

Memorandum of Understanding
between the
County of St. Lawrence,
the
Saint Regis Mohawk Tribe
and the
State of New York

Whereas, the Saint Regis Mohawk Tribe, Mohawk Council of Akwesasne and Mohawk Nation Council of Chiefs (collectively, the Mohawk) have asserted claims for possession of lands within the Counties of Franklin and St. Lawrence in the State of New York, and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof; and

Whereas, such litigation, *The Canadian St. Regis Band of Mohawk Indians v. New York et al.* (82-CV-783); *The Canadian St. Regis Band of Mohawk Indians v. New York et al.* (82-CV-1114); and *The St. Regis Mohawk Tribe, by the St. Regis Mohawk Tribal Council and the People of the Longhouse at Akwesasne, by Mohawk Nation Council of Chiefs v. The State of New York, et al.* (89-CV-829), remains pending before the United States District Court for the Northern District of New York after over thirty years; and

Whereas, the State of New York, the Counties of Franklin and St. Lawrence, various municipalities of those Counties, and the New York Power Authority and other non-governmental entities with interests in the land at issue are defendants in such litigation; and

Whereas, continued disagreements and endless litigation have fostered distrust between the land claim defendants and the Mohawk related to jurisdictional, taxation and regulatory issues arising from the underlying land claims; and

Whereas, despite the holding of the Supreme Court of the United States in *City of Sherrill v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005), the parties continue to engage in costly and time-consuming elements of litigation; and

Whereas, ultimate judicial resolution of the litigation remains elusive and recent judicial rulings make clear that no party should expect complete and total victory; and

Whereas, there is a recognition that any final resolution of pending disputes through a process of litigation would: take many additional years and entail great expense to all parties; continue economically and socially-damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of land in question; and seriously impair long-term economic planning and development for all parties; and

Whereas, the parties recognize that a negotiated settlement has the potential to swiftly and permanently resolve these disputes and wish to use the 2005 Settlement Agreement, to the extent practicable, as the framework for a new, revised Settlement Agreement; and

Therefore, the Chairman of the St. Lawrence County Board of Legislators and Governor of the State of New York do hereby enter into this Memorandum of Understanding endorsing a negotiated settlement agreement that requires:

1. The Saint Regis Mohawk Tribe (Tribe) to immediately release to the State of New York (State), upon the effective date of the negotiated Settlement

Agreement, the remaining balance of gaming revenues withheld in prior years, and requires the State to distribute those funds under the existing formula, resulting in an immediate payment of approximately \$1.875 million to St. Lawrence County and \$937,500 each to the Towns of Brasher and Massena (collectively, the Towns);

2. Upon the effective date of the negotiated Settlement Agreement, the Tribe to make an immediate, one-time payment of an additional \$1.5 million to St. Lawrence County;
3. The Tribe to continue to make revenue sharing payments required by the Tribal-State Compact between the Saint Regis Mohawk Tribe and the State of New York and, from those funds, the State to make the following distributions:
 - a. Twenty-five percent of those funds to St. Lawrence and Franklin Counties, in accordance with existing statute, resulting in an estimated annual payment of \$1.45 million to St. Lawrence County and \$725,000 each to the Towns of Brasher and Massena;
 - b. An immediate, one-time payment of an additional \$2 million to St. Lawrence County for its unrestricted use;
 - c. An additional annual payment of \$4 million to St. Lawrence County for its unrestricted use; and
 - d. Payments to St. Lawrence County and respective towns sufficient to hold them harmless from the loss of future property and school taxes for parcels that become part of the Reservation;

4. Acquisitions of land by the Tribe that will be designated as Reservation land to be limited to properties owned by the Tribe, purchased from willing sellers or acquired by voluntary transfer, and located within the defined areas of approximately 3,440 acres in the Town of Brasher, and approximately 1,360 acres in the Town of Massena, designated as areas "C" and "D" on maps reviewed by the County;
5. The Tribe to provide basic governmental services to all properties that become part of the Reservation either directly or through appropriate service agreements under the auspices of the State;
6. The Tribe to adopt and enforce ordinances or codes that meet or exceed federal environmental standards and International Building Codes, and land use and zoning codes that meet or exceed the municipal land use and zoning codes in the respective towns to govern all properties that become part of its Reservation, and the Tribe to implement an expedited process to resolve disputes concerning the sufficiency and enforcement of such ordinances and codes;
7. Lands inside areas "C" and "D" owned or acquired by the Tribe or individual enrolled Mohawks that do not become part of the Reservation, and all such lands within St. Lawrence County outside areas "C" and "D," to remain subject to Federal, State and local laws, regulation and taxation;
8. A continued right of public access to any cultural, religious or public facilities that may become land-locked by parcels that become part of the Reservation;
9. The continuation of existing private, utility, railroad and highway easements and rights-of-way;

