steakhouse, 2 specialty restaurants, and a retail restaurant. Other facilities within the complex include a convention/banquet area and a 96,634 s.f. lifestyle retail component located on the southwest side of the complex. As described under the Preferred Alternative, the hotel tower would be less than 60 feet in height (see Tribal Resolution No. 2014-189 dated April 18, 2014), and would include a fully enclosed 71,719 s.f. indoor swimming pool area, a spa/wellness center, and a fitness center. A four-story concrete parking structure would be located on the west side of the mixed-use development complex and would include 1,500 parking spaces. A total of 4,753 surface parking spaces would be provided for Alternative 3.

Site Drainage: Under Alternative 3, fourteen bio-filtration swales would be located around the Site to take advantage of topography and building placement in order to provide optimum Site drainage. The bio-filtration swales are considered a Low Impact Development technique to reduce impacts surface waters. In accordance with Section 2.4 of the IGA, the swales have been designed to ensure all runoff is contained within the Site during a 25-year storm event and to meet Airway Heights' storm water treatment criteria.

Law Enforcement and Fire Protection: No agreement with Airway Heights has been made at this time to provide law enforcement and fire services to the Site under Alternative 3; however, it is assumed that an agreement similar to the MOA would be executed prior to construction of Alternative 3. As with Alternatives 1 and 2, the proposed on-site tribal police and fire station would provide additional law enforcement and fire protection services to Alternative 3.

Infrastructure and Public Health and Safety Services: Under Alternative 3, the infrastructure components related to water supply, recycled water supply, wastewater treatment, and BMPs are similar to those described under the Preferred Alternative. For more detail, refer to the description of each component under the Preferred Alternative above (Section 2.2.1 of this ROD).

2.2.4 Alternative 4 – No Action/No Development

Under the No Action/No Development Alternative, none of the three development alternatives (Alternatives 1, 2, and 3) considered within this EIS would be implemented. The No Action/No Development Alternative assumes that existing uses on the Site would not change in the near term.

3.0 ENVIRONMENTAL IMPACTS AND PUBLIC COMMENTS

3.1 ENVIRONMENTAL IMPACTS IDENTIFIED IN THE FINAL EIS

A number of specific issues were raised during the EIS scoping process and through public and agency comments on the Draft EIS. Each of the alternatives considered in the Final EIS were evaluated relative to these and other issues. The categories of issues evaluated in the EIS include:

- Geology and Soils
- Water Resources
- Air Quality
- Biological Resources
- Cultural and Paleontological Resources
- Socioeconomic Conditions and Environmental Justice
- Transportation/Circulation
- Land Use
- Public Services
- Noise
- Hazardous Materials
- Aesthetics
- Indirect Effects
- Cumulative Effects

The evaluation of project-related impacts included consultation with entities that have jurisdiction or special expertise to ensure that the impact assessments for the Final EIS were accomplished using accepted industry standard practices, procedures, and the most currently available data and models for each of the issues evaluated in the Final EIS at the time of preparation. Alternative courses of action and mitigation measures were developed in response to the identified environmental concerns and substantive issues raised during the EIS process. The effects of the development Alternatives 1 through 3 (development alternatives) as determined through the EIS process are described below.

3.1.1 Geology and Soils

Topography: The topography of the Site is irregular with rocky outcroppings, shallow depressions, and enclosed basins. The topographic features of the Site would be altered by earthwork under all of the development alternatives. Grading would consist primarily of excavating for project components and filling where cut slopes necessitate additional leveling. The development alternatives would balance on-site cut and fill with the exception of approximately 78,730 cubic yards of structural fill that will be imported to meet engineering requirements for roadways, parking areas, and building footings. While some cut-and-fill slopes would be noticeable on the Site, the project design would preserve the most significant topographic features by avoiding approximately 13.25 acres in the northwest corner of the Site. In addition, the finished grade would not be completely level, preserving some of the existing slopes. Development and operation of the development alternatives would result in a less-than-significant effect on topography.

Soils/Geology: All development alternatives could potentially impact soils due to erosion during construction, operation, and maintenance activities, including clearing, grading, trenching, and backfilling. Disturbance of the soils could result in loss of topsoil and a degradation of air quality through wind erosion. An Erosion Control Plan shall be prepared and implemented prior to the start of any site disturbance related to the development alternatives. A General Construction National Pollutant Discharge Elimination System (NPDES) permit shall be obtained from EPA under the Federal requirements of the Clean Water Act. As required by the NPDES permit, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented to avoid potential water quality impacts associated with construction and operation of the development alternatives. The SWPPP shall describe construction practices, stabilization techniques, and structural BMPs that are to be implemented to prevent erosion and minimize sediment transport. Mitigation measures related to Soils/Geology discussed in Section 5.2.1 of the Final EIS and **Section 6.0** of this ROD would reduce impacts to a less-than-significant level.

Seismicity: No known fault traces are mapped in the vicinity of the Site; therefore, the potential for surface rupturing along an on-site fault trace is low and should not be considered a constraint for the development alternatives. Additionally, the Tribe has committed in its Tribal-State Compact to develop the property consistent with the International Building Code (IBC) (formerly the Uniform Building Code), which includes provisions for design and construction of structures in each seismic zone. Through compliance with IBC requirements, impacts from seismicity under the development alternatives would be less-than-significant.

Mineral Resources: Because there are no known or mapped mineral resources in the Proposed Project area, alteration in the land use under the development alternatives would not result in a loss of economically viable aggregate rock or diminish the extraction of important ores or minerals. Project-related impacts to mineral resources under the development alternatives would be less than significant.

3.1.2 Water Resources

Flooding: The Site is located outside of the 100-year and 500-year floodplains. Thus, no impacts from flooding are expected to occur as a result of the development alternatives.

Surface Water Quality: Construction of the Proposed Project could result in sedimentation and discharges of pollutants to surface waters through storm water runoff. Implementation of the mitigation measures related to geology and soils presented in Section 5.2.1 of the Final EIS and **Section 6.0** of this ROD would reduce potential impacts to the local and regional watershed from construction activities to a less-than-significant level.

After development of the Site, all storm water would be contained within the Site through use of bio-filtration swales. These detention facilities are considered Low Impact Development strategies recommended by the EPA and would filter contaminants from run-off prior to percolation into the groundwater basin. Through Section 2.4 of the IGA, the Tribe is required to design storm water facilities in reasonable conformity with the Airway Heights Public Works Standards. Therefore, impacts to hydrology and water quality during operation of the development alternatives would be less than significant.

Groundwater: Because the development alternatives would not require the use of on-site groundwater, there would be no impact to existing wells in the immediate vicinity of the Site. Airway Heights obtains its primary water supply from groundwater, and has agreed to provide potable water service to the Proposed Project, and has indicated it has sufficient capacity to do so under existing conditions.

Wastewater generated by the development alternatives would also be treated off-site by Airway Heights. Airway Heights' Wastewater Treatment, Reclamation, and Recharge Facility uses percolation ponds as a means of disposal for treated wastewater. The increased drawdown of groundwater associated with water demand from the development alternatives would be off-set by groundwater re-charge from the increased use of percolation ponds. Therefore, the operation of the development alternatives would result in a less-than-significant impact on groundwater levels.

Although the development alternatives would introduce large areas of impermeable surfaces, the use of bio-filtration swales for storing storm water would allow collected storm water to percolate into the groundwater table. Therefore, the introduction of impermeable surfaces on the Site would have a less-than-significant impact on groundwater levels.

Groundwater Quality: Although storm water would not flow offsite to impact surface water quality, the bio-filtration swales would percolate some of the accumulated storm water into the shallow unconfined alluvial aquifer, potentially transporting dissolved chemical contaminants into the groundwater. As required by Section 2.4 of the IGA, several features designed to filter surface runoff have been incorporated into the Proposed Project design in accordance with the Airway Heights Public Works Standards. Thus, the impact to ground water quality from storm water runoff would be less-than-significant. Implementation of the mitigation measures related to geology and soils presented in Section 5.2.1 of the Final EIS and **Section 6.0** of this ROD would further reduce potential impacts to groundwater quality from construction activities.

Wastewater generated by the Preferred Alternative would be treated and disposed through connection to Airway Heights' Wastewater Treatment, Reclamation, and Recharge Facility

which would discharge treated wastewater to percolation ponds. Potential effects to groundwater quality and quantity are discussed in Section 4.2 of the Final EIS and **Section 3.1.13** of this ROD.

3.1.3 Air Quality

Construction Emissions: Construction of the development alternatives would not cause an exceedance of National Ambient Air Quality Standards (NAAQS) for criteria air pollutants; however, dust and emissions of diesel particulate matter (DPM) during construction could impact sensitive receptors. Mitigation measures presented in Section 5.2.3 of the Final EIS and **Section 6.0** of this ROD related to fugitive dust and DPM emissions would reduce impacts associated with construction emissions to a less-than-significant level.

Operation Emissions: The Site is in a region of attainment for all criteria pollutants; however, the Site is located two miles east of a maintenance area for particulate matter 10 microns in size (PM₁₀) and Carbon Monoxide (CO). Under the federal Clean Air Act and its implementing regulations at 40 C.F.R. Part 93, if a region is in attainment for all criteria pollutants, then the region meets the NAAQS and there are no *de minimis levels* or “thresholds” for a project’s emissions. Because project-related indirect emissions from vehicle travel would occur in the adjacent maintenance area, a general conformity analysis for PM₁₀ and CO was conducted in accordance with the Clean Air Act regulations at 40 C.F.R. § 93.158 (a)(4)(ii), and in consultation with the EPA, Region 10, and the Spokane Regional Clean Air Agency. In accordance with the regulations, a Draft Conformity Determination was released on January 15, 2013, with publication of a notice in the local papers which began a 30-day public review and comment period ending on February 15, 2013. A Final Conformity Determination was issued on August 12, 2013, which confirmed that the Preferred Alternative would not cause an exceedance of the NAAQS; therefore, the Preferred Alternative would be considered to conform to the State Implementation Plan for CO (see 40 C.F.R. § 93.158 (a)(4)(i)). No new impacts were identified in the Final Conformity Determination that were not disclosed in the Final EIS. Sufficient opportunities for public and agency review of the Draft and Final conformity determinations were provided in accordance with the regulations.

Mitigation measures related to air quality presented in Section 5.2.3 of the Final EIS and **Section 6.0** of this ROD would minimize criteria air pollutant emissions from operation of the development alternatives. Utilizing mitigation measures to minimize emissions of criteria pollutants, the development alternatives would have a less-than-significant impact on regional air quality.

3.1.4 Biological Resources

Habitats: None of the habitats that would be affected by the implementation of the development alternatives are considered sensitive communities; therefore, no impacts to sensitive habitats would occur.

Federally Listed Species: No federally listed wildlife species occur within the Site; therefore, no impact to federally listed wildlife would result from the implementation of the development alternatives.

Migratory Birds: Construction of the development alternatives could result in impacts to species protected under the Migratory Bird Treaty Act if active nests are present within shrubs and/or ornamental trees within the Site. Mitigation measures presented in Section 5.2.4 of the Final EIS and **Section 6.0** of this ROD related to migratory birds would reduce potential impacts to less-than-significant levels.

Wetlands and/or Waters of the United States: Approximately 0.70 acres of vernal wetlands are located within the Site. The U.S. Army Corps of Engineers issued a Jurisdictional Determination on May 17, 2011, confirming that the wetlands located within the Site are not jurisdictional waters of the United States, and thus are not subject to regulation by the federal government under the Clean Water Act. The Proposed Project footprints associated with the development alternatives were designed to avoid the vernal wetlands; therefore, the development alternatives will have no impact on these habitat features.

