



THE MILLE LACS BAND OF
OJIBWE INDIANS

Legislative Branch of Tribal Government

RESOLUTION 19-03-67-21

A RESOLUTION APPROVING EXTENSION OF THE MATURITY OF A \$40,554,630.15 LINE OF CREDIT FROM BANK OF AMERICA, N.A. TO FUND LOAN TO MILLE LACS CORPORATE VENTURES FOR ST. PAUL HOTELS ACQUISITION AND IMPROVEMENT, AND AUTHORIZING A CONTINUING PLEDGE OF A LIMITED PORTION OF BAND SECURITIES TO SECURE BANK OF AMERICA LOAN

WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body for the Non-Removable Mile Lacs Band of Ojibwe, a federally recognized Indian tribe (the “Band”); and

WHEREAS, according to 3 MLBSA § 2(d), the Band Assembly is empowered to adopt resolutions; and

WHEREAS, a priority of the Band Assembly is to provide for the financial welfare of the Band and its members; and

WHEREAS, in furtherance of that objective, the Band Assembly determined that it is in the best interest of the Band to establish a line of credit with Bank of America, N.A. (the “Bank of America”) secured by a pledge of certain investment securities of the Band in the amount of \$40,554,630.15 the (“Bank of America Loan”), and to re-lend funds drawn on such line of credit to Mille Lacs Corporate Ventures, formerly known as the Corporate Commission of the Mille Lacs Band of Ojibwe (“MLCV”), and its operating affiliates, to fund the acquisition, renovation and operation of two hotel properties in the City of St. Paul for purpose of economic diversification and business development; and

WHEREAS, pursuant to its authority under Article VI, Section 1(c) of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, and Title 3, Section 2 of the Band’s Statutes Annotated, the Band Assembly is authorized to enter into and approve agreements, manage Band assets, and borrow and pledge non-trust assets of the Band as security for borrowed money, on behalf of the Band, and Band Assembly, in the exercise of such authority, approved a Business Loan Agreement dated March 6, 2013, as amended by a First Amendment to Business Loan Agreement dated March 4, 2015, a Second Amendment to Business Loan Agreement dated March 6, 2018, a Third Amendment to Business Loan Agreement dated June 5, 2018 and a Fourth Amendment to Business Loan Agreement dated June 15, 2020 (together the “Business Loan Agreement”) and related security documents (as amended to the date of this Resolution, collectively the “Bank of America Loan Documents”); and

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WHEREAS, the Business Loan Agreement currently provides that the Bank of America Loan will mature and shall be repayable in its entirety on June 30, 2021; and

WHEREAS, to provide the Band an opportunity to more thoroughly consider its refinancing options with respect to the Bank of America Loan, the Band and Bank of America have agreed to extend the maturity date of the Bank of America Loan to September 30, 2021.

NOW, THEREFORE, BE IT RESOLVED, that the Band Assembly approves the proposed extension of the maturity of the Bank of America Loan to September 30, 2021 and such other amendments set forth therein on substantially the terms and conditions described in a Fifth Amendment to Business Loan Agreement presented to the Band Assembly (the "Fifth Amendment"); and

BE IT FURTHER RESOLVED, that the continuation of the Pledged Collateral Account (as defined in the Bank of America Loan Documents) with Merrill Lynch and grant of a security interest in such account to the Bank of America to secure the Loan is hereby approved; and

BE IT FURTHER RESOLVED, that the form, terms and provisions of the Bank of America Loan Documents, substantially as presented to the Band Assembly, expressly including without limitation, the provisions regarding governing law, dispute resolution, waiver of sovereign immunity, consent to state and federal court jurisdiction, and waiver of exhaustion of tribal remedies appearing at Sections 9.2, 9.4 and 9.5 of the Business Loan Agreement, as amended by the Fifth Amendment, and analogous portions of the other Bank of America Loan Documents, are hereby ratified, adopted and approved; and

BE IT FURTHER RESOLVED, that the Bank of America Loan Documents, as amended to the date of this Resolution, including the Fifth Amendment, shall be deemed "Loan Documents" covered by the Terms of Joint Resolution 15-03-191-13 Regarding the Arbitration of Disputes; and