10. The establishment of a dispute resolution process that clearly specifies procedures for raising and addressing disputes between the parties, with the State being an active party in resolving disputes that are not settled through initial discussions between the Tribe and the effected localities;
11. The Tribe to expressly waive its sovereign immunity for the limited purpose of enforcement of the terms and obligations of the Settlement Agreement;
12. The Tribe to refrain from directly or indirectly supporting any challenge to the authority of the State, St. Lawrence County or the Towns to exercise their rights under the Settlement Agreement;
13. The U.S. District Court of the Northern District of New York and its appropriate appeals courts to retain jurisdiction for purposes of enforcement of the Settlement Agreement and to have authority to compel arbitrations in unresolved disputes and to enforce arbitration awards related to disputes arising out of the Settlement Agreement;
14. An Act of Congress to forever extinguish all Mohawk land claims against St. Lawrence County, the State, the New York Power Authority (NYPA) and all other land claim defendants prior to the Settlement Agreement signed by the parties taking effect;
15. The State to assume litigation costs and responsibility to enforce terms and obligations of the Settlement Agreement if the Tribe breaches those terms and obligations;
16. That if the Tribe's failure to make Compact-obligated payments results in a State determination that a Tribal breach has occurred, the Tribe's gaming

exclusivity may be terminated, allowing the State to consider siting of new gaming opportunities within the Tribe's former exclusivity zone;

17. The State to assist St. Lawrence County and the Town of Brasher in obtaining by May 15, 2015 authorization to use all-terrain vehicles on trails in the Brasher State Forest;
18. The State to assist St. Lawrence County and the Town of Colton in obtaining the required designation to allow all-terrain vehicles use on a short portion of State Highway 56 as part of the Countywide multi-use trail, consistent with local law;
19. The State to initiate an environmental review process for the Route 11 bypass, a four lane limited access highway, around the Canton and Potsdam areas in St. Lawrence County;
20. The NYPA to enter a long-term lease for the use of the hangar being constructed at the Massena International Airport; and
21. The State, through the Governor, to submit legislation authorizing the monetization by the New York Power Authority of unallocated portions of 20 megawatts of hydropower currently dedicated for economic development purposes in St. Lawrence County, and authorizing the use of monetization funds for economic development purposes in St. Lawrence County in coordination with the St. Lawrence River Valley Redevelopment Agency; and

And Further Therefore, the New York Power Authority does hereby enter into this Memorandum of Understanding endorsing a negotiated settlement that requires:

1. An Act of Congress to forever extinguish all Mohawk land claims prior to the Settlement Agreement signed by the parties taking effect; and

And Further Therefore, the Tribal Chiefs of the Saint Regis Mohawk Tribe and Governor of the State of New York do hereby enter into this Memorandum of Understanding endorsing a negotiated settlement agreement that requires:

1. Establishment of a process to allow the Tribe to designate as part of the Reservation lands any parcels it owns, or acquires by purchase from willing sellers or by voluntary transfer, in defined areas of St. Lawrence County on maps reviewed by the Saint Regis Mohawk Tribal Council totaling approximately 3,440 acres in the Town of Brasher, and 1,360 acres in the Town of Massena, designated as areas "C" and "D";
2. The State to be responsible for any unpaid real property taxes on parcels located within the claim area and for assisting St. Lawrence County to clear and revert title, as necessary, to the appropriate property owner. Such owner is responsible for any future property taxes on the property unless the title is transferred to the Tribe and the parcel is designated as Reservation land pursuant to the Settlement Agreement;
3. The NYPA to make payments to the Tribe of \$2 million per year for 35 years;
4. NYPA to make available to the Tribe up to nine (9) megawatts of power and energy at NYPA's lowest rate for St. Lawrence-Franklin D. Roosevelt Power Project to meet the needs of the Reservation;
5. The State to waive tuition and mandatory fees for Mohawks enrolled at Akwesasne who qualify for admission to any State University of New York institution of higher learning;