3.1.5 Cultural and Paleontological Resources

The development alternatives avoid any known cultural or paleontological resources; however, previously unknown cultural and paleontological resources may be encountered during ground disturbing activities. If such resources or remains are encountered, then all work within 50 feet of the find shall be halted until a Tribal Historic Preservation Office officer and the BIA Northwest Regional Office (BIA NWRO) archaeologist assess the significance of the find. Procedures for post-review discoveries without prior planning pursuant to the National Historic Preservation Act and its implementing regulations at 36 C.F.R. § 800.13 shall be followed to mitigate potential impacts to unknown cultural resources. If determined to be significant, the Tribe shall work with the BIA NWRO archaeologist to develop a Treatment Plan. Through compliance with applicable regulations, which are included in Section 5.2.5 of the Final EIS and **Section 6.0** of this ROD, impacts to cultural and/or paleontological resources would be less-than-significant.

3.1.6 Socioeconomic Conditions and Environmental Justice

Economic Effects: Potential substitution effects (the loss of customers at existing commercial businesses to a new business) of Tribal casinos on existing restaurant, recreation, and retail establishments were analyzed within the EIS. As concluded therein, anticipated substitution effects would not result in the closure of any of the competing gaming facilities. In fact, it is likely that existing regional casinos would continue to generate positive cash flows. Research summarized in Appendix V of the Final EIS indicates that there would not be significant quantifiable non-gaming substitution effects as a result of the development alternatives. Generally, the EIS concluded that the construction and operation of all the development alternatives would generate substantial economic output for a variety of businesses in Spokane County and substantial tax revenues for state, county, and local governments. In accordance with federal law, tribes do not pay taxes on tribal lands. However, the Proposed Project will result in increased local, state, and federal tax revenues as a result of construction and operation of the development alternatives. Overall, the Preferred Alternative would result in the greatest beneficial impact to the local economy in Spokane County.

As a result of competitive effects to the Kalispel Tribe's Northern Quest Casino, the development alternatives could result in economic impacts to the Kalispel Tribe. The Kalispel tribal government's budget may be impacted by the Proposed Action; however, these effects are expected to dissipate over time due to market growth and marketing strategy adjustments, and would not cause such a reduction in income as to keep the Kalispel tribal government from providing essential services and facilities to its membership. Therefore, the development alternatives would not result in significant adverse effects to minority or low-income communities. See the Secretarial Determination in **Attachment IV** to this ROD for an in-depth analysis and discussion of economic impacts to the Kalispel Tribe.

Employment: Construction and operation of the development alternatives would generate substantial temporary and ongoing employment opportunities and wages that would be primarily filled by the available labor force in Spokane County. Given the projected unemployment rate, and the dynamics of the local labor market, Spokane County is anticipated to easily accommodate the increased demand for labor during the construction and operation of the development alternatives. While employment opportunities at existing gaming facilities may temporarily be reduced proportionally to the estimated substitution effect described above, the net impact to employment opportunities as a result of the Proposed Project would be positive. Overall, the Preferred Alternative would result in the greatest beneficial impact to local employment opportunities in Spokane County.

Housing: Based on regional housing stock projections described in the Final EIS and current trends in Spokane County housing market data, there are anticipated to be more than enough vacant homes to support potential impacts to the regional labor market under the development alternatives. Therefore, a less-than-significant impact to the housing market would occur under the development alternatives.

Social Effects: Because 4 existing casinos are located within 50 miles of the Site, including the existing Kalispel Tribe's Northern Quest Casino located approximately two miles from the Site, the gaming development alternatives would not introduce a new use to the community. Therefore, there would be no anticipated significant increase to problem gambling rates in the local area. Additionally the Tribe would make annual payments to the state, county, and local governments per the Tribal-State Compact and local agreements as described in Section 5.1 of the IGA, Section 1.5.2 of the Final EIS, and **Section 6.0 and Attachment IV** of this ROD. These annual payments would provide support for public services and community benefits, including problem gambling services, throughout the region. Thus, potential impacts to problem gambling as a result of the Proposed Project would be less-than-significant.

All of the development alternatives would introduce a large number of patrons and employees into the community on a daily basis. As with any other development of this size, criminal incidents would be expected to increase in the project area, particularly at the Site. Local agreements between the Tribe, County, and Airway Heights and increased tax revenues resulting from the development alternatives would fund expansion of law enforcement services required to accommodate planned growth. Thus, the development alternatives would result in a less-than-significant effects associated with crime.

Community Impacts: Employees that relocate to the project area to accept a position at the Site may increase the number of kindergarten through 12th grade students enrolled in the Cheney School District. However, due to the small number of employees that are expected to relocate to the project area as a result of the development alternatives, it is expected that these effects would be minimal.

Effects to area libraries and parks could occur if the employees or patrons of the development alternatives significantly increase the demand on these resources. Due to the limited number of employees that are expected to relocate to the project area, it is expected that these effects would be negligible. Therefore, there would be a less-than-significant effect to libraries and parks.

Environmental Justice: No low-income or minority communities reside in the vicinity of the Site. By generating new income to fund the operation of the tribal government and provide jobs to tribal members, the development alternatives would have a beneficial impact on the Tribe. Overall, the Preferred Alternative would have the greatest beneficial impact on the Tribe. Effects on environmental justice be a less-than-significant.

3.1.7 Transportation/Circulation

Potential impacts to transportation from construction activities would be concentrated on U.S. 2 in the immediate vicinity of the Site, and would include temporary traffic delays due to slower moving construction trucks and the increase in worker vehicles on area roadways. During construction of the selected development alternative, the Tribe will comply with all WSDOT requirements for work within federal and state rights-of-way. Prior to construction, the Tribe will prepare a traffic management plan for submittal to Airway Heights, Spokane County, and WSDOT. Because traffic due to construction would be temporary, significantly less than operational traffic, and would occur outside of the peak traffic hours, significant adverse effects would not occur with the mitigation described in Section 5.2.7 of the Final EIS and **Section 6.0** of this ROD.

The increase in traffic generated by buildout of the development alternatives would contribute to unacceptable traffic operations at several study intersections, causing them to operate below acceptable level of service (LOS) standards. In accordance with the IGA, the Tribe shall implement and/or pay a fair share contribution to traffic improvements detailed within the Traffic Impact Analysis and Addendums for intersections adversely affected by the selected alternative. Mitigation measures provided in Section 5.2.7 of the Final EIS and **Section 6.0** of this ROD would restore the impacted intersections to acceptable operating conditions in accordance with applicable agency requirements, or would restore operating conditions to pre-development levels. These mitigation measures were developed in consultation with WSDOT, Airway Heights, and Spokane County.

Pursuant to Section 3.3 of the MOA, Airway Heights is responsible for payments to the County. Under the MOA, the City would negotiate an agreement no later than the first full calendar quarter subsequent to the commencement of any gaming activities on the Site. This agreement would ensure that the County will receive sufficient funds to mitigate impacts from the Preferred Alternative associated with transportation planning and funding. With mitigation, impacts to transportation/circulation during operation would be less-than-significant.

Facilities to accommodate bicycle and pedestrian circulation, such as bike lanes and sidewalks, are limited in the vicinity of the Site. The Proposed Project would not impede bicycle and pedestrian circulation. Mitigation measures provided in Section 5.2.7 of the Final EIS and **Section 6.0** of this ROD would improve bicycle and pedestrian circulation facilities in the vicinity of the Site in accordance with local and regional plans.

Currently, the Spokane Transit Authority (STA) operates the only bus line to and from the Site (Route 61). The analysis within the EIS concluded that the additional ridership from the development alternatives would not exceed the capacity of STA's existing facilities and, therefore, a less-than-significant impact would occur. However, in light of new information submitted by STA to BIA after release of the Final EIS concerning *existing* budget and capacity deficiencies, Mitigation Measure G5 has been added to Section 5.2.7 of the Final EIS and **Section 6.7** of this ROD to ensure that STA is compensated for any costs associated with increased ridership as a result of the Preferred Alternative. Additional mitigation measures provided in Section 5.2.7 of the Final EIS and **Section 6.0** of this ROD would further reduce potential effects to public transit facilities. Thus, effects to transportation and circulation would be less-than-significant.

3.1.8 Land Use

The Tribe currently operates a Spoko Fuel gas station and convenience store on the southwestern portion of the site. The remainder of the site is primarily undeveloped with occasional areas of disturbance. The majority of land uses to the north, west, and south of the site consist of rural residential, agricultural, and open space. Properties to the north, south, and west of the project site are located within unincorporated Spokane County (County).

The adjacent parcels to the southeast consist of commercial uses and include an auto care center and a rental center. Land uses to the east of the project site include additional commercial uses and a single-family residential subdivision. Properties to the south are zoned Regional Commercial and Light Industrial. "Regional Commercial" designates intensive commercial areas and allows regional shopping centers, some residences and multifamily developments, and small-scale industrial. "Light Industrial" is intended for industrial areas that strive to have minimal impacts to surrounding areas in regards to noise, odor, and aesthetics. This designation allows light industry, office, and commercial uses. The properties immediately north and west of the project site are zoned Rural Traditional, which allows large-lot residential, resource-based industries, rural-oriented recreation, and some new non-resource-related industry.

The Fairchild Air Force Base (Fairchild AFB) is located approximately 1.5 miles to the southwest of the project site, and the Spokane International Airport (SIA) is located approximately 3.0 miles to the southeast. The Airway Heights Correction Center, Off-Road Vehicle Park, and Spokane County Raceway are located approximately 2.5 miles northeast of the project site. The Kalispel Tribe of Indians' Northern Quest Casino and Resort is located in the City approximately 1.0 mile northeast of the project site, along Hayford Road, approximately 0.5 miles north of US-2.

Prior to its annexation into Airway Heights, the 145-acre property was located within the County's designated Urban Growth Area (UGA) and Joint Planning Area (JPA) with Airway Heights. As described in Section 3.9.1 of the Final EIS, UGAs within the County have been established in accordance with the State Growth Management Act (GMA) to assist in focusing urban growth in urban areas and to ensure that new construction has appropriate provisions for public services and facilities. The JPA's are lands located within the Spokane County UGA but outside of the existing city limits of Airway Heights and are considered potential annexation areas of Airway Heights. Therefore, the annexation and extension of public services to the 145-acre trust property was consistent with the future land use plans of Spokane County and Airway Heights.

Although state and local land use plans do not apply to tribal trust lands, the development alternatives would be compatible with local zoning and land use policies as well as policies related to land use in the vicinity of Fairchild AFB and the SIA. The Federal Aviation Administration (FAA) conducted an aeronautical study at the Tribe's request and determined the Proposed Project would not be a hazard to air navigation (Final EIS Appx. S).

Mitigation measures to minimize the potential for compatibility issues associated with Fairchild AFB operations (noise, dust, fumes, etc.) are provided in Sections 5.2.8, 5.2.10, and 5.2.12 of the Final EIS and Section 6.0 of this ROD. The mitigation measures require that the Tribe:

1. Make a good faith effort to enter into a memorandum of understanding with Fairchild AFB, or adopt a tribal ordinance that acknowledges that the subject property is located in an area impacted by aircraft noise and that discharges Fairchild AFB from liability for damages to the Proposed Project associated with noise, vibrations, odors, vapors, exhaust, smoke, and dust caused by the passage of aircraft over the Site.

