



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 09 2022

The Honorable Bernadine Burnette
President, Fort McDowell Yavapai Nation
P.O. Box 17779
Fountain Hills, Arizona 85269

Dear President Burnette:

On May 5, 2022, the Fort McDowell Yavapai Nation, Arizona (Tribe) and the State of Arizona (State) submitted to the Department of the Interior (Department) the Agreement to Amend Compact between the Fort McDowell Yavapai Nation, Arizona and the State of Arizona (2022 Amendment), providing for the regulation of class III gaming activities on the Tribe's Indian lands.

Again, I commend the Tribe, the State, and the other Arizona Tribes for engaging in good-faith negotiations to arrive at a resolution of differing interpretations of certain definitions and provisions of the 2021 Compact. The 2022 Amendment also reflects a negotiated settlement of the Yavapai-Prescott Indian Tribe's state law litigation challenging the 2021 Compact and incorporates changes necessary for the Yavapai-Prescott Indian Tribe to join the 2021 Compact, as amended. I continue to be impressed with the collective action of the Tribes who worked together to solidify and strengthen tribal gaming in Arizona.

We completed our review of the 2022 Amendment and conclude that it does not violate the Indian Gaming Regulatory Act, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligations of the United States to Indians. 25 U.S.C. § 2710(d)(8)(B). Therefore, pursuant to my delegated authority and Section 11 of IGRA, I approve the 2022 Amendment. 25 U.S.C. § 2710(d)(8)(A). The 2022 Amendment takes effect when the notice of this approval is published in the Federal Register. 25 U.S.C. § 2710(d)(3)(B).

A similar letter is being sent to the Honorable Doug Ducey, Governor of Arizona.

Sincerely,

Bryan Newland
Assistant Secretary - Indian Affairs

Enclosure

AGREEMENT TO AMEND COMPACT
BETWEEN THE FORT MCDOWELL YAVAPAI NATION
AND THE STATE OF ARIZONA

Consistent with the Amended and Restated Gaming Compact executed in 2021 (the "Compact") and Title 5, Chapter 6 of the Arizona Revised Statutes, the Fort McDowell Yavapai Nation (the "Tribe") and the State of Arizona (the "State") hereby enter into the following Agreement to Amend Compact (the "Agreement") this 2nd day of May, 2022.

DECLARATION OF POLICY AND PURPOSE

WHEREAS, the Tribe and the State are separate sovereigns, and each recognizes and respects the laws and authority of the other sovereign; and

WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§2701-2721 and 18 U.S.C. §§ 1166-1168 (the "Act") which requires a tribal-state compact negotiated between a tribe and a state in order to conduct Class III Gaming Activities on the Indian Lands of a tribe; and

WHEREAS, the Tribe and the State have entered into a tribal-state gaming compact pursuant to the Act and consistent with the provisions of Title 5, Chapter 6 of the Arizona Revised Statutes known as "The Fort McDowell Yavapai Nation - State of Arizona Amended and Restated Gaming Compact"; and

WHEREAS, the Tribe and the State desire once again to amend certain provisions of the Compact pursuant to Section 17 of the Compact;

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Tribe and the State agree as follows:

AGREEMENT

1. The Tribe and the State agree to amend the following listed, and attached, provisions of the Compact:

- (A) Section 2(bb) – Definition of Definition of "Delayed Gaming Facility" (Attachment 1)
- (B) Section 2(ss) – Definition of "Gaming Operation" (Attachment 2);
- (C) Section 2(kkk) – Definition of "Off-Reservation Event Wagering" (Attachment 3);
- (D) Section 2(iiii) – (Definition of "On-Reservation Event Wagering" Attachment 4);
- (E) Section 2(jjjj) – Definition of "Fantasy Sports Contests" (Attachment 5);
- (F) Section 3(a) – Authorized Class III Gaming Activity as of the Effective Date (Attachment 6);
- (G) Section 3(c)(1)(C) – Other Gaming Devices (Attachment 7);
- (H) Sections 3(c)(3)(A) – Number of Gaming Facilities (Attachment 8);
- (I) Section 3(c)(4)(A)(xiii) – The Maximum Devices Per Gaming Facility (Attachment 9)
- (J) Section 3(g)(6) – Exceptions (Attachment 10)
- (K) Section 3(j) – Location of Gaming Facility (Attachment 11);

- (L) Section 6(b) – Gaming Facility Operator (Attachment 12); and
- (M) Gaming Facility Annex (Attachment 13).