BE IT FURTHER RESOLVED, that the Chief Executive, on behalf of the Band, is hereby authorized to execute, deliver and cause the performance of the Bank of America Fifth Amendment, and any additional documents related thereto that the Bank of America may require to complete the extension of the maturity of the Bank of America Loan and such other amendments set forth therein, and to execute the transactions contemplated thereby; and

BE IT FURTHER RESOLVED, that all acts and things heretofore done and performed, in the name of the Band, in connection with the foregoing resolutions, are hereby ratified and approved; and

BE IT FINALLY RESOLVED, the Band Assembly, on behalf of the Band, confirms that this Resolution, the Bank of America Loan Documents, and the limited waiver of sovereign immunity, consent to state and federal court jurisdiction and arbitration,

waiver of exhaustion of tribal remedies, and selection of governing law contained therein, are irrevocable until repayment of the Bank of America Loan in full, and shall be enforceable in accordance with their terms.

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a special session of the Band Assembly in Legislative Council assembled, a quorum of legislators being present, held on the 16th day of June, 2021 at Nayahshing, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly hereunto cause to have set the signature of the Speaker of the Assembly.


Sheldon Boyd, Speaker of the Assembly

OFFICIAL SEAL OF THE BAND



FIFTH AMENDMENT TO BUSINESS LOAN AGREEMENT

This FIFTH AMENDMENT TO BUSINESS LOAN AGREEMENT (this "Amendment"), is made and entered into as of June 16, 2021, by and between Bank of America, N.A. (the "Bank") and Mille Lacs Band of Ojibwe, a federally recognized Indian tribe (the "Borrower").

RECITALS

A. The Bank and the Borrower have entered into a Business Loan Agreement dated as of March 6, 2013, as amended by the First Amendment to Business Loan Agreement dated as of March 4, 2015, the Second Amendment to Business Loan Agreement dated as of March 6, 2018, the Third Amendment to Business Loan Agreement dated as of June 5, 2018 and the Fourth Amendment to Business Loan Agreement dated as of June 15, 2020 (as amended, restated, extended, supplemented, or otherwise modified in writing from time to time, the "Agreement"), pursuant to which a line of credit in the aggregate amount of \$40,554,630.15 has been made available to the Borrower, subject to the terms thereof.

B. The parties desire to amend certain provisions of the Agreement, subject to the terms and conditions set forth in this Amendment.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby covenant and agree to be bound as follows:

Section 1. Capitalized Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement, unless the context shall otherwise require.

Section 2. Amendments

2.1 Availability Period. Section 1.2 of the Agreement is hereby amended by deleting the date "June 30, 2021" and replacing said date with "September 30, 2021".

2.2 Beneficial Ownership Certification. Article 6 of the Agreement is hereby amended by adding a new Section 6.18 to read as follows:

6.18 Beneficial Ownership Certification. As of the date of this Agreement, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects. “Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation. “Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

2.3 KYC Information. Article 7 of the Agreement is hereby amended by adding a new Section 7.12 to read as follows:

7.12 KYC Information. Promptly following any request therefor, provide information and documentation reasonably requested by the Bank for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act and the Beneficial Ownership Regulation.

2.4 Article 9 of the Agreement is hereby amended by adding a new Section 9.18 to read as follows:

9.18 Acknowledgement Regarding Any Supported QFCs. To the extent that this Agreement and any document executed in connection with this Agreement (collectively, “Loan Documents”) provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, “QFC Credit Support”, and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the Governing Law State and/or of the United States or any other state of the United States):

- (a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might

otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

- (b) As used in this Section 9.18, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign

Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

Section 3. Effectiveness of Amendment. The amendments contained in this Amendment shall become effective upon the delivery of, and compliance by the Borrower (or such other party specified below) with, the following:

3.1 This Amendment duly executed by the Borrower and the Bank.

3.2 The Borrower will pay all of the Bank’s reasonable out-of-pocket fees and expenses and the reasonable fees and expenses of outside legal counsel for the Bank incurred before or after the Effective Date with respect to this Amendment and the transactions contemplated herein.