In accordance with the recommended mitigation, the Tribal Council enacted Resolution 2012-146, dated February 29, 2012, in which the Tribe agreed to accept any inconveniences associated with Fairchild AFB operations during operation of the Proposed Project (Final EIS Appendix W). Furthermore, in 2013, the Tribal Council enacted the West Plains Development Code, which incorporates mitigation measures recommended in the Final EIS to ensure the Preferred Alternative's consistency with Fairchild AFB operations, including restrictions and requirements regarding building heights, land density, sound attenuation, wildlife attractants, and light and glare. The West Plains Development Code also requires the incorporation of any additional mitigation measures set forth in this ROD. Additionally, although the FAA No Hazard Determination allows for a building height of 140 feet on the Site, the Tribe has committed to limit the height of the hotel tower to 60 feet and has enacted Resolution 2014-189 (April 18, 2014) which confirms this commitment.

2. Incorporate appropriate sound attenuation measures into the design and construction of all buildings within the Site, including the proposed hotel tower and casino, to reduce indoor noise from Fairchild AFB operations and the potential for complaints from patrons
3. Implement measures to prevent the attraction of birds to the Site.

4. Make information available to patrons and employees regarding the potential to see and hear military air craft flying over the Site through the use of signs and/or information pamphlets.
5. Develop procedures for managing patron/lessee concerns/complaints regarding military aircraft noise.
6. Commit to ongoing coordination with Fairchild AFB regarding the implementation of applicable mitigation measures to ensure compatibility with Fairchild AFB operations. Should the Tribe enter into lease agreements for commercial/retail uses within the property, such agreements will acknowledge the potential for military aircraft operations in the Site vicinity.

The U.S. Air Force's (USAF) Final EIS for the KC-46A Formal Training Unit and First Main Operating Base (MOB 1) Beddown,⁴ which evaluated the Fairchild AFB as a potential location for the MOB 1 mission, confirmed that the Tribe has coordinated with the USAF on compatible development at the Site. It also confirmed that the West Plains Development Code was enacted by the Tribe to implement the recommendations of the Joint Land Use Study. The USAF's Final EIS concluded that continued coordination between Fairchild AFB and local governments, including the Tribe, and implementation of mitigation measures outlined in the Final EIS on the Preferred Alternative would minimize potential cumulative land use effects. Fairchild AFB has also confirmed that it will not alter its flight patterns in the unlikely event that the Tribe issues a complaint related to issues that may be caused by Fairchild AFB operations (noise, dust, fumes, etc.) on the Site. Additionally, in a letter dated February 3, 2015, the Principal Deputy Assistant Secretary of the USAF to the Assistant Secretary – Indian Affairs reiterated that the Proposed Project is outside the Fairchild AFB noise zones and accident potential zones and that the mitigation measures identified and agreed to by the Spokane Tribe in the Final EIS would protect the mission success of USAF operations at Fairchild AFB. The Department has fully addressed USAF's issues through the NEPA process and associated mitigation.

3.1.9 Public Services

All development alternatives would increase demands for services related to water supply, wastewater, solid waste, law enforcement, fire protection, emergency medical response, electricity and natural gas.

Water Supply: In accordance with Section 2.0 of the IGA, the Airway Heights' public water system will serve the Site through connections to be provided to the Site at the Tribe's sole cost and expense. Airway Heights has expanded its water supply by constructing an additional water reservoir with at least one million gallons of capacity, making reclaimed water available for irrigation and industrial uses, which will reduce the demand for potable water, and construction of a new 3,000 gallons per minute (gpm) well (previously anticipated to have a capacity of 1,200 gallons per day). Century West, on behalf of Airway Heights, completed a water capacity

⁴ The Notice of Availability for the USAF's Final EIS was published on March 21, 2014 (79 Fed. Reg. 15741). The USAF's Final EIS and associated documents are available at: <http://www.kc46abeddown.com/index.aspx>.

analysis for the Proposed Project in 2011. The analysis concluded that, with the addition of a 1,200 gpm well and the use of reclaimed water from the City's Wastewater Treatment, Reclamation, and Recharge Facility, Airway Heights would have sufficient capacity to serve the projected demands of the selected development alternative. The Tribe would pay the current water capital connection charges and monthly service fees, and will provide fair share payments to extend the municipal water system to the Site. This fair share compensation would allow Airway Heights to expand its water supply infrastructure as necessary to serve the proposed development. With implementation of the conditions of the IGA, provided in Section 1.5.2 of the Final EIS and **Section 6.0** of this ROD, impacts to Airway Heights' public water system and level of service would be less-than-significant.

Airway Heights has an intertie agreement with the City of Spokane in which the City of Spokane agrees to sell water at established city rates to Airway Heights when conditions exist whereby the Airway Heights' water system cannot furnish adequate water. Although the use of reclaimed water from the WTRRF is anticipated to reduce Airway Heights' demand for potable water from the City of Spokane, there is a potential for the Proposed Project to utilize water under this agreement. Pursuant to the agreement, Airway Heights pays for supplied water at the established City of Spokane rates. The monthly service fees paid by water users served by Airway Heights, including the Tribe, will fund payments from Airway Heights to the City of Spokane. Furthermore, should the demands of the Airway Heights exceed the City of Spokane's capacity to meet its needs, the City of Spokane has the right to temporarily discontinue water service. With implementation of the conditions of the IGA, provided in Section 1.5.2 of the Final EIS and **Section 6.0** of this ROD, impacts to the City of Spokane's public water system and level of service would be less-than-significant and in line with the intent of the Growth Management Act.

Wastewater Service: In accordance with Section 2.0 of the IGA, Airway Heights' public sewer and wastewater treatment system shall serve the Site through connections to be provided at the Tribe's sole cost and expense. The Washington Department of Ecology requires construction of subsequent phases of a planned wastewater treatment system when the previous phase operates at or above 80% of its design capacity. As of June 2012, Phase I of Airway Heights' WTRRF was operating at approximately 50 percent of its design capacity. According to information provided by Airway Heights, additional wastewater flows resulting from the development alternatives in conjunction with other growth expected in Airway Heights would likely cause the existing treatment facility to operate at or above 80 percent of its design capacity, thus triggering the construction of the Phase II expansion of the WTRRF. Phase II of the WTRRF would have ample capacity to treat wastewater generated under the development alternatives. The WTRRF was designed to have the flexibility to provide increased treatment capacity to meet future demands through construction of additional modular units. Therefore, impacts to Airway Heights' public sewer and wastewater treatment system would be less-than-significant.

Solid Waste Service: Construction waste will be recycled or disposed of at the Waste to Energy Recycling Center/Disposal Site, the Northside Landfill, or the Roosevelt Regional Landfill. Because solid waste generated during the operation of the development alternatives would represent a small percentage of the capacity at these facilities, it would be a less-than-significant impact.

Law Enforcement: Pursuant to Section 2.2 of the MOA, law enforcement services and prosecution, court, and jail services would be provided by Airway Heights Police Department. Payments by the Tribe outlined in Section 6.0 of the MOA would compensate Airway Heights for costs of impacts associated with increased police services. An on-site tribal police station would facilitate the security responsibilities of the Tribe. If additional services are needed from other law enforcement agencies, the Tribe shall provide fair-share assistance through the existing mechanisms established within the Tribal-State Gaming Compact. With implementation of conditions set forth in the MOA and the Tribal-State Gaming Compact, which are included as mitigation in Section 1.5.3 of the Final EIS and **Section 6.0** of this ROD, impacts to public law enforcement services would be less-than-significant.

Fire Protection and Emergency Medical Services: Pursuant to Section 2.3 of the MOA, fire protection and emergency medical services would be provided by Airway Heights Fire Department. Additional fire protection services would be provided by the on-site tribal fire station. The payments by the Tribe outlined in Section 6.0 of the MOA would compensate Airway Heights for costs of impacts associated with increased fire protection and emergency medical services. The increase in traffic through Fire District 10 West Plains District as a result of the development alternatives could increase the District's call volume. The Tribe shall provide fair-share assistance to District 10 through the existing mechanisms established within the Tribal-State Gaming Compact. In the unlikely event of a catastrophic emergency at the Site, the Tribe shall provide fair-share assistance to municipal emergency response services through the existing mechanisms established within the Tribal-State Gaming Compact. Implementation of conditions contained in the MOA and the Tribal-State Gaming Compact, which are included as mitigation measures in Section 1.5.2 of the Final EIS and **Section 6.0** of this ROD, will reduce impacts to fire protection and emergency services to less-than-significant.

Electricity and Natural Gas: Pursuant to "will serve letters" included as Appendix L and Appendix M of the Draft EIS, Inland Power and Light and Avista Utilities have the capacity to provide the Site with electricity and natural gas services, respectively. The Tribe would be responsible for payment of any fees charged by Inland Power and Light and Avista Utilities for services/electricity provided to the Site. The Tribe will be directly charged for services rendered and there will be no effect on existing ratepayers. Therefore, all development alternatives would have a less-than-significant impact on electricity or natural gas services.

3.1.10 Noise

During the construction phase, noise levels from equipment and vehicles may at times exceed federal noise abatement criteria standards used by the Federal Highway Administration and Washington State Department of Transportation. Mitigation measures listed in Section 5.2.10 of the Final EIS and **Section 6.0** of this ROD would reduce these impacts to less-than-significant levels. An analysis was conducted of ambient noise levels and estimated increases in noise from project-related sources, including traffic, heating ventilation and air conditioning systems, parking structure and parking lots, and deliveries. The analysis concluded that the Proposed Project would not increase noise levels above federal noise abatement criteria; therefore, noise generated by operation would be less-than-significant. The western half of the Site is located within a Military Influence Area as defined by the Fairchild AFB Joint Land Use Study, the boundaries of which were determined based on the primary areas of aircraft over flight and

potential for exposure to noise and vibrations. Because exposure of hotel patrons to noise from aircraft could create the potential for annoyance, mitigation measures listed in Section 5.2.10 of the Final EIS and **Section 6.0** of this ROD would ensure that appropriate sound attenuation methods are utilized to reduce the potential for noise complaints to less-than-significant levels.

3.1.11 Hazardous Materials

Although not anticipated, construction personnel could encounter contamination during earth moving activities that may pose a risk to human health and/or the environment. If contamination is encountered and determined to be hazardous, mitigation measures listed in Section 5.2.11 of the Final EIS and **Section 6.0** of this ROD require the Tribe to consult with the EPA and to comply with all federal hazardous materials regulations in the removal and disposal of any contaminated soil or water. Hazardous materials used during construction of the Proposed Project could pose a risk to human health and/or the environment. Mitigation measures listed in Section 5.2.11 of the Final EIS and **Section 6.0** of this ROD require construction personnel follow BMPs to prevent the release of hazardous materials used during construction into the environment. During operation, hazardous materials would be stored, handled, and disposed of according to state, Federal, tribal, and manufacturer's guidelines. Therefore, construction and operation of development alternatives would result in a less-than-significant impact associated with hazardous materials.

3.1.12 Aesthetics

The Preferred Alternative conforms with Spokane County standards for development adjacent to U.S. 2, a designated aesthetic corridor. Development of the Proposed Project would alter views of the Site. While the site-specific visual effects may be considered significant, the context of the development alternatives in relation to the larger landscape would be less-than-significant (as additional development within a highly developed region). Mitigation measures in Section 5.2.12 of the Final EIS and **Section 6.0** of this ROD require screening features and natural elements to be integrated into the landscaping design to screen the view of the facilities from existing residences directly adjacent to the Site.