2. The deletions to Compact language agreed upon by the Tribe and the State by operation of this document are shown in the thirteen (13) attached Compact provisions referenced in paragraph one (1) of this Agreement (which are incorporated herein by this reference) with a strikeout.

3. The additions to Compact language agreed upon by the Tribe and the State by operation of this document are shown in the thirteen (13) attached Compact provisions referenced in paragraph one (1) of this Agreement by being placed in bold typeface and underlined.

4. This Agreement contains the entire agreement of the parties with respect to the matters covered by this Agreement and no other statement, agreement, or promise made by any party, officer, or agent of any party shall be valid or binding. The Tribe and the State do not agree, or intend, to amend any provisions of the Compact other than as specifically shown in the thirteen (13) attachments to this Agreement, and the Compact, to include the newly amended provisions, shall remain in full force and effect following the date this Agreement becomes effective.

5. Each of the undersigned represents that he or she is duly authorized and has the authority to execute this agreement on behalf of the party for whom he or she is signing and that this Agreement is a contractual agreement which is valid, enforceable and binding upon the parties.

6. This Agreement shall be governed by and construed in accordance with the applicable laws of the United States, and the Tribe and the State.

7. This Agreement shall become effective once it has been fully executed on behalf of both the Tribe and the State, it is approved by the Secretary of the Interior, or deemed approved, and notice of the Secretary of the Interior's approval, or deemed approval, is published in the Federal Register pursuant to the Act.


8. This Agreement is executed in three original documents; one shall be maintained by the President of the Tribe, one shall be maintained by the Governor of the State and the third shall be sent to the Secretary of the Interior for approval.

9. The Tribe and the State have agreed to use the particular language in this Agreement, and no ambiguity in this Agreement shall be construed against either party. Terms in this Agreement that are not defined shall have the meaning given to them in the Compact.

10. This Agreement may be amended and modified only in writing in a document signed by the Tribe and the State.

11. Each provision of this Agreement, and each Compact amendment effectuated by this Agreement, shall stand separate and independent of every other. If a court of competent jurisdiction finds any provision of this Agreement, or any Compact amendment effectuated by this Agreement, to be invalid or unenforceable, it is the intent of the parties that the remaining provisions and amendments shall remain in full force and effect to the extent possible.

12. If a dispute arises under this Agreement, the Tribe and the State shall use the dispute resolution provisions in Section 15 of the Compact.

By: 
Bernadine Burnette, President
Fort McDowell Yavapai Nation


DATE: 3/15/2022

By: 
Douglas Ducey, Governor
State of Arizona

DATE: 05/02/2022

ATTESTED TO:

ARIZONA SECRETARY OF STATE

By: 
Katie Hobbs
Arizona Secretary of State

DATE: 05/02/2022

APPROVED:

SECRETARY OF THE INTERIOR

By: 
Bryan Newland
Assistant Secretary - Indian Affairs

DATE: JUN 09 2022

ATTACHMENT 1
Agreement to Amend Compact

Section 2 (bb) “Delayed Gaming Facility” means a Gaming Facility that the Tribe is authorized to operate only after satisfying the conditions set forth in Section 3(c)(3)(A)(iv), (v), (vi), (vii), ~~or~~ **(viii), or (ix).**

ATTACHMENT 2
Agreement to Amend Compact

Section 2 (ss) "Gaming Operation" means any Gaming Activity conducted ~~within any Gaming Facilities~~ **by the Gaming Facility Operator.**