3.3 KYC Information.

(a) Upon the request of the Bank, the Borrower shall have provided to the Bank, and the Bank shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act.

(b) A Borrower that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have provided a Beneficial Ownership Certification to the Bank if so requested.

3.4 The Borrower shall have satisfied such other conditions as specified by the Bank in connection with the Agreement and this Amendment.

Section 4. Representations of the Borrower.

4.1 This Amendment, and any instrument or agreement required hereunder, or executed or delivered in connection herewith, are within the Borrower’s powers to execute, deliver and perform; have been duly authorized; do not conflict with the Constitution, any ordinance or other federal, state or tribal law or regulation; and do not require any additional approvals of any federal, state or tribal governmental body of the Borrower (including any approvals by the membership of the Tribe) that have not been obtained.

4.2 Each of this Amendment, and the Agreement as amended by this Amendment, is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any instrument or agreement required hereunder, when executed and delivered, will be similarly legal, valid, binding and enforceable.

4.3 This Amendment and the transactions contemplated hereby do not require any approvals not obtained.

4.4 This Amendment does not conflict with any law, agreement, or obligation by which the Borrower is bound.

4.5 There is no event which is, or with notice or lapse of time or both would be, an Event of Default under the Agreement, as amended by this Amendment, or any of the other Loan Documents.

4.6 All representations and warranties of the Borrower in each of the Loan Documents are and will be true and correct in all material respects on and as of the date hereof and the effective date of this Amendment as though made on and as of such dates, except to the extent that such representations and warranties expressly relate solely to an earlier date.

Section 5. Affirmation of Agreement, Further References, Affirmation of Security Interests. The Bank and the Borrower each acknowledge and affirm that the Agreement, as amended by this Amendment, is hereby ratified and confirmed in all respects and all terms, conditions and provisions of the Agreement, except as amended by this Amendment, shall remain unmodified and in full force and effect. All references in any document or instrument to the Agreement are hereby amended and shall refer to the Agreement as amended by this Amendment. The Borrower confirms to the Bank that the obligations of the Borrower under the Agreement and this Amendment are and continue to be secured by the security interests granted by the Borrower in favor of the Bank under that certain Pledge Agreement dated as of March 6, 2013, as amended by that certain First Amendment to Pledge Agreement dated as of July 9, 2014, that Second Amendment to Pledge Agreement dated as of July 9, 2014, that certain Third Amendment to Pledge Agreement dated as of October 31, 2014, and that Fourth Amendment to Pledge Agreement dated as of October 9, 2015 and as may be further amended, supplemented or modified, each executed and delivered by the Borrower to the Bank, and all of the terms, conditions, provisions, agreements, requirements, promises, obligations, duties, covenants and representations of the Borrower under the Agreement and related documents are hereby ratified and affirmed in all respects by the Borrower.

Section 6. No Waiver. Notwithstanding anything to the contrary set forth herein, this Amendment does not constitute a waiver of any default under the Agreement or any other Loan Document.

Section 7. Miscellaneous. This Amendment may be executed in one or more duplicate counterparts, each of which shall constitute a single binding agreement. Delivery of an executed signature page to this Amendment by facsimile transmission or electronic mail will be as effective as delivery of a manually signed counterpart of this Amendment. This Amendment shall be deemed a "Loan Document" as defined in the Agreement. Sections 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.9, 9.11 and 9.12 of the Loan Agreement shall apply to this Amendment with the same force and effect as if it were the "Agreement" referred to therein and with the same force and effect as if expressly set forth herein or therein.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date and year first above written.

BORROWER:

MILLE LACS BAND OF OJIBWE

By: _____

Name: Melanie A. Benjamin

Title: Chief Executive

Official Seal

BANK:

BANK OF AMERICA, N.A.