Development alternatives would produce shadow, light, and glare in the project vicinity. Mitigation measures listed in Section 5.2.12 of the Final EIS and **Section 6.0** of this ROD require implementation of BMPs and compliance with applicable light and glare controls developed to protect the operational environment near Fairchild AFB, including Unified Facilities Criteria 3-530-01 and International Dark-skies Association Model Lighting Ordinance criteria. Mitigation measures include use of shielded and downcast lighting and the use of non-reflective low-glare glass to reduce off-site light and glare. Mitigation would reduce impacts to aesthetics to less-than-significant levels.

3.1.13 Indirect Effects

Indirect effects include effects that may be caused by the proposed action that are later in time or farther removed in the distance, but are still reasonably foreseeable. Indirect effects may include effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on natural systems.

Indirect Effects from Off-Site Traffic Mitigation Improvements: As described in detail in Section 4.14.1 of the Final EIS, construction activities associated with off-site traffic improvements to be implemented as a result of project mitigation may indirectly affect the environment. Effects could occur from operation of construction equipment, grading, and the introduction of fill material. Construction activities associated with off-site traffic improvements would be regulated by WSDOT, Airway Heights and/or the County, and would be required to comply with applicable Federal, state, and local laws, policies, and ordinances related to the protection of natural resources. Indirect effects resulting from off-site traffic improvements would be less-than-significant.

Indirect Effects from Water/Wastewater Infrastructure Improvements: As described in Section 4.14.2 of the Final EIS, construction of off-site water/wastewater infrastructure improvements may indirectly affect the environment. Construction activities associated with off-site infrastructure improvements would be regulated by Airway Heights and/or WSDOT and would be required to comply with applicable federal, state, and local laws, policies, and ordinances related to the protection of natural resources. Indirect effects resulting from off-site infrastructure improvements would be less-than-significant.

Growth-Inducing Effects: As discussed in Section 4.14 of the Final EIS and above in **Section 3.1.6**, given the projected unemployment rate and housing stock, the development alternatives are not expected to stimulate regional housing development. The potential for commercial growth throughout Spokane County is tied to the direct, indirect, and induced economic activity resulting from the development alternatives. Businesses would experience growth in the form of indirect output resulting from expenditures on goods and services. In addition, project employees would generate growth through expenditures on goods and services at area businesses. The increase in demand for goods and services would be diffused and distributed among a variety of different sectors and businesses in Spokane County. As such, significant regional commercial growth would not be anticipated to occur. Any growth induced by the development alternatives in Airway Heights or other cities within Spokane County would be subject to the constraints of their respective general plans and local ordinances, as well as the Washington Growth Management Act. New development would be required to comply with applicable federal, state, and local laws, policies, and ordinances related to the protection of natural resources. Because no significant growth is anticipated under the development alternatives, indirect effects from growth inducement would be less-than-significant.

3.1.14 Cumulative Effects

With the implementation of mitigation measures listed in Section 5.0 of the Final EIS and in **Section 6.0** of this ROD, the development alternatives would not contribute to cumulative effects associated with geology and soils, water resources, biological resources, cultural resources, socioeconomic conditions, land use, public services, noise, hazardous materials, and aesthetics.

Air Quality and Climate Change / Greenhouse Gas (GHG): In the cumulative year 2032, with the implementation of mitigation measures listed in in Section 5.0 of the Final EIS and **Section 6.0** of this ROD, no intersection would have a traffic level of service (LOS) or an increase in traffic delay that would warrant a carbon monoxide Hot Spot Analysis. Development and

operation activities would result in emissions of criteria pollutants and GHGs primarily due to emissions from project-related traffic. With mitigation, project-related emissions of criteria pollutants would not contribute to a significant cumulative effect to air quality in the year 2032, and would not conflict with the applicable State Implementation Plan under the federal Clean Air Act. Estimated emissions of GHGs are well below the Council on Environmental Quality reporting standard of 25,000 metric tons of CO₂e per year. Mitigation measures presented in in Section 5.0 of the Final EIS and **Section 6.0** of this ROD would ensure compliance with applicable the Washington Climate Advisory Team GHG reduction strategies; therefore, the proposed development alternatives would have a less-than-significant cumulative effects associated with GHG emissions and climate change.

Transportation: In the cumulative year 2032, the increase in traffic generated by proposed development alternatives would contribute to unacceptable traffic operations at several study intersections, causing them to operate below acceptable LOS standards. In accordance with the IGA and mitigation measures set forth in in Section 5.0 of the Final EIS and **Section 6.0** of this ROD, the Tribe shall implement and pay a fair share contribution to traffic improvements detailed within the Traffic Impact Analysis and Addenda for intersections adversely affected by the selected alternative. Mitigation measures would restore the impacted intersections to acceptable operating conditions in accordance with applicable agency requirements, or would restore operating conditions to pre-development levels. With mitigation, cumulative effects on to transportation/circulation during operation would be less-than-significant.

4.0 ENVIRONMENTALLY PREFERRED ALTERNATIVE(S)

The Reduced Casino and Mixed-Use Development (Alternative 2) or the No-Action/No-Development Alternative (Alternative 4) would result in the fewest effects to the natural and human environment. The No-Action Alternative would be environmentally preferred. However, the No-Action Alternative would not meet the purpose and need for the Proposed Action. Specifically, it would not provide the Tribe with an opportunity to engage in economic development to generate sustainable revenue to allow the Tribe to achieve self-sufficiency, self-determination, and a strong Tribal government. The No-Action/No-Development Alternative would also likely result in substantially less economic benefits to Airway Heights and Spokane County.

Of the development alternatives, Alternative 2 would result in the fewest adverse effects on the human environment. Alternative 2 would have the fewest effects due to a lesser amount of development. However, Alternative 2 would generate less revenue and, therefore, limit the number of programs and services the Tribal Government could offer tribal citizens and neighboring communities. Alternative 2 is the Environmentally Preferred Development Alternative, but it would not fulfill the purpose and need for the Proposed Action.

5.0 PREFERRED ALTERNATIVE

For the reasons discussed herein, the Department has determined that Alternative 1 is the Preferred Alternative because it meets the purpose and need for the Proposed Action. Of the alternatives evaluated within the EIS, Alternative 1 would facilitate the Spokane tribal government's ability to establish, fund, and maintain governmental programs in light of

existing budget shortfalls that offer a wide range of health, education, environmental remediation measures, and welfare services to tribal citizens, as well as provide the Tribe, its citizens and local communities with greater opportunities for employment and economic growth. Alternative 1 would also allow the Tribe to implement the highest and best use of the trust property. Under Alternative 1, potential environmental impacts are adequately addressed by the mitigation measures adopted in this ROD.

Alternative 2, while less intensive than Alternative 1, would require similar levels of mitigation for identified impacts; however, the economic returns would be smaller than under Alternative 1 and the more limited development is not the most effective use of either the land or the Tribe's capital resources. See Section 4.7.2 of the Final EIS.

Due to the similarity in size to Alternative 1, Alternative 3 would have similar impacts as Alternative 1. Implementation of mitigation adopted in this ROD would reduce these potentially adverse effects. The substantially lower profitability of retail development in comparison to gaming operations make Alternative 3 less attractive than Alternative 1 from the standpoint of securing a long term, sustainable revenue stream for the Tribe. See Section 4.7.3 of the Final EIS

Alternative 1 is the alternative that best meets the purpose and need for the Proposed Action while preserving the key natural resources of the Site. Therefore, Alternative 1 is the Department's Preferred Alternative.

6.0 MITIGATION MEASURES

All practicable means to avoid or minimize environmental harm from the Preferred Alternative have been identified and adopted. The following mitigation measures, related enforcement, and monitoring programs have been adopted as a part of this decision. Where applicable, mitigation measures will be monitored and enforced pursuant to federal law, tribal ordinances, agreements between the Tribe and appropriate governmental authorities, and as identified this decision. Relevant regulatory requirements, conditions of the IGA, the MOA, best management practices (BMPs) and recommended mitigation measures are summarized below. Specific best management practices and mitigation measures adopted pursuant to this decision are set forth below and included in the Mitigation Monitoring and Enforcement Plan in **Attachment III** of this ROD.

6.1 GEOLOGY AND SOILS

The following BMP shall be implemented for the Preferred Alternative:

- A. An Erosion Control Plan (ECP) shall be created and implemented prior to start of any site disturbance. The ECP shall identify the locations of erosion control features recommended to direct and filter storm water runoff. The features used during construction include, but are not limited to, silt fences, fiber rolls, and rock bag dams. The locations of permanent erosion control features such as sediment/grease traps, vegetated drainage swales, and riprap shall also be identified. The ECP would be

implemented during project construction and operation, thus assuring that adverse effects resulting from erosion are minimized.

The following mitigation measure shall be implemented in accordance with federal regulatory requirements for the Preferred Alternative:

- B. A General Construction National Pollutant Discharge Elimination System (NPDES) permit shall be obtained from the EPA under the requirements of the federal Clean Water Act. As required by the NPDES permit, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared that addresses potential water quality impacts associated with construction and operation of the project alternatives. The SWPPP shall make provisions for erosion prevention and sediment control and control of other potential pollutants. The SWPPP shall be submitted to the EPA as part of the notice of intent that will be filed by the Tribe to obtain coverage under the General Construction NPDES Permit.

The SWPPP shall describe construction practices, stabilization techniques and structural BMPs that are to be implemented to prevent erosion and minimize sediment transport. The BMPs shall consist of the most effective and efficient measures known at the time of construction. BMPs shall be inspected, maintained, and repaired to assure continued performance of their intended function. Reports summarizing the scope of these inspections, the personnel conducting the inspection, the dates of the inspections, major observations relating to the implementation of the SWPPP, and actions taken as a result of these inspections shall be prepared and retained as part of the SWPPP.

The BMPs specified in the SWPPP to minimize the potential for erosion and prevent sedimentation to surface waters, shall include, but not be limited to, the following:

1. Stripped areas shall be stabilized through temporary seeding using dryland grasses.
2. Conveyance channels and severe erosion channels shall be mulched or matted to prevent excessive erosion.
3. Exposed stockpiled soils shall be covered with plastic covering to prevent wind and rain erosion.
4. The construction entrance shall be stabilized by the use of riprap, crushed gravel, or other such material to prevent the track-out of dirt and mud.
5. Construction roadways shall be stabilized through the use of frequent watering, stabilizing chemical application, or physical covering of gravel or riprap.
6. Filter fences shall be erected at all onsite storm water exit points and along the edge of graded areas to stabilized non-graded areas and control siltation of onsite storm water.
7. Dust suppression measures included in **Section 6.3** below, Air Quality, Mitigation Measure A, shall be implemented to control the production of fugitive dust and prevent wind erosion of bare and stockpiled soils.

6.2 WATER RESOURCES

Construction Impacts

The following mitigation measure shall be implemented in accordance with federal regulatory requirements for the Preferred Alternative:

- A. As described under **Section 6.1** above, Geology and Soils, Mitigation Measure B, prior to construction, an NPDES permit shall be obtained from the EPA and a SWPPP shall be prepared. The SWPPP shall describe construction practices, stabilization techniques, and structural BMPs that are to be implemented to prevent erosion and minimize sediment transport as outlined above.