ATTACHMENT 3
Agreement to Amend Compact

Section 2(kkk) “Off-Reservation Event Wagering” means event wagering activities that are limited solely and exclusively to the activities as authorized in the 2021 Gaming Act (including the operation of such activities through the internet on personal electronic devices such as smart phones and tablets) and no other activities. For purposes of this definition, Off-Reservation Event Wagering is strictly limited solely and exclusively to the scope, nature and location of the activities as provided in the 2021 Gaming Act. **To qualify as Off-Reservation Event Wagering for purposes of this definition, activities shall not present the player with a user interface depicting spinning reels or games authorized to the tribes pursuant to the 2021 Compact; provided that event wagers placed on the final outcomes of live in-person poker tournaments played by living individuals located in the same physical room, such as a poker room, shall qualify as Off-Reservation Event Wagering.**

ATTACHMENT 4
Agreement to Amend Compact

Section 2(iiii) **“On-Reservation Event Wagering” means event wagering activities in which wagers are placed either in person in a Gaming Facility or outside of a Gaming Facility (including the operation of such activities through the internet on personal electronic devices such as smart phones and tablets) by a person located on the Tribe’s Indian Lands.**

ATTACHMENT 5
Agreement to Amend Compact

Section 2(jjjj) **“Fantasy Sports Contests” has the same meaning as in the 2021 Gaming Act (including the operation of such activities through the internet on personal electronic devices such as smart phones and tablets) by a person located on the Tribe’s Indian Lands.**

ATTACHMENT 6
Agreement to Amend Compact

Section 3(a)

- (a) Authorized Class III Gaming Activity as of Effective Date.
- (1) Subject to the terms and conditions of this Compact, the Tribe is authorized to operate the following Gaming Activity: (1) Class III Gaming Devices, (2) blackjack, (3) jackpot poker (including promotional award poker and house banked poker), (4) keno, (5) lottery, (6) off-track pari-mutuel wagering, (7) pari-mutuel wagering on horse racing, (8) baccarat, (9) roulette, (10) craps, (11) sic bo, (12) pai gow, (13) dealer controlled electronic table games, (14) ~~event wagering~~ **On-Reservation Event Wagering**, (15) ~~fantasy sports contests~~ **Fantasy Sports Contests**, and (16) other Gaming Activity pursuant to Section 3(a)(2).
 - (2) Pursuant to procedures in Section 3(b)(3), the Tribe may propose that any additional Gaming Activity be authorized pursuant to this Compact.

ATTACHMENT 7
Agreement to Amend Compact

Section 3(c)(1)(C)

- (C) Other Gaming Devices. A Gaming Device used solely in the play of keno, **On - Reservation Event Wagering** ~~event wagering~~, **Fantasy Sports Contests** ~~fantasy sports wagering~~, pari-mutuel wagering, or other Gaming Activity in compliance with an applicable appendix, other than Appendix A, or through Section 3(b)(1), does not require the use of a Gaming Device Operating Right from the Tribe's allocation in Section 3(c)(1).

ATTACHMENT 8
Agreement to Amend Compact

Section 3(c)(3)(A) Number of Gaming Facilities. **With the exception of On-Reservation Event Wagering and Fantasy Sports Contests which allow participation by a player outside of a Gaming Facility on the Tribe's Indian lands, the** The Tribe may operate Class III Gaming only in the number of Gaming Facilities specified in Gaming Facilities Annex for the Tribe; provided, however, notwithstanding the number of Gaming Facilities specified on Gaming Facilities Annex, if the Tribe is:

(i) Tohono O'odham Nation, the Tribe shall not operate more than two Gaming Facilities in the Phoenix Metropolitan Area, which shall be subject to the geographical location restrictions in Section 3(j)(3)(A).

(ii) Salt River Pima-Maricopa Indian Community, the Tribe shall not operate more than two Gaming Facilities until Fort McDowell Yavapai Nation has consented in writing to the Tribe's operation of the Tribe's third Gaming Facility.