By: _____

Name: Stephanie McClure

Title: Senior Vice President

**CERTIFICATE
OF
MILLE LACS BAND OF OJIBWE**

Dated: June 16, 2021

This Certificate is delivered to Bank of America, N.A., a national banking association (the "Bank"), in connection with the Fifth Amendment to Business Loan Agreement, of even date herewith (the "Fifth Amendment") amending the Business Loan Agreement dated as of March 6, 2013, as amended by the First Amendment to Business Loan Agreement dated as of March 4, 2015, the Second Amendment to Business Loan Agreement dated as of March 6, 2018, the Third Amendment to Business Loan Agreement dated as of June 5, 2018 and the Fourth Amendment to Business Loan Agreement dated as of June 15, 2020 between Mille Lacs Band of Ojibwe, a federally recognized Indian tribe (the "Borrower"), and the Bank (as so amended, the "Amended Loan Agreement"). Capitalized terms used and not otherwise defined in this Certificate are used with the meanings set forth in the amended Loan Agreement.

I, Melanie A. Benjamin, being the duly qualified and elected Chief Executive of the Borrower, hereby certify on behalf of the Borrower that in such capacity I have custody of and access to the books and records of the Borrower and, according to said books and records and as known to me after exercising due diligence, the following statements are true and correct:

1. The Borrower is a federally recognized Indian tribe organized under a Constitution (the "Constitution") duly adopted under Section 16 of the Indian Reorganization Act of 1934.

2. The Borrower has made available to the Bank via its website the following documents and laws:

- (a) The Constitution;
- (b) the Secured Transactions Ordinance; and
- (c) all laws of the Borrower relating to referendum or initiative, the Uniform Commercial Code, tribal taxes, waivers of sovereign immunity, organization, jurisdiction and procedure of any tribal courts, and arbitration of disputes.

Each of the above documents and laws remains in full force and effect in the form provided on such website and has not been amended, restated, repealed, terminated, supplemented, or otherwise modified since the date of such certification.

3. The Borrower has no laws relating to referendum or initiative, tribal taxes, waivers of sovereign immunity by the Band, organization, jurisdiction and procedure of any tribal courts, and arbitration of disputes that have not already been provided to the Bank.

4. Attached hereto and incorporated herein by this reference are the following documents, each of which is a true and correct copy of the referenced document as amended as of the date of this Certificate:

Exhibit A Resolution _____ authorizing and approving the Amended Loan Agreement and the other Loan Documents and making the Loan subject to Joint Resolution 15-03-191-13's terms (the "Authorizing Resolution").

Exhibit B Joint Resolution 15-03-191-13 adopting provisions that enforce arbitration clauses in agreements and that arbitration awards enforced in tribal courts may only be modified under circumstances similar to those set forth in 9 U.S.C. §§ 10 and 11.

5. Each of the Amended Loan Agreement and Loan Documents has been duly authorized by the Authorizing Resolution. The Authorizing Resolution and the Arbitration Resolution have not been amended or modified and are in full force and effect in the form adopted.

6. Other than the Authorizing Resolution and the Arbitration Resolution, no other consents, licenses, or approvals are required in connection with the execution, delivery, and performance by the Borrower and the validity against the Borrower of the Amended Loan Agreement and Loan Documents. Without limitation of the foregoing, all required actions have been taken to permit the Borrower's limited waiver of sovereign immunity, waiver of rights to tribal court, consent to federal and certain state courts in Minnesota, and arbitration of disputes.

7. All of the findings, representations, warranties and covenants of the Borrower contained in the Authorizing Resolution, in the Arbitration Resolution, and in the Amended Loan Agreement and Loan Documents were true and correct in all material respects as of the date thereof and are true and correct as of the date hereof as if made on the date hereof.

8. No Default exists or would result from the extension of credit under the Amended Loan Agreement or Loan Documents or from the application of the proceeds thereof.

9. Pursuant to the terms of the Authorizing Resolution, each person listed on Exhibit C hereto is authorized to execute the Fifth Amendment, the Amended Loan Agreement and the other Loan Documents and to request advances thereunder.

Witness my hands as Chief Executive of the Borrower as of the date set forth above.

Melanie A. Benjamin, Chief Executive
Mille Lacs Band of Ojibwe

EXHIBIT A

Authorizing Resolution

EXHIBIT B

Arbitration Resolution

EXHIBIT C

Authorized Person

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Melanie A. Benjamin	Chief Executive	_____
Sheldon Boyd	Speaker of Assembly and Secretary/Treasurer	_____
Mel Towle	Commissioner of Finance	_____