

## **Proposed Resolution of Cayuga Nation's Pending and Future Trust Applications**

### **I. Overriding Considerations:**

- Win-win for the Counties and Cayuga Nation;
- Counties must be held harmless – should be economic incentive;
- Must be a permanent cap on the amount of sovereign land held by the Nation – need finality, i.e. no future trust applications;
- Must avoid excessive checker-boarding – lands should be contiguous;
- No gaming in Counties without County agreement;
- Agreement must be enforceable – need Congressional disestablishment of Cayuga reservation, appropriate waivers of sovereign immunity and federal and state legislation approving and implementing proposal.

### **II. Material Terms of Proposal:**

#### **(A) Elimination of Nation's Reservation:**

- The Nation's 64,000 acre original reservation will be congressionally disestablished. This does away with the issue of whether the Nation has sovereign rights on land it owns in the claim area that is not designated as sovereign by this compromise.

#### **(B) No gaming in Cayuga and Seneca counties:**

- The Nation may not have gaming facilities in the counties, including Class II gaming, without county approval – each county can veto gaming if they choose;
- Nation will have a Class III gaming facility in New York at a location to be determined, possibly the Catskills.

#### **(C) The Nation will agree to a permanent cap on sovereign lands in the counties:**

- The Nation may designate no more than 10,000 acres of land it owns in the original claim area, via purchases from willing sellers, as restricted-fee, up to two-thirds of it to be located in Cayuga County and one-third located in Seneca County;
- Nation may not designate lands as restricted fee until casino is operational (assures counties that they will be compensated promptly when lands are removed from tax rolls);
- Restricted-fee lands must be located in claim area (limits location unlike trust applications);

- Restricted-fee lands will be comprised of no more than 3 assemblages of contiguous land in each county (no checker-boarding of lands);
- No more than 20% of any municipality may be designated as restricted-fee (smaller municipalities will not be engulfed as could happen with trust applications);
- Restricted-fee designation will not extinguish existing easements and rights-of way (assures uninterrupted service from utilities, etc. unlike trust lands);
- Importantly, as discussed below, the more land designated restricted-fee by the Nation, the greater payments it must make to the counties. This creates a disincentive for the Nation to designate lands as restricted-fee and an incentive to the counties when such lands are designated.

**(D) Cayuga and Seneca counties will be more than held harmless by receiving a share of the Nation’s revenue from a Class III gaming facility:**

- The counties will receive annually approximately \$15.26 million from revenue sharing. Approximately \$12.8 million (\$7.74 million to Cayuga Co. and \$5.1 million to Seneca Co.) will be paid regardless of the amount of land actually designated as restricted-fee by the Nation and an additional up to \$2.46 million will be paid based on the amount of land actually designated as restricted fee to the county where the land is located:
  - Based on projected \$492 million net drop from Class III gaming facility in the Catskills;
  - Nation pays counties 1% of net drop (approximate \$4.92 million) annually – split evenly by counties;
  - State pays counties 1% of net drop (approximate \$4.92 million) annually – two-thirds to Cayuga Co. and one-third to Seneca Co.;
  - Nation pays counties an additional \$3 million annually which is not based on net drop – two-thirds to Cayuga Co. and one-third to Seneca Co.;
  - Nation also pays up to an additional approximate \$2.46 million from revenue sharing based proportionately on the amount of land actually designated as restricted-fee. This is based on .5% of annual net drop from casino. It will be paid to county where restricted-fee land is located. This creates a disincentive for Nation to designate lands as restricted-fee;
- The stated purpose of these payments is to hold the counties harmless by offsetting any tax losses (real property and sales tax) when land is designated restricted fee by Nation. In reality, the payments far exceed any tax losses. They are a windfall.

**(E) Local Municipalities will also be held harmless by receiving a share of the Nation's revenue from a Class III gaming facility:**

- When land is designated restricted fee, the local municipality where the land is located will receive direct annual payments from the State;
- This payment of .25% of the annual net drop from the casino, or up to \$1.23 million, will be paid proportionately on the amount of land actually designated restricted fee;
- This payment to the local municipalities will be in addition to any payments made by the County from the payments they receive from the State and Nation;
- The Nation will also enter into municipal service agreements with local municipalities for the provision of police, fire and other municipal service to restricted-fee lands. These agreements will also offset lost tax revenue to local municipalities.

**(F) Nation will pay taxes on any other lands:**

- Other than those lands designated as restricted-fee pursuant to the proposal, any lands possessed by the Nation in the counties will be held in fee and subject to local and state laws and regulations, including taxation.

**(G) Nation will comply with federal environmental laws and state codes:**

- The Nation will comply with all federal environmental laws;
- The Nation will adopt building and fire protection codes no less rigorous than the NYS Uniform Building and Fire Protection Code. A mechanism will be in place to allow counties to ensure compliance with the code.

**(H) Agreement will be enforceable:**

- The Nation will expressly waive sovereign immunity from suit with respect to any action to enforce terms of agreement, and federal and state legislation will be passed that approves of and implements the terms of the proposal.

**(I) Seneca-Cayuga Tribe of Oklahoma will be prohibited by Congress from holding any sovereign lands in New York:**

- Congress will prohibit the Secretary of the Interior from taking lands in trust, restricted-fee, or any other designation that would make the lands Indian Country, for the benefit of the Seneca-Cayuga Tribe of Oklahoma.