(iii) Gila River Indian Community, the Tribe shall not operate more than four Gaming Facilities in the Phoenix Metropolitan Area, which shall be subject to the geographical restrictions in Section 3(j)(3)(C).

(iv) Fort McDowell Yavapai Nation, the Tribe shall not operate more than one Gaming Facility until: (a) the tenth anniversary of the Effective Date shall have occurred; and (b) Salt River Pima-Maricopa Indian Community has consented in writing to the Tribe's operation of the Tribe's second Gaming Facility.

(v) Ak-Chin Indian Community, the Tribe shall not operate more than one Gaming Facility until the tenth anniversary of the Effective Date shall have occurred.

(vi) Yavapai-Apache Nation, the Tribe shall not operate more than one Gaming Facility until the fifth anniversary of the Effective Date shall have occurred.

(vii) San Carlos Apache Tribe, the Tribe shall not operate more than two Gaming Facilities until the fifth anniversary of the Effective Date shall have occurred.

(viii) White Mountain Apache Tribe or Fort Mojave Indian Tribe, the Tribe shall not operate more than two Gaming Facilities until the tenth anniversary of the Effective Date shall have occurred.

(ix) Yavapai-Prescott Indian Tribe, the Tribe shall not operate more than two Gaming Facilities before May 24, 2031.

ATTACHMENT 9
Agreement to Amend Compact

Section 3(c)(4)(A)(xiii) If the Tribe is the Yavapai-Prescott Tribe,

(a) the Maximum Devices Per Gaming Facility in each of the Tribe's Existing Gaming Facilities is 1,400 Gaming Devices as of the Effective Date; **and**

(b) the Maximum Devices Per Gaming Facility in the Tribe's Delayed Gaming Facility (i.e., other than the Tribe's two Existing Gaming Facilities) is 300 Gaming Devices as of the date such Gaming Facility begins operations.

ATTACHMENT 10
Agreement to Amend Compact

Section 3(g)(6)

- (6) Exceptions. The provisions of Section 3(g) shall not be triggered by: (a) the automatic periodic increases in (i) the Current Gaming Device Allocation, Additional Gaming Devices and New Gaming Device Allocation provided in Section 3(c)(1)(B); (ii) the Maximum Devices Per Gaming Facility provided in Section 3(c)(4)(B); or (iii) the number of authorized Card Game Tables and other games provided in Section 3(e)(3); (b) the increase in the number of Additional Gaming Devices and New Gaming Device Allocation pursuant to Section 3(c)(1)(A)(ii); or (c) **On-Reservation Event Wagering or Fantasy Sports Contests authorized in Section 3(a)(1); or (d)** the triggering of any of the remedies set forth in Sections 3(g) and 3(h) of the 2003 Compact of any Continuing 2003 Compact Tribe; provided that if a Continuing 2003 Compact Tribe that is entitled to any of the remedies set forth in Sections 3(g) and 3(h) of the 2003 Compact has any fee or trust land within the exterior boundaries of the Navajo reservation, and the Tribe is the Navajo Nation, San Juan Southern Paiute Tribe, or Yavapai Apache Nation, then, without the need to amend this Compact:
- (A) the number of Gaming Facilities authorized for the Tribe in the Gaming Facilities Annex shall automatically increase by one (1), and the New Gaming Device Allocation set forth in Column Three of the Gaming Device Annex for the Tribe shall increase by five hundred (500);
- (B) if a Continuing 2003 Compact Tribe actually operates, or discloses a development plan to operate, in northern Arizona more Gaming Devices, Gaming Facilities, or Gaming Devices Per Gaming Facility than the number authorized for that Continuing 2003 Compact Tribe under the 2003 Compact, then the Tribe shall automatically be authorized to operate an equal number of increased Gaming Devices, Gaming Facilities, and Gaming Devices Per Gaming Facility as the number the Continuing 2003 Compact Tribe operates or plans to operate;
- (C) if a Continuing 2003 Compact Tribe actually operates, or discloses a development plan to operate, in northern Arizona more Card Game Tables, different or higher-limit wagers, or different types of games than the Tribe is authorized to operate under this Compact, then the Tribe shall automatically be authorized to operate an equal number of Card Game Tables, the same types and limits of wagers, and the same types of games as the Continuing 2003 Compact Tribe operates or plans to operate; and