6. Prohibits the State or NYPA from disposing or otherwise alienating title to any lands on Barnhart Island, Croil Island and Long Sault Island, including but not limited to parks or other surplus lands, by way of private sale or transfer;
7. The Tribe to be notified of all lands within areas designated in the Settlement Agreement that may come up for sale or auction as a result of a foreclosure by the State or St. Lawrence County or other political subdivisions, and the Tribe to be given a right of first refusal to purchase such parcels, at the assessed value without any applicable exemptions (as set forth in the most recent final assessment roll), as well as parcels in those areas that have passed to the State under the N.Y.S. Abandoned Property Law;
8. The U.S. Department of the Interior's land-into-trust process to NOT be required for land within the areas designated by the Settlement Agreement be designated as Reservation and come under the sovereign authority of the Tribe, without infringing upon the Tribe's right to use the land-into-trust process for parcels outside the designated areas, so long as the rights of the State, St. Lawrence Counties and localities to oppose any such trust acquisitions outside the designated areas are likewise not infringed;
9. That nothing in the Settlement Agreement will alter or diminish any treaty, statutory, contractual or aboriginal hunting, harvesting, fishing, trapping and/or gathering rights of the Tribe; nor any existing utility, railroad and highway easements and rights-of-way;
10. A continued right of the Tribe and its enrolled members to have access to public, religious and cultural facilities located on publicly-owned lands off the

reservation, such as churches and cemeteries and other spiritual and cultural sites;

11. The Tribe to adopt and enforce ordinances or codes that meet or exceed federal environmental standards and International Building Codes, and land use and zoning codes that meet or exceed the municipal land use and zoning codes in the respective towns to govern all properties that become part of its Reservation land, and the Tribe to implement an expedited process to resolve disputes concerning the sufficiency and enforcement of such ordinances and codes;
12. Parcels that become Reservation lands to be exempt from New York State and local real property taxes and regulation, but all lands to remain subject to local real property taxes and other laws effective within New York State until the lands have been designated as Reservation land by the Tribe under the designation process established by the Settlement Agreement;
13. The Tribe to provide basic governmental services to all properties that become Reservation lands, either directly or through service agreements under the auspices of the State, similar to existing police and fire service agreements;
14. The Tribe to immediately release to the State the remaining balance of gaming revenues withheld in prior years and to resume making such revenue sharing payments;
15. The Tribe to indemnify legal costs of the State and/or St. Lawrence County incurred to defend any challenge to the Settlement Agreement brought by the members of any other tribal entity, including but not limited to the Mohawk

Council of Akwesasne or the Mohawk Nation Council of Chiefs, and to enforce the terms of the Settlement Agreement;

16. The State, St. Lawrence County and NYPA to refrain from directly or indirectly funding any challenge to the Tribe's authority to exercise its rights under the Settlement Agreement;
17. An Act of Congress necessary to effectuate the terms of the final Settlement Agreement; and
18. The federal courts to have authority to compel all arbitrations in unresolved disputes and to enforce arbitration awards related to disputes arising out of the Settlement Agreement.

The Chairman of the St. Lawrence County Board of Legislators shall seek a resolution endorsing the terms of this Memorandum of Understanding and authorizing its Chairman to enter into any negotiated settlement agreement that contains substantially similar terms on behalf of the County of St. Lawrence.

The President of the New York Power Authority shall seek a resolution endorsing the terms of this Memorandum of Understanding and authorizing its President and Chief Executive Officer to enter any negotiated settlement agreement that contains substantially similar terms on behalf of the Board of Trustees.

Signed this _____ day of May, Two Thousand Fourteen:

ANDREW M. CUOMO, GOVERNOR
STATE OF NEW YORK

RON LAFRANCE, JR., TRIBAL CHIEF
SAINT REGIS MOHAWK TRIBE

JONATHAN S. PUTNEY, CHAIRMAN
ST. LAWRENCE COUNTY LEGISLATURE

PAUL O. THOMPSON, TRIBAL CHIEF
SAINT REGIS MOHAWK TRIBE

GIL C. QUINIONES, PRESIDENT
NEW YORK POWER AUTHORITY

BEVERLY COOK, TRIBAL CHIEF
SAINT REGIS MOHAWK TRIBE