Operational Impacts

The following project design measures shall be implemented in accordance with Section 2.4 of the IGA for the Preferred Alternative:

- B. The following measures shall be implemented in conformance with Airway Heights' Public Works Standards:
 1. Storm water conveyance shall be designed to limit the flow capacity to 70 percent to allow for settling of sediment and debris.
 2. Catch basins shall be designed in a "sump" condition to allow for greater inlet capacity.
 3. Detention swales shall be designed to allow for a minimum of 1.0 foot of freeboard, and shall be vegetated with a grassy bottom with enough area to provide "bio-filtration."
 4. Storm water shall be routed from poorly drainable soils to those areas with higher infiltration and permeability rates for better disposal of storm water.
 5. Conveyance channels shall be designed at "non-erosive" velocities to eliminate soil erosion, and shall have at a minimum 12 inches of freeboard to minimize overtopping and out of channel flow.

6.3 AIR QUALITY

Construction

The following BMPs shall be implemented for the Preferred Alternative:

- A. The following dust suppression measures shall be implemented by the Tribe to control the production of fugitive dust (PM10) and prevent wind erosion of bare and stockpiled soils:
 1. Spray exposed soil with water or other suppressant at least twice a day.
 2. Minimize dust emissions during transport of fill material or soil by wetting down loads, ensuring adequate freeboard (space from the top of the material to the top of the truck bed) on trucks, and/or covering loads.
 3. Promptly clean up spills of transported material on public roads.

4. Restrict traffic on-site to reduce soil disturbance and the transport of material onto roadways.
 5. Locate construction equipment and truck staging areas away from sensitive receptors as practical and in consideration of potential effects on other resources.
 6. Provide wheel washers to remove particulate matter that would otherwise be carried off-site by vehicles to decrease deposition of particulate matter on area roadways.
 7. Cover dirt, gravel, and debris piles as needed to reduce dust and wind-blown debris.
- B. The following measures shall be implemented by the Tribe to reduce emissions of criteria pollutants, greenhouse gases (GHGs) and diesel particulate matter (DPM) from construction of the Preferred Alternative:
1. Control criteria pollutants and GHG emissions whenever reasonable and practicable by requiring all diesel-powered equipment be properly maintained and minimize idling time to 5 minutes when construction equipment is not in use, unless per engine manufacturer's specifications or for safety reasons more time is required. Since these emissions would be generated primarily by construction equipment, machinery engines shall be kept in good mechanical condition to minimize exhaust emissions. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation.
 2. Require all construction equipment with a horsepower rating of greater than 50 be equipped with diesel particulate filters, which would reduce approximately 85 percent of DPM.

Operation and Climate Change

The following BMPs shall be implemented for the Preferred Alternative:

- C. The Tribe shall reduce emissions of criteria air pollutants and GHGs during construction and operation through the following actions, as applicable:
1. Use clean fuel vehicles in the vehicle fleet where practicable, which would reduce criteria pollutants and GHG emissions within the Spokane region.
 2. Provide preferential parking for vanpools and carpools, which would reduce criteria pollutants and GHGs.
 3. Use low-flow appliances where feasible and utilize both potable and non-potable water to the extent practicable. The project proponent shall use drought resistant landscaping where practicable and provide "Save Water" signs near water faucets throughout the development.
 4. Control criteria pollutants, GHG, and DPM emissions during operation whenever reasonable and practicable by requiring all diesel-powered vehicles and equipment be properly maintained and minimizing idling time to five minutes at loading docks when loading or unloading food, merchandise, etc. or when diesel-powered vehicles or equipment are not in use; unless per engine manufacturer's specifications or for safety reasons more time is required. The Tribe shall employ periodic and unscheduled inspections to accomplish the above mitigation.

5. Use energy efficient lighting, which would reduce indirect criteria pollutants and GHG emissions. Using energy efficient lighting would reduce the project's energy usage, thus, reducing the project's indirect GHG emissions.
6. Install recycling bins throughout the hotel and casino for glass, cans and paper products. Decorative trash and recycling receptacles shall be placed strategically outside to encourage people to recycle.
7. Use environmentally preferable materials to the extent practical for construction of facilities.
8. Plant trees and vegetation on-site or fund such plantings off-site. The addition of photosynthesizing plants would reduce atmospheric carbon dioxide (CO₂), because plants use CO₂ for elemental carbon and energy production. Trees planted near buildings would result in additional benefits by providing shade to the building; thus reducing heat absorption, reducing air conditioning needs and saving energy.
9. Use energy efficient appliances in the hotel and casino.
10. Incorporate advanced lighting design and include day lighting, where appropriate. Advanced lighting design and day lighting would reduce project related GHG emissions by reducing electrical energy usage.
11. Use solar hot water heaters where appropriate. The use of solar hot water heaters would reduce project related GHG emissions by reducing electrical energy usage.
12. Provide shuttle service to and from the Spokane area in accordance with **Section 6.7** below, Transportation/Circulation, Mitigation Measure J, which would reduce criteria pollutants and GHG emissions within the Spokane region.

6.4 BIOLOGICAL RESOURCES

The following mitigation measures shall be implemented in accordance with federal regulatory requirements for the Preferred Alternative:

- A. In accordance with the Migratory Bird Treaty Act, a qualified biologist will conduct a preconstruction survey within 100 feet around the vicinity of the project site for active nests if construction activities commence during the nesting season for birds of prey and migratory birds (between February 15 and September 15). The preconstruction survey will be conducted within 14 days prior to commencement of construction activities for each phase of project development. If surveys show that there is no evidence of nests, then no additional mitigation will be required. If active nests are identified, a 100-foot buffer zone should be established around the nests. A qualified biologist should monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. The biologist should delimit the buffer zone with construction tape or pin flags within 100 feet of the active nest and maintain the buffer zone until the end of breeding season or the young have fledged. Guidance from the U.S. Fish and Wildlife Service (USFWS) will be requested if establishing a 100-foot buffer zone is impractical.
- B. Ornamental trees designated for removal will be removed between September 15 and February 15, prior to the nesting season. If trees are anticipated to be removed during the nesting season, a preconstruction survey will be conducted by a qualified biologist. If the survey shows that there is no evidence of active nests, then the tree will be removed within 10 days following the survey. If active nests are located within trees identified for

removal, a 100-foot buffer will be installed around the tree and guidance from the USFWS will be requested.

- C. A focused botanical survey will be conducted within the evident and identifiable blooming period for Spalding's silence. If the survey shows that there is no evidence of this species, then no additional mitigation will be required. In the unlikely event that this species is detected, then a 50-foot buffer zone should be established around the individual plants to ensure that construction activities would not result in take. The Tribe will refrain from installing the ornamental landscaping within the established buffer area.

6.5 CULTURAL AND PALEONTOLOGICAL RESOURCES

The following mitigation measures shall be implemented in accordance with federal regulatory requirements for the Preferred Alternative:

- A. In the event of any inadvertent discovery of prehistoric or historic archaeological resources or paleontological resources during construction-related earth-moving activities, all such finds shall be subject to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 C.F.R. Part 800. Specifically, procedures for post-review discoveries without prior planning pursuant to 36 C.F.R. § 800.13 shall be followed. All work within 50 feet of the find shall be halted until a professional archaeologist can assess the significance of the find. If a find is determined to be significant by the archaeologist, then representatives of the Tribe shall meet with the archaeologist to determine the appropriate course of action, including the development of a Treatment Plan, if necessary. All significant cultural materials recovered shall be subject to scientific analysis, professional curation, and a report prepared by the professional archaeologist according to current professional standards.
- B. If human remains are discovered during ground-disturbing activities on Tribal lands, the Tribal Official and BIA representative shall be contacted immediately. No further disturbance shall occur until the Tribal Official and BIA representative have made the necessary findings as to the origin and disposition. If the remains are determined to be of Native American origin, the BIA representative shall notify a descendant in accordance with applicable law, including the Native American Grave Protection and Repatriation Act, who will be responsible for recommending the appropriate disposition of the remains and any grave goods.
- C. In the event of accidental discovery of paleontological materials during ground-disturbing activities, a qualified paleontologist shall be contacted to evaluate the significance of the find and collect the materials for curation as appropriate.

6.6 SOCIOECONOMIC CONDITIONS

As discussed above in Section 4.7 of the Final EIS and **Section 2.2.1**, implementation of the following provision of the Intergovernmental Agreement would avoid, minimize, or mitigate adverse socioeconomic effects under the Preferred Alternative:

- A. In accordance with Section 5.1 of IGA, Annual Payment, the Tribe agreed to pay Airway Heights and the County an aggregate total payment of \$14,500 before the date upon which Airway Heights receives the Agreement by the United States to Annexation of the Property (hereinafter “the effective date”). On or before the effective date of each subsequent year for the following 14 years, the aggregate joint payment shall be increased by \$14,500 per year. The annual \$14,500 payment increases shall end at Year 15. Beginning in Year 11, and each year thereafter, the aggregate joint payment shall be increased by 3 percent. Additionally, the Tribe agrees to meet at Year 25 to reconsider the annual payment amounts and to adjust such amounts, as necessary to reasonably approximate actual impacts to Airway Heights and the County. If within six months of initiating negotiation of such adjustment the parties do not agree to an adjustment, either party may initiate binding arbitration as provided by the IGA. The arbitrators shall make an award that adjusts such annual payment amount as necessary to reasonably approximate actual impacts to Airway Heights and the County, including, if the arbitrators so determine, annual adjustments based on reasonable estimates of annual increases in costs of such impacts. Each 25 year anniversary thereafter, the Tribe, City, and County shall meet and reconsider the annual payment amounts.

Implementation of the following provision of the Memorandum of Agreement would avoid, minimize, or mitigate adverse socioeconomic effects under the Preferred Alternative:

- B. In accordance with Section 6.1 of the MOA, beginning with the first full calendar quarter subsequent to commencement of any gaming activities authorized under the Tribal – State Compact, the Tribe agrees to supplant the annual payment to Airway Heights set forth in Section 5.1 of the IGA as follows, provided such payment exceeds the annual payment:
1. \$600,000 for the first full year.
 2. \$700,000 for the second full year.
 3. \$800,000 for the third full year.
 4. \$900,000 for the fourth full year.
 5. \$1,000,000 for the fifth full year.
 6. \$1,100,000 for the sixth full year.
 7. \$1,200,000 for the seventh full year, and for each year thereafter.
 8. Beginning in Year 8, and each year thereafter, the payment shall be increased by 3 percent per year.
 9. Upon the annual payment exceeding \$2,000,000, the parties pursuant to Section 8.0 of the MOA shall review the terms of the MOA and Annual Payment and upon mutual agreement modify the same. If the parties do not agree to modify the MOA, 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 U.S. Department of Commerce, instead of the 3 percent annual increase set forth above.

Implementation of the following provisions of the Tribal-State Compact would avoid, minimize, or mitigate adverse socioeconomic effects under the Preferred Alternative:

- C. In accordance with the Tribal-State Compact, the Tribe recognizes that the operation of class III gaming activities may adversely impact individuals who suffer from problem or pathological gambling addiction disorders. Moreover, the Tribe is committed to supporting problem gambling education, awareness, and treatment for such individuals. The Tribe shall set aside 0.13 percent of the gross gaming revenues from its class III gaming activities for contributions dedicated to problem gambling support services. Contributions shall be made to the Washington State Department of Social and Health Services' Division of Alcohol and Substance Abuse (DSHS/DASA). The Tribe shall be credited for payments, if any, made to other organizations that are directly related to helping to reduce problem gambling. The balance of the 0.13 percent of gross gaming revenues shall be paid to DSHS/DASA annually, starting with the 12-month anniversary of the Compact's effective date, and shall be paid by the 15th day of the month following said effective date.
- D. In accordance with the Tribal-State Compact, the Tribe shall determine the wager limit for any allowed higher stakes gaming stations, and only qualified patrons shall be allowed to play at higher stakes tables. Also, pursuant to the Tribal-State Compact, no person under the age of 18 shall be allowed to participate in any gaming operation, or be allowed on the gaming floor during hours of operation.

