



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 18 2023

The Honorable Rickey L. Armstrong, Sr.
President, Seneca Nation of Indians
12837 Route 438
Irving, New York 14081

Dear President Armstrong:

On December 1, 2023, the Seneca Nation of Indians (Nation) and the State of New York (State) submitted the Nation-State Gaming Compact Extension Agreement (Amendment) to the existing Seneca Nation of Indians and the State of New York Class III Gaming Compact (Compact), providing for the regulation of class III gaming activities by the Nation.

The Amendment extends the term of the Compact through March 31, 2024, with automatic three-month extensions thereafter, so the Nation and the State can continue negotiations over an amended or new class III gaming compact. The Amendment also provides that the Nation's current revenue sharing contributions will continue during the extension(s) and the funds will be escrowed. The escrowed funds will be distributed consistent with the terms of a new or amended compact, or as agreed by the Nation and the State, or pursuant to the dispute resolution provisions at Paragraph 14 of the Compact. Any escrow residue undistributed to the State will be returned to the Nation.¹

We have completed our review of the Amendment and conclude that it does not violate the Indian Gaming Regulatory Act (IGRA), 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 Amendment. 25 U.S.C. 2710(d)(3)(B).

A similar letter is being sent to the Honorable Kathy Hochul, Governor of New York.

Sincerely,

Bryan Newland
Assistant Secretary – Indian Affairs

¹ The parties have agreed to continue revenue sharing during negotiations, subject to new terms involving disposition of the funds. Given the limited, specific purpose of the Amendment, approval of this Amendment does not change the Department's view that the revenue-sharing payments in the Compact were only in effect for the initial 14-year term of the Compact and were in exchange for geographic exclusivity over certain games, transfer of the Niagara Falls Convention Center to the Nation, and other valuable benefits. This letter should not be construed as a pre-approval of a future revenue sharing rate. Revenue sharing provisions in an amended or new compact, if any, will be reviewed by the Secretary, as required by IGRA.

NATION-STATE GAMING COMPACT EXTENSION AGREEMENT

This Compact Extension Agreement is made and entered into between the Seneca Nation of Indians, a sovereign Indian nation (“Nation”) and the State of New York (“State”), (hereinafter, collectively referred to as the “Parties”) pursuant to the provisions of the Indian Gaming Regulatory Act, 25 USC §§ 2701 *et seq.* (“IGRA”).

WHEREAS, the Nation and the State are parties to a class III gaming compact, entered into in 2002 and set to expire on December 9, 2023 (“Compact”), authorizing the Nation to conduct certain class III gaming activities under IGRA; and

WHEREAS, the Nation and the State are negotiating new Compact terms; and

WHEREAS, the Nation and the State desire to extend the term of the Compact to facilitate both continuing negotiations and continuing operations of the Nation’s class III gaming facilities,

NOW, THEREFORE, the Parties do hereby agree to amend the Compact to extend the term and address the State Contribution, as defined in the Compact, during the extended term, as follows:

- (1) Extension Term. The Parties hereby agree to extend the term of the Compact through March 31, 2024 (the “Extension Term”). This Extension Term shall be automatically extended in three-month increments, unless:
 - a. an agreement for a new or amended compact is reached, in which case the distribution of the escrowed funds shall be governed under the terms of the new or amended Nation-State compact which is approved by the Secretary of the Interior or considered approved by operation of law; or
 - b. both Parties jointly agree to opt out of an additional extension, and such joint agreement sets forth how the escrowed funds shall be distributed; or
 - c. either party provides notice that it is opting out of an additional extension or secretarial procedures have been finalized.

If either the Nation or State opts out of an additional extension, or if secretarial procedures have been finalized, the escrowed funds shall be distributed following the Party Dispute Resolution process in the Compact.

If a compact or compact amendment without exclusivity is agreed to by the Parties, the terms of which have been approved by the Secretary of the Interior or considered approved by operation of law, the escrowed funds,

through the effective date of the new compact or compact amendment shall be distributed following the Party Dispute Resolution process in the Compact.

- (2) State Contribution. Notwithstanding anything in the Compact to the contrary, the present State Contribution rate of 25 percent will continue for the Extension Term or Terms, set aside in an escrow account that meets the requirements of Exhibit A attached hereto.
- (3) Dispute Resolution. In the event of a dispute arising with this Compact Extension Agreement, the Party Dispute Resolution process of the Compact Paragraph 14 shall apply.

IN WITNESS WHEREOF, the Parties have executed this Compact Extension Agreement as of the date indicated below.

SENECA NATION OF INDIANS

STATE OF NEW YORK

Rickey Armstrong

Kulth C. Hoch

DATE: Dec. 1, 2023

DATE: Dec 1, 2023

Exhibit A

For the purposes of this Compact Extension Agreement, the Nation agrees to timely place the quarterly State Contribution for the Extension Term or Terms in an escrow account in the branch of a state or federally chartered financial institution located within New York State.

The escrow account shall be disbursed within thirty (30) days of receiving notice in accordance with the following instructions. In the event notice is provided to the escrow agent by one party, the noticing party shall provide a copy of the notice to the other party simultaneously.

Instructions to Escrow Agent

1. a. In the event that a compact or compact amendment containing a State contribution for exclusivity is approved by the Secretary of the Interior or considered approved by operation of law, upon notice by either party, the escrow agent shall apply the contribution rate placed to the escrowed funds and disburse such calculated amount to the State, plus prorated accrued interest, in one lump sum. Any residue of escrowed funds shall then be released to the Nation.

b. In the event that a compact or compact amendment is approved by the Secretary of the Interior or considered approved by operation of law, or if gaming procedures become effective, without a negotiated State contribution for exclusivity, to address the period of time under which the Nation received exclusivity, the escrowed funds shall be distributed following the Party Dispute Resolution process. Upon notice by either party, the escrow agent shall distribute the funds of the account in accordance with the arbitral decision.
2. In the event that both the Nation and the State jointly agree to opt out of an extension of the Compact Extension Agreement, and such joint written agreement sets forth how the escrowed funds shall be distributed, upon notice by either party of such agreement, the escrow agent shall distribute the funds according to such agreement.
3. In the event that either party opts out of an extension to the Compact Extension Agreement, the escrowed funds shall be distributed following the Party Dispute Resolution process. Upon notice by either party, the escrow agent shall distribute the escrowed funds in accordance with the arbitral decision.