- (D) such entitlements by Navajo Nation, San Juan Southern Paiute Tribe and/or Yavapai Apache Nation shall not trigger the provisions of this Section 3(g) as to any other tribe.

For the purpose of this Section 3(g)(6): (y) disclosure of “a development plan to operate” shall include information disclosed by the Continuing 2003 Compact Tribe to any federal, state, local, or tribal government in connection with the development of a gaming project; and (z) the term “northern Arizona” shall be construed to be consistent with the same term in the Navajo-Hopi Land Dispute Settlement Act of 1996, PL 104-301 (Oct. 11, 1996).

ATTACHMENT 11
Agreement to Amend Compact

Section 3(j) Location of Gaming Facility.

(1) All Gaming Facilities shall be located on the Indian Lands of the Tribe. All Gaming Facilities of the Tribe shall be located not less than one and one-half (1½) miles apart unless the configuration of the Indian Lands of the Tribe makes this requirement impracticable. The Tribe shall notify the State Gaming Agency of the physical location of any Gaming Facility a minimum of thirty (30) days prior to commencing Gaming Activity at such location. Gaming Activity on lands acquired after the enactment of the Act on October 17, 1988 shall be authorized in accordance with 25 U.S.C. § 2719, subject to the qualifications set forth in Section 3(j)(3)-(7).

(2) Notice to surrounding communities. The Tribe shall notify surrounding communities regarding new or substantial modifications to Gaming Facilities and shall develop procedures for consultation with surrounding communities regarding new or substantial modifications to Gaming Facilities.

(3) Phoenix Metropolitan Area. If the Tribe is not the Ak-Chin Indian Community, Fort McDowell Yavapai Nation, Gila River Indian Community, Salt River Indian Community, or the Tohono O'odham Nation, the Tribe shall not conduct Gaming Activity in the Phoenix Metropolitan Area. All Gaming Facilities within the Phoenix Metropolitan Area shall be located on Indian Lands held in trust for the benefit of the Tribe on February 5, 2003; provided that:

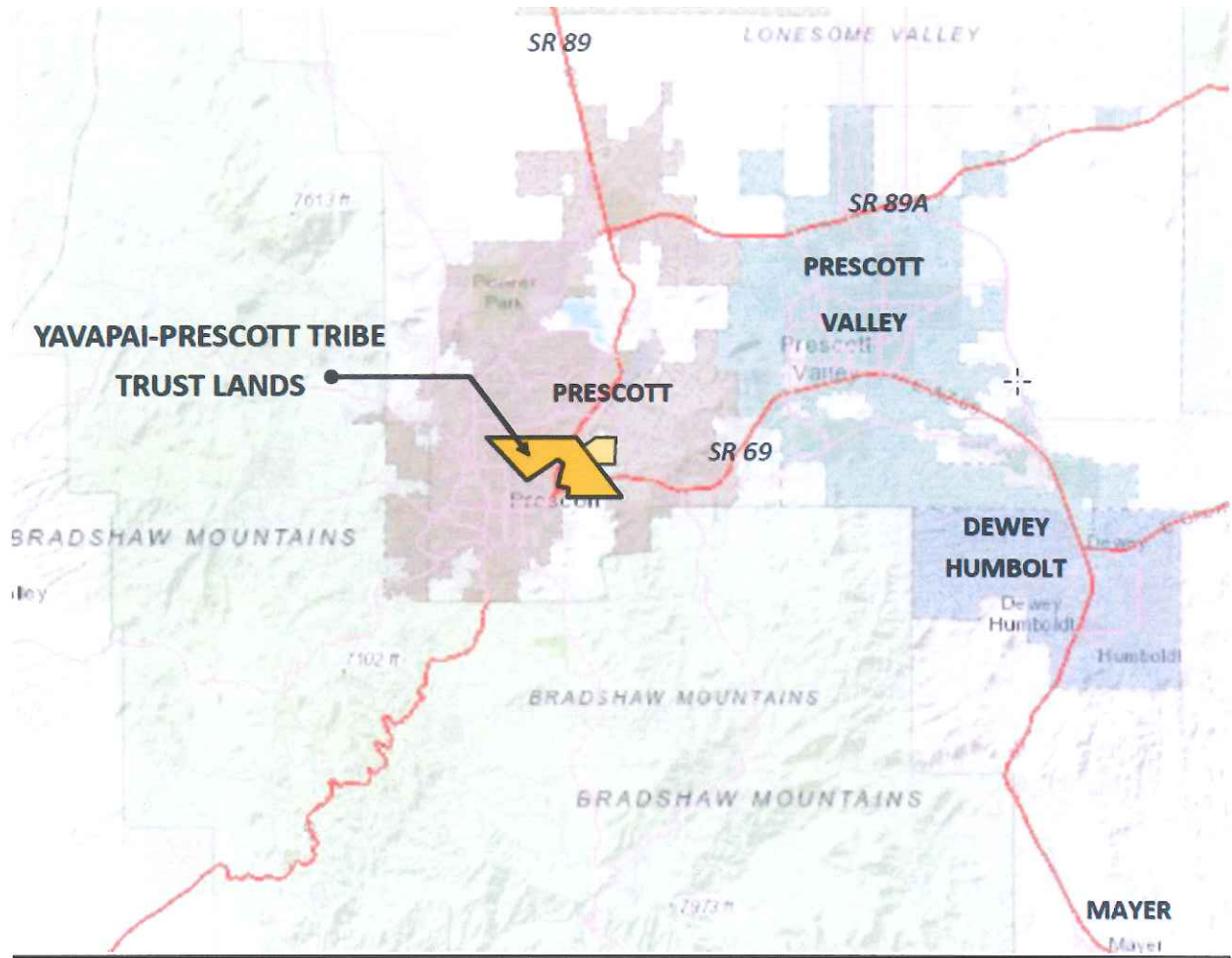
- (A) If the Tribe is the Tohono O'odham Nation, the Tribe shall not engage in, or authorize any person or entity to engage in, any Gaming Activity within the Phoenix Metropolitan Area except on the West Valley Trust Land and the Far West Valley Trust Land, and provided that the Tribe shall be authorized to operate: (i) a maximum of one (1) Gaming Facility allocated to it under this Compact on the West Valley Trust Land; and (ii) a maximum of one (1) Gaming Facility allocated to it under this Compact on the Far West Valley Trust Land.
- (B) If the Tribe is the Ak-Chin Indian Community, the Tribe may operate: (i) a maximum of one (1) Gaming Facility allocated to it under this Compact on its Indian Lands held in trust on February 5, 2003; and (ii) a maximum of one (1) Gaming Facility allocated to it under this Compact on its Indian Lands acquired in trust by the United States after the Effective Date of this Compact for the Tribe's benefit as an acquisition of land contiguous to its existing reservation boundaries pursuant to 25 U.S.C. §2719(a)(1) that is within the original boundaries of Ak-Chin Indian Community reservation as described in Executive Order No. 1538 of President William Howard Taft, dated March 28, 1912.
- (C) If the Tribe is the Gila River Indian Community, the Tribe's Gaming Facilities shall be located within the Phoenix Metropolitan Area on Indian Lands held in trust for the Tribe on February 5, 2003 that are east of longitude 112 degrees 10 minutes 9 seconds West.