The following optional mitigation measures shall be implemented for the Preferred Alternative at the Tribe's discretion:

- D. The Tribe shall adopt a policy statement on problem gambling.
- E. Written information that includes a list of professional gambling treatment programs and self-help groups shall be made available to casino customers. Brochures shall be made available in prominent locations inside of the casino and near all automated teller machines.
- F. Procedures shall be implemented to allow for voluntary self-exclusion, enabling gamblers to ban themselves from the gaming establishment for a specified period of time.

6.7 TRANSPORTATION/CIRCULATION

Construction

The following mitigation measure shall be implemented in accordance with regulatory requirements for the Preferred Alternative:

- A. The following measures shall be implemented in conformance with the WSDOT requirements for work within Federal and state right-of-ways:
 - 1. Proposed changes to state facilities must be designed to current WSDOT standards and specifications.
 - 2. Plans for any proposed access or construction within U.S. 2 right-of-way must be reviewed and approved by WSDOT prior to beginning work.

3. Engineering calculations, plans and reports submitted for review and approval must bear the seal and original signature of a professional engineer.
4. Construction must be done in accordance with the current WSDOT Standard Specifications for Road, Bridge, and Municipal construction manual.
5. Construction inspection will be performed by WSDOT at the Tribe's expense.
6. A Traffic Management Plan (TMP) shall be prepared to identify where construction routes are proposed, and other standards set forth in the 2009, Federal Highway Administration, *Manual on Uniform Traffic Control Devices for Streets and Highways*. The TMP shall be submitted to Airway Heights, Spokane County and the Washington State Department of Transportation.

Operational Traffic

In accordance with the IGA between the Tribe, City and County, the following traffic mitigation measures shall be implemented as identified within the Traffic Impact Analysis (TIA) and Addendums for the Preferred Alternative.

- B. Traffic volumes in the build out year for each project phase shall be monitored and the traffic impact analysis shall be updated to assess the necessity for mitigation outlined below. If the results of the updated TIA determine that the traffic mitigation identified below should be adjusted due to changes in future traffic background conditions, the recommendations shall be subject to review and approval by WSDOT and Airway Heights prior to any modifications to the traffic mitigation plan. Any modifications to the mitigation plan for work within County owned right-of-ways shall be subject to Spokane County approval.
- C. Prior to operation of the Preferred Alternative, Phase I, the Tribe shall implement and/or pay a fair share/proportional share contribution to the following mitigation measures, which would result in a less-than-significant effects at all study intersections:
 1. From U.S. 2/Craig Road to Western Site boundary: The Tribe shall fully fund the construction of a roundabout at the Craig Road intersection and two site access intersections with roundabout intersection control. The roundabouts shall have multiple lanes. The location of access intersections shall be reconfigured as follows: the three roundabouts should be equally spaced, with the western access positioned near the property boundary and the main access located in the center of the property. Frontage improvements shall be constructed along the northern side of U.S. 2 including curbing, drainage improvements, and pedestrian facilities as applicable. With implementation of this measure, the U.S. 2/Craig Road intersection would function at a Level of Service (LOS) A, and the access intersections would function at LOS B. The Tribe's calculated fair share contribution to the Craig Road/U.S. 2 intersection is approximately 44.4 percent; therefore, funding contributed by the Tribe in excess of this percentage shall be credited towards fair share mitigation requirements at other impacted facilities or reimbursed by Airway Heights to the extent feasible through traffic impact fees or latecomer agreements.

2. Craig Road from U.S. 2 to 6th Avenue: Widen Craig Road to accommodate a three lane roadway section and bike lanes. Install access driveways as indicated in the site plan and ensure that none of these accesses align with 12th Avenue. Construct frontage improvements along the western side of Craig Road including curbing, drainage improvements, and pedestrian facilities as applicable. The Tribe's fair share contribution to this mitigation measure would be 100 percent.
3. U.S. 2/Hayford Road: The Tribe shall fund a proportional share (based on project and phase generated traffic) to improvements to the 21st Ave./18th Ave. corridor at the time of construction of said improvements. In the event that the 21st Ave./18th Ave. corridor is not incorporated into state and/or local improvement plans, the Tribe shall provide fair share payment to an equivalent alternative traffic improvement measure that shall be approved by WSDOT and Airway Heights.
4. Craig Road/State Route 902: The Tribe shall fully fund the construction of a traffic signal which would result in LOS B, or construction of a roundabout which would result in LOS A. The Tribe's calculated fair share contribution to this mitigation measure is approximately 22.6 percent for signalization or 29.7 percent for a roundabout; therefore, funding contributed by the Tribe in excess of this percentage shall be credited towards fair share mitigation requirements at other impacted facilities or reimbursed by Airway Heights to the extent feasible through traffic impact fees or latecomer agreements.
5. 6th Street: In the event that the 6th Street extension is not completed prior to project implementation, the Tribe shall fully fund development of the unfinished portion of the 6th Street extension from approximately South Aspen Street to Craig Road. Airway Heights shall enter into an agreement with the Tribe to reimburse the Tribe for cost of development of the 6th Street extension through development of local traffic impact fee assessment areas.
6. 12th Avenue: The Tribe shall fully fund the posting of a sign for the eastbound traffic on 12th Avenue and Craig Road stating "Local Access Only." Twelfth Avenue shall be considered within the future traffic impact analysis described under Traffic Mitigation Measure B. If the results of the updated TIA determine that the traffic mitigation identified for 12th Avenue should be adjusted due to changes in future traffic background conditions, the recommendations shall be subject to review and approval by Airway Heights prior to any modifications to the traffic mitigation plan.
7. Flint Road/U.S. 2: Signalize the intersection. WSDOT signal warrant has been met at this intersection. Signalization of this intersection would result in a LOS B, delay 15.6 seconds. The Tribe's fair share contribution to this mitigation measure would be 17.6 percent.
8. Deer Heights Road/U.S. 2: Signalize the intersection. WSDOT signal warrant has been met at this intersection. Signalization of this intersection would result in a LOS C, delay 20.9 seconds. The Tribe's fair share contribution to this mitigation measure would be 19.8 percent.
9. Spotted Road/U.S. 2: Restrict NB left turn. This mitigation measures is incorporated in the U.S. 2 Route Development Plan. Restriction of the NB left turn lane would result in a LOS C, delay 17.7 seconds. The Tribe's fair share contribution to this mitigation measure would be 16.3 percent.

D. In order to provide a consistent and conservative analysis of potential effects, the analysis of the Preferred Alternative at Phase II used the assessment criteria for the arterial intersections as they currently exist today. Therefore, the analysis did not incorporate the mitigation provided in Mitigation Measure C for the Preferred Alternative at Phase I. Prior to operation of the Preferred Alternative at Phase II, the Tribe shall implement and/or pay a fair share contribution to the following mitigation measures, which would result in a less-than-significant impact at all study intersections:

1. U.S. 2/Craig Road: Improvements installed as a result of Phase I mitigation would result in LOS B. No additional measures are necessary.
2. U.S. 2/Lundstrom Road: Restripe and widen approaches to accommodate exclusive NB and SB right turn lanes, which would result in LOS F, delay 63.3 seconds. The Tribe's fair share contribution to this mitigation measure would be 29.8 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection. Funding in excess of the project's proportional share for Phase I mitigations shall be applied to offset this requirement.
3. U.S. 2/Hayford Road: The Tribe shall fund a proportional share (based on project and phase generated traffic) to improvements to the 21st Ave./18th Ave. corridor at the time of construction of said improvements. In the event that the 21st Ave./18th Ave. corridor is not incorporated into local traffic improvement plans, the Tribe shall provide fair share payment to an equivalent alternative traffic improvement measure that shall be approved by WSDOT and Airway Heights.
4. Craig Road/State Route 902: Improvements installed as a result of Phase I mitigation would result in LOS A. No additional measures are necessary.
U.S. 2/Access Intersections: Improvements installed as a result of Phase I mitigation would result in LOS B at the western access and LOS C at the eastern access. No additional measures are necessary.
5. Flint Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS C. No additional measures are necessary.
6. Deer Heights Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS D, delay 41.7 seconds. No additional measures are necessary.
7. Spotted Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS C, delay 19.4 seconds. No additional measures are necessary.

E. In order to provide a consistent and conservative analysis of potential effects, the analysis of the Preferred Alternative at Phase III used the assessment criteria for the arterial intersections as they currently exist today. Therefore the analysis did not incorporate the mitigation provided in Mitigation Measure C and D for the Preferred Alternative at Phases I and II. Prior to operation of the Preferred Alternative at Phase III, the Tribe shall implement and/or pay a fair share contribution to the following mitigation measures, which would result in a less-than-significant impact at all study intersections:

1. U.S. 2/Craig Road: Improvements installed as a result of Phase I mitigation would result in LOS D. No additional measures are necessary.

2. U.S. 2/Lundstrom Road: Restripe and widen approaches to accommodate exclusive NB and SB right turn lanes resulting in LOS F, delay 179.6 seconds, which is less than the “without project” delay. The Tribe’s fair share contribution to this mitigation measure would be 29.4 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection. Funding in excess of the project’s proportional share for Phase I mitigations shall be applied to offset this requirement.
3. U.S. 2/Garfield: Optimize signal timing, which would result in a LOS D. The Tribe’s fair share contribution to this mitigation measure would be 89.7 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection. Funding in excess of the project’s proportional share for Phase I mitigations shall be applied to offset this requirement.
4. U.S. 2/Hayford Road: The Tribe shall fund a proportional share (based on project and phase generated traffic) to improvements to the 21st Ave./18th Ave. corridor at the time of construction of said improvements. In the event that the 21st Ave./18th Ave. corridor is not incorporated into local traffic improvement plans, the Tribe shall provide fair share payment to an equivalent alternative traffic improvement measure that shall be approved by WSDOT and Airway Heights.
5. Craig Road/State Route 902: Improvements installed as a result of Phase I mitigation would result in LOS B. No additional measures are necessary.
U.S. 2/Access Intersections: Improvements installed as a result of Phase I mitigation would result in LOS D at each access intersection. No additional measures are necessary.
6. Craig Road/6th Avenue: Widen the intersection approach to provide an exclusive NB right turn lane, which would result in LOS D, or installation of a roundabout which would result in LOS E. The Tribe’s fair share contribution to this mitigation measure would be 43.6 percent.
7. Flint Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS C, delay 25.8 seconds. No additional measures are necessary.
8. Deer Heights Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS D, delay 52.4 seconds. No additional measures are necessary.
9. Spotted Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS C, delay 22.8 seconds. No additional measures are necessary.
10. Deno Road/Hayford Road: Install storage for SB and WB turning lanes. Installation of storage would result in a LOS D, delay 32.8 seconds. The Tribe’s fair share contribution to this mitigation measure would be 79.5 percent.

Cumulative

- F. In order to provide a consistent and conservative analysis of potential cumulative effects, the analysis of the Preferred Alternative, in the cumulative year 2032, used the assessment criteria for the arterial intersections as they exist in the cumulative year 2032. Therefore the analysis did not incorporate the mitigation provided in Mitigation Measure C, D, or E

for the Preferred Alternative in the phased build out years. The Tribe shall implement and pay a fair share contribution to the following mitigation measures for the Preferred Alternative (2032), which would result in a less-than-significant effects at all study intersections:

1. U.S. 2/Craig Road: Improvements installed as a result of Phase I mitigation would result in LOS F, delay 94.9 seconds, which is less than the “without project” delay. No additional measures are necessary.
2. U.S. 2/Lundstrom Road: Restripe and widen approaches to accommodate exclusive NB and SB right turn lanes resulting in LOS F, delay exceed model output value, which is equal to the “without project” delay, or restriction of NB and SB left turn movements, which would result in LOS E. The Tribe’s fair share contribution to this mitigation measure would be 25.5 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection.
3. U.S. 2/Lawson: Modify the signal timing and modify and widen NB and SB approaches as needed to provide dedicated left turn lanes, which would result in LOS D. The Tribe’s fair share contribution to this mitigation measure would be 78.2 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection.
4. U.S. 2/Garfield: Optimize signal timing, resulting in a LOS F, delay 131.5 seconds, which is greater than the “without project” delay or modify signal timing and add third EB and WB auxiliary through lanes, which would result in a LOS C. The Tribe’s fair share contribution to this mitigation measure would be 43.0 percent. Alternatively, the Tribe may contribute a proportional share to improvements to the 21st Ave./18th Ave. corridor or equivalent alternative route approved by Airway Heights and WSDOT, which will relieve traffic from U.S. 2, eliminating the need for improvements to the intersection.
5. U.S. 2/Hayford Road: The Tribe shall fund a proportional share (based on project and phase generated traffic) to improvements to the 21st Ave./18th Ave. corridor at the time of construction of said improvements. In the event that the 21st Ave./18th Ave. corridor is not incorporated into local traffic improvement plans, the Tribe shall provide fair share payment to an equivalent alternative traffic improvement measure that shall be approved by WSDOT and Airway Heights.
6. Craig Road/State Route 902: Improvements installed as a result of Phase I mitigation would result in LOS B. No additional mitigation is necessary.
7. US 2/Access Intersections: Improvements installed as a result of Phase I mitigation would result in LOS D. No additional measures are necessary.
8. Road/6th Avenue: Widen the intersection approach to provide an exclusive NB right turn lane, which would result in LOS E, or install a roundabout which would result in LOS C. The Tribe’s fair share contribution to this mitigation measure would be 89.3 percent for turn lane and 56.3 percent for roundabout.

9. Craig Road/North Driveway: Add second NB through lane from Highway 2 to 6th Avenue, which would result in LOS E, or install a roundabout, which would result in LOS B. The Tribe's fair share contribution to this mitigation measure would be 100 percent.
 10. In order to provide sufficient access/connectivity to adjacent properties, the Tribe shall provide cross connections with adjacent properties and construct a future North-South road located along the western property line to provide access to the properties to the west as well as connectivity to a future extension of 6th Avenue.
 11. Flint Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS D, delay 45.0 seconds. No additional measures are necessary.
 12. Deer Heights Road/U.S. 2: Improvements installed as a result of Phase I mitigation would result in LOS F, delay 144.6 seconds, which is less than the "without project" delay. Further reduction in traffic volumes on U.S. 2 from construction of 21st Avenue corridor results in an LOS F, delay 94.3 seconds. Construct NB dual left turn lanes. This mitigation results in an LOS D, delay 54.0 seconds. The Tribe's fair share contribution to this mitigation measure would be 24.1 percent.
 13. Spotted Road/U.S. 2: Restrict NB left turn. This mitigation measure is incorporated in the U.S. 2 Route Development Plan. Restriction of the NB left turn lane would result in a LOS F, delay 68.9 seconds, which is less than the "without project" delay. The Tribe's fair share contribution to this mitigation measure would be 26.7 percent.
 14. Deno Road/Hayford Road: Install 200 foot storage for SB and WB right turning pocket and 200 foot SB left turn pocket. Installation of storage would result in a LOS E, delay 41.1 seconds. The Tribe's fair share contribution to this mitigation measure would be 92.7 percent.
- I-90 Medical Lake Interchange Eastbound Ramps: Contribute a fair share payment towards future improvements to be developed by WSDOT to increase the operational capacity of the intersection. The Tribe's fair share contribution of this mitigation measure would be 5.2 percent of the local match for the project (not the entire project cost).
15. I-90 Medical Lake Interchange Westbound Ramps: Contribute a fair share payment towards future improvements to be developed by WSDOT to increase the operational capacity of the intersection. The Tribe's fair share contribution of this mitigation measure would be 6.5 percent of the local match for the project (not the entire project cost).

Pedestrian and Transit Facilities

- G. The Tribe shall implement and pay a fair share contribution to the following mitigation measures for all alternatives in the build out and cumulative years (2032), which would reduce effects associated with pedestrian and transit facilities:
 1. The Tribe shall work with the Spokane Transit Authority to provide adequate and safe public transportation to and from the Site as needed. This may include the use of shuttles or the relocation of the existing inbound and outbound bus stop at the Craig Road/U.S. 2 intersection. Bus stop improvements shall be developed in accordance with the WSDOT Traffic Manual M 51-02.03 and other relevant requirements, and shall be satisfactory to the Spokane Transit and WSDOT.

2. The Tribe shall install pedestrian pathways and bike lanes along U.S. 2 and Craig Road Site frontages in accordance with applicable requirements of WSDOT, City of Airway Heights and Spokane County in order to comply with local bike/pedestrian plans developed by WSDOT and/or Airway Heights in the vicinity of the Proposed Project. Pedestrian facilities along the frontage of U.S. 2 shall consist of a separated multi-use pathway that aligns with other planned and existing pedestrian pathways along the U.S. 2 corridor consistent with the Spokane Regional Transportation Council “Smart Routes” regional planning process.
3. Sidewalks and pathways shall be planned and constructed on the Site to connect development to transit stops and public path and bikeways to encourage and facilitate use of transit and non-motorized travel modes. This includes a safe pedestrian crossing to the bus stop in the eastbound direction of U.S. 2 in the vicinity of Craig Road. The construction and implementation of this crossing shall provide for safe passage across U.S. 2 wherein the right-of-way of the pedestrian is protected through grade separation, or signalized traffic control.
4. The Tribe shall implement the regional Commute Trips Reduction programs already in place in the Spokane Region, including employee trip reductions programs, employee shuttles and other similar means of achieving commute trip reduction.
5. In accordance within the State Gaming Compact (Part XIV, Section C; Appendix Spokane, Section 2, Appendix X, Section 12), the Spokane Tribe will provide for programs that benefit tribal and nontribal members through community investments and contributions to support transit service programs. This shall include fair share compensation to STA for costs associated with the provision of public transit to serve the Proposed Project. The fair share contribution would be based on the actual increase in ridership due to the Proposed Project, and associated STA costs, minus the increase in revenue generated from fares and sales tax.

6.8 LAND USE COMPATIBILITY

The following mitigation measures shall be implemented for the Preferred Alternative and would minimize potential land use compatibility issues with Fairchild AFB:

- H. The Tribe shall make a good faith effort to enter into a memorandum of understanding, or similar agreement, with the Fairchild AFB that addresses compatibility issues associated with potential issues that may be caused by AFB operations (noise, dust, fumes, etc.) on proposed land uses within the Site. In the event that an agreement cannot be negotiated, the Tribe may adopt a tribal ordinance as an alternative mechanism for implementation of equivalent mitigation commitments. The MOU, agreement and/or Tribal Ordinance shall contain the following acknowledgements and commitments:

In accordance with the recommended mitigation, the Tribal Council enacted Resolution 2012-146, dated February 29, 2012, in which the Tribe agreed to accept any inconveniences associated with Fairchild AFB operations during operation of the Proposed Project (Final EIS Appx. W). Furthermore, in 2013, the Tribal Council enacted the West Plains Development Code, which incorporates mitigation measures recommended in the Final EIS to ensure the Preferred Alternative’s consistency with Fairchild AFB operations, including restrictions and requirements regarding building heights, land density, sound attenuation, wildlife attractants, and light and

glare. The West Plains Development Code also requires the incorporation of any additional mitigation measures set forth in this ROD. Additionally, although the FAA No Hazard Determination allows for a building height of 140 feet on the Site, the Tribe has committed to limit the height of the hotel tower to 60 feet and has enacted Resolution 2014-189 (April 18, 2014) which confirms this commitment.

Additionally, in a letter dated February 3, 2015, the Principal Deputy Assistant Secretary of the USAF to the Assistant Secretary – Indian Affairs reiterated that the Proposed Project is outside the Fairchild AFB noise zones and accident potential zones and that the mitigation measures identified and agreed to by the Spokane Tribe in the Final EIS would protect the mission success of USAF operations at Fairchild AFB. The Department has fully addressed USAF's issues through the NEPA process and associated mitigation.

1. The Tribe shall acknowledge that the subject property is located in an area impacted by aircraft noise and that present and future aircraft noise may interfere with the unrestricted use and enjoyment of the subject property. The Tribe shall further acknowledge that aircraft noise may change over time by virtue of greater numbers of aircraft, louder aircraft, variations in airfield operations, and changes in airfield and air traffic control procedures.
 2. The Tribe shall discharge the Fairchild AFB from any liability for injuries to persons or damages to the Site by reason of noise, vibrations, odors, vapors, exhaust, smoke, dust or other effects that may be inherent in the operation of aircraft, caused or created by the flight or passage of aircraft in or through the airspace above the Site. Nothing in the agreement shall operate to preclude claims by the Tribe for any physical injuries or damages caused by aircraft crashing into or otherwise coming into direct physical contact with the Site or persons located thereon. Although the Site is located outside the geographic areas of highest accident potential for Fairchild AFB, and the development is considered compatible based on the Air Force Air Installation Compatible Use Zones program, any site located in close proximity to an airfield, such as this, has a greater chance of having an aircraft incident on the property than locations away from the airfield.
 3. The Tribe shall not request Fairchild AFB alter its flight activities in relation to the Site.
 4. The Tribe shall acknowledge that Fairchild AFB will not change current or future flight operations for current or future aircraft even if new aircraft are assigned to the installation or attempts to minimize noise impacts through sound attenuation mitigation measures are ineffective at avoiding complaints from patrons.
- I. The Tribe shall incorporate appropriate sound attenuation measures into the design and construction of all buildings within the Site, including the proposed hotel tower and casino. Refer to **Section 6.10**, Noise.
 - J. The Tribe shall implement measures to prevent the attraction of birds within the Site. As recommended by Fairchild AFB, measures will include, but are not limited to, the installation of a natural, man-made or vegetative cover/netting over the proposed bio-filtration swales, designing the swales so that they drain within 48 hours, designing

the swales to be narrow, and/or alternative mechanism to prevent open water within the Site. The Tribe will consult with Fairchild AFB during the design phase to ensure the new drainage features within the Site do not attract birds to the Site.

- K. The Tribe shall make information available to patrons and employees regarding the potential to see and hear military aircraft flying over the Site through the use of signs and/or information pamphlets. Should the Tribe enter into lease agreements for commercial/retail uses within the property, such agreements will acknowledge the potential for military aircraft operations in the Site vicinity.
- L. The Tribe will develop procedures for managing patron/retail manager concerns/complaints regarding military aircraft noise and will provide a copy of that process to Fairchild AFB.
- M. The Tribe shall continue to coordinate with USAF regarding the implementation of applicable mitigation measures specified within Sections 6.8, 6.9, 6.10, and 6.12 to ensure compatibility with Fairchild AFB operations, and facilitate appropriate monitoring and reporting of these measures, so as to determine if any modifications of these measures are necessary.