(4) If the Tribe is the Pascua Yaqui Tribe, the Tribe's Gaming Facilities shall be located on the Tribe's Indian Lands in accordance with Section 3(j)(1); provided that Tribe may operate a maximum of one (1) Gaming Facility allocated to it under this Compact as the Pascua Yaqui Third Facility.

(5) If the Tribe is the Yavapai-Apache Nation, the Tribe's Gaming Facilities shall be located on the Tribe's Indian Lands in accordance with Section 3(j)(1); provided that the Tribe may operate a maximum of one (1) Gaming Facility allocated to it under this Compact on its Indian Lands acquired in trust by the United States after the Effective Date that are contiguous to lands held in trust as of the Effective Date.

(6) If the Tribe is the Navajo Nation, the Tribe's Gaming Facilities shall be located on the Tribe's Indian Lands in accordance with Section 3(j)(1); provided that the Tribe will give notice to and consult with the State prior to construction of any Gaming Facility on lands acquired pursuant to the Tribe's rights under 25 U.S.C. §§ 2719(a)(1) or 2719(b)(1)(B)(i), and any such lands acquired pursuant to the Tribe's 1974 settlement of a land claim, codified at 25 U.S.C. § 640d et seq., shall be within eighteen (18) miles of the then-present boundary of Tribe's reservation, as set forth in 25 U.S.C. § 640d-10(b).

(7) If the Tribe is the Yavapai-Prescott Indian Tribe, the Tribe's Existing Gaming Facilities shall be located on the Tribe's Indian Lands as of the Effective Date in accordance with Section 3(j)(1); provided that the Tribe may open and operate a maximum of one (1) Delayed Gaming Facility allocated to it under this Compact on its Indian Lands, including Indian Lands acquired in trust by the United States after the Effective Date that are contiguous to lands held in trust as of the Effective Date and as depicted in the land map depicted below. Nothing in this provision or in this Compact (i) permits the Yavapai-Prescott Indian Tribe to relocate its Existing Gaming Facilities to any Delayed Gaming Facility site on Indian Lands acquired in trust by the United States after the Effective Date; or (ii) prohibits the Yavapai-Prescott Indian Tribe from relocating either of its Existing Gaming Facilities to other sites located on Indian lands held in trust as of the Effective Date.



ATTACHMENT 12
Agreement to Amend Compact

Section 6(b)

Gaming Facility Operator. The Tribe shall require the Gaming Facility Operator to have the responsibility for the on site operation, management, and security of the Gaming Facility **and all Gaming Activity.** The Gaming Facility Operator shall establish, maintain, and adhere to a written security plan which meets the requirements of Appendix C to this Compact. The Tribe shall require the Gaming Facility Operator to adopt reasonable procedures designed to provide for the following:

- (1) The physical safety of its employees.
- (2) The physical safety of patrons in the Gaming Facility.
- (3) The physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage department.
- (4) The protection of the patrons' property and the Gaming Operation's property from illegal activity.

ATTACHMENT 13
Agreement to Amend Compact

Gaming Facilities Annex
Number of Gaming Facilities

<u>TRIBE:</u>	<u>NUMBER OF GAMING FACILITIES</u>
Cocopah Indian Tribe	2
Ft. Mojave Indian Tribe	3
Quechan Tribe	2
Tonto Apache Tribe	1
Yavapai-Apache Nation	2
Yavapai-Prescott Tribe	23
Colorado River Indian Tribes	2
San Carlos Apache Tribe	3
White Mountain Apache Tribe	3
Ak-Chin Indian Community	2
Fort McDowell Yavapai Nation	2
Salt River Pima-Maricopa Indian Community	3
Gila River Indian Community	4
Pascua Yaqui Tribe	3
Tohono O'odham Nation	4
Navajo Nation	4
Havasupai Tribe	2
Hualapai Tribe	2
Kaibab-Paiute Tribe	2
San Juan Southern Paiute Tribe	2
Zuni Tribe	2
Hopi Tribe	3