6.9 PUBLIC SERVICES

The following provisions of the IGA are applicable to the Preferred Alternative, and would avoid, minimize, or mitigate adverse effects associated with public services:

- A. The Tribe shall make payments to Airway Heights as specified within **Section 6.6** above, Socioeconomic Conditions, Mitigation Measures A and B. These payments are intended to compensate Airway Heights and/or the County for upgrades to facilities and any additional staffing as needed to serve development of the property, allowing Airway Heights to maintain public services at existing levels or better.
- B. The final design of the sewer and water system shall be in reasonable conformity with Chapters 13.06 and 13.04, respectively of the Airway Heights Municipal Code and Airway Heights Public Works Standards.
- C. Upon connection to Airway Heights sanitary and water systems, the Tribe shall pay the current water and sewer capital connection charge, as established by City Council Resolution and Ordinance. The Tribe shall additionally pay monthly service fees for water and sewer service based upon rates adopted annually by the City Council.

The following provisions of the MOA are applicable to the Preferred Alternative, and would avoid, minimize, or mitigate adverse effects associated with public services:

- D. The Tribe shall provide an adequate level of on-site security at the Site during all hours of operation.

- E. The Tribe shall use best efforts to assist Airway Heights in law enforcement matters and to detain individuals when requested by Airway Heights, to the extent allowable under applicable law.
- F. The Tribe shall meet with Airway Heights at least once a year to discuss ways to improve police services and prosecution of crimes associated with the Proposed Project.
- G. The Tribe shall have medical technicians on staff at the Site.
- H. The Tribe will provide medical and fire training to staff.
- I. The Tribe shall maintain standards no less stringent than any City or County ordinances and Washington State Law addressing fire safety, including applicable building code provisions.
- J. The Tribe will make a good faith effort to enter into mutual aid agreements with local municipal emergency responders, including Fairchild AFB.

The following provision of the Tribal-State Compact is applicable to the Preferred Alternative and would minimize and/or mitigate adverse effects associated with public services:

- K. In accordance with Item C-1 Section XIV, Public Health and Safety, of the Tribal-State Compact, the Tribe shall continue to contribute to an existing fund for purposes of providing assistance to non-tribal service agencies. This "Impact Mitigation Fund" shall provide fair share assistance to Fire District 10 – West Plains District or any other applicable public service agency to address excessive and/or unanticipated call volumes.

6.10 NOISE

The following BMPs shall be implemented during construction for the Preferred Alternative:

- A. Construction using heavy equipment shall not be conducted between 9:00 p.m. and 7:00 a.m.
- B. All engine-powered equipment shall be equipped with adequate mufflers. Haul trucks shall be operated in accordance with posted speed limits. Truck engine exhaust brake (a.k.a. "Jake Brake") use shall be limited to emergencies.
- C. Loud stationary construction equipment shall be located as far away from residential receptor areas as feasible.
- D. All diesel engine generator sets shall be provided with enclosures.
- E. The Tribe shall ensure through contractual obligations that contractors construct exterior walls and roof/ceiling assemblies on all buildings within the Site, including the hotel tower and casino, to achieve an interior noise level of 45 dB Ldn. For the proposed hotel under Alternatives 1 and 3, this shall be accomplished through the use of sound reduction

materials with a Sound Transmission Class (STC) rating of 39 and exterior doors and windows with a STC rating of 25 as recommended in the 2009 Fairchild JLUS and the 2005 Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations, U.S. Navy.

6.11 HAZARDOUS MATERIALS

The following construction BMPs shall be implemented for the Preferred Alternative and will minimize potential effects associated with hazardous materials:

- A. Personnel shall follow BMPs for filling and servicing construction equipment and vehicles. The BMPs, that are designed to reduce the potential for incidents involving the hazardous materials, shall include the following:
 - 1. To reduce the potential for accidental release, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment and shall not be stored on-site.
 - 2. Catch-pans shall be placed under equipment to catch potential spills during servicing.
 - 3. Refueling shall be conducted only with approved pumps, hoses, and nozzles.
 - 4. All disconnected hoses shall be placed in containers to collect residual fuel from the hose.
 - 5. Vehicle engines shall be shut down during refueling.
 - 6. No smoking, open flames, or welding shall be allowed in refueling or service areas.
 - 7. Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.
 - 8. Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.
 - 9. If a spill contaminates soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations.
 - 10. All containers used to store hazardous materials shall be inspected by the Tribe at least once per week for signs of leaking or failure. All maintenance, refueling, and storage areas shall be inspected monthly by the Tribe.
 - 11. Results of inspections shall be recorded in a logbook that shall be maintained on-site.
- B. If contaminated soil and/or groundwater is encountered during construction related earth-moving activities, all work shall be halted until a professional hazardous materials specialist or other qualified individual assesses the extent of contamination. If contamination is determined to be hazardous, representatives of the Tribe shall consult with the EPA to determine the appropriate course of action, including development of a Sampling and Remediation Plan if necessary. Any and all contaminated soils that are determined to be hazardous shall be disposed of in accordance with federal regulations.

6.12 AESTHETICS

The following BMPs shall be implemented by the Tribe for the Preferred Alternative and will minimize potential effects associated with lighting and views of the Site:

- A. Placement of lights on buildings shall be designed in accordance with Unified Facilities Criteria (UFC) 3-530-01, Interior, Exterior Lighting, and Controls so as not to cast light or glare offsite. No strobe lights, spotlights, or floodlights will be used within the Site. Any use of fireworks shall adhere to Chapter 15.12 of the Airway Heights Municipal Code.
- B. Shielding, such as with a horizontal shroud, shall be used in accordance with UFC 3-530-01 for all outdoor lighting so as to ensure it is downcast.
- C. In accordance with UFC 3-530-01, the Tribe shall limit lighting in the Tribal Cultural Center and commercial areas to regular business hours to reduce light-related impacts to nearby sensitive receptors.
- D. All exterior glass shall be non-reflective low-glare glass. The Tribe shall consult with Fairchild AFB to ensure that glare does not create an operational hazard for aircraft.
- E. Screening features and natural elements should be integrated into the landscaping design of the alternatives to screen the view of the facilities from existing residences directly adjacent to the Site.
- F. Comply with any applicable light and glare controls developed to protect the operational environment near the Fairchild AFB established prior to project construction, including UFC 3-530-01 and International Dark-skies Association (IDA) Model Lighting Ordinance criteria. The Site should meet the equivalent of the Department of Defense UFC and IDA ratings of Lighting Zone 1 as much as possible, while ensuring compliance with national and local code standards. The Tribe will consult with Fairchild AFB during the design phase to develop a lighting plan that is compatible with Fairchild AFB operations.

7.0 DECISION TO IMPLEMENT THE PREFERRED ALTERNATIVE

The Department has determined that it will implement the Preferred Alternative (Alternative 1). This decision has been made based upon the environmental impacts identified in the Final EIS and corresponding mitigation, a consideration of economic and technical factors, as well as the identified purpose and need for the Proposed Action. Of the alternatives evaluated in the EIS, Alternative 1 would provide the Tribe with the best opportunity for securing a viable means of attracting and maintaining a long-term, sustainable revenue stream for its tribal government. This would enable the Tribe to establish, fund, and maintain governmental programs that offer a wide range of health, education and welfare services to tribal members, as well as provide the Tribe, its members and local communities with greater opportunities for employment and economic growth. Accordingly, the Department will implement the Preferred Alternative subject to implementation of the mitigation measures identified in **Section 6.0** and **Attachment III** of this ROD.

7.1 THE PREFERRED ALTERNATIVE RESULTS IN SUBSTANTIAL BENEFICIAL EFFECTS

The Preferred Alternative is reasonably expected to result in beneficial effects for Spokane County, the City of Airway Heights, and the Tribe. Key beneficial effects include generation of:

- Government revenues for the Tribe that will allow the Tribe be self-sufficient and fund needed governmental programs for its members, including health care, education, social services, elder services, housing, public utilities, transportation facilities, cultural planning and preservation, and environmental protection.
- Construction costs of \$404.3 million, which is expected to generate a one-time total output of approximately \$301.9 million within Spokane County.
- Approximately 1,225 direct jobs over the entire construction period with a total payroll of \$66.6 million.
- Approximately 2,087 direct jobs with a total annual payroll of \$39.9 million.
- Approximately \$8.6 million in one-time federal tax revenues from construction, and \$6.6 million in one-time state, county, and local tax revenues. Operation of the Preferred Alternative would generate approximately \$6.3 million in annual federal tax revenues, and \$4.7 million in annual state, county, and local tax revenues from indirect and induced taxes.
- Substantial annual and one-time revenues to the City of Airway Heights and Spokane County through the IGA and MOA.
- Recurring revenues to the City of Airway Heights, Spokane County, and state and local agencies and bona fide nonprofits through the Tribal-State Gaming Compact.

7.2 ALTERNATIVE 2 RESTRICTS BENEFICIAL EFFECTS

Due to a lesser amount of new development, the effects on the natural and physical environment would be slightly less under the Reduced Casino and Mixed-Use Development Alternative (Alternative 2) than those created by the Preferred Alternative. However, Alternative 2 would generate substantially less revenue than the Preferred Alternative. As a result, Alternative 2 would materially restrict the Tribe's ability to meet its needs and to foster Tribal economic development, self-determination, and self-sufficiency. The BIA believes the reduced economic and related benefits of Alternative 2 make it a less viable operation in fulfilling the purpose and need for the Proposed Action. See Section 4.7.2 of the Final EIS. Accordingly, the BIA has selected the Preferred Alternative over Alternative 2.

7.3 ALTERNATIVE 3 SEVERELY RESTRICTS BENEFICIAL EFFECTS

The Non-Gaming Mixed-Use Development (Alternative 3) would have essentially the same construction footprint as the Preferred Alternative; therefore, Alternative 3 is reasonably expected to result in similar impacts to the natural and human environment. However, Alternative 3 does not include the operation of a casino and, therefore, would generate far less revenue than the Preferred Alternative. As a result, it would severely restrict the Tribe's ability to meet its needs and to foster tribal economic development, self-determination, and self-sufficiency. The BIA believes the reduced economic and related benefits of Alternative 3 make it a less viable operation in fulfilling the purpose and need for the Proposed Action. See Section 4.7.3 of the Final EIS. Accordingly, the BIA has selected the Preferred Alternative over Alternative 3.

7.4 ALTERNATIVE 4 FAILS TO MEET PURPOSE AND NEED OF PROPOSED ACTION

The No-Action/No-Development Alternative (Alternative 4) would not meet the purpose and need for the Proposed Action. Specifically, Alternative 4 would not provide the Tribe with any additional source of income to allow the Tribe to achieve self-sufficiency, self-determination, and a strong tribal government. Additionally, Alternative 4 would result in substantially less economic benefits to the surrounding communities than the development alternatives. Accordingly, the BIA has selected the Preferred Alternative over Alternative 4.

8.0 SIGNATURE

By my signature, I indicate my decision to issue a Secretarial Determination pursuant to 25 U.S.C. § 2719(b)(1)(A), finding that the Preferred Alternative would: 1) be in the best interest of the Tribal government and its members; and 2) would not be detrimental to the surrounding community.



Kevin K. Washburn
Assistant Secretary – Indian Affairs

6/15/2015
Date