

RESOLUTION NO. R-2018-17

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION A DEPOSITARY AGREEMENT
BETWEEN THE VILLAGE OF MAYWOOD AND AMALGAMATED BANK OF CHICAGO,
AS DEPOSITARY FOR THE ESTABLISHMENT AND MAINTENANCE OF AN
ACCOUNT CONTAINING THE VILLAGE OF MAYWOOD WORKING CAPITAL RESERVE FUND**

WHEREAS, the Village of Maywood (the "Village") is a home rule municipality, having all of the powers and authority granted to such municipalities pursuant to Article VII, Section 6 of the Illinois Constitution of 1970, including the right to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the President and Board of Trustees of the Village of Maywood desire to enter into an agreement with the Amalgamated Bank of Chicago, a banking corporation organized under the laws of the State of Illinois (the "Bank"), in accordance with the terms set forth in the attached "DEPOSITARY AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS AND AMALGAMATED BANK OF CHICAGO, AS DEPOSITARY" (the "Agreement"), a copy of which is attached hereto as **Exhibit "1"** and made a part hereof. The Agreement also contains as exhibits, a Disbursement Direction form and Bank Fee Schedule; and

WHEREAS, the Bank will create and maintain a separate account (the "Account") in its capacity as "Depositary" for purposes of holding the funds of the Village's Working Capital Reserve Fund. The Bank, as Depositary, agrees to act as a custodian for the benefit of the Village in regard to the funds of the Village's Working Capital Reserve Fund pursuant to the terms of the Agreement. The Village's Working Capital Reserve Fund was established by the Village when it adopted its Fiscal and Investment Policy (the "Policy"). The use of the funds in the Village's Working Capital Reserve Fund is governed by Article XII of the Policy. From time to time, the Village will withdraw funds from and make additional deposits of funds into the Account as it uses its Working Capital Reserve Fund. The Village retains the authority and discretion to direct the investment of the funds in the Account as directed by an authorized agent of the Village as defined in the Agreement.

WHEREAS, it is desirable and in the best interests of the residents, businesses and property owners of the Village for the Corporate Authorities to approve the Agreement in order to provide for the deposit with the Depositary, as custodian, of the funds in its Working Capital Reserve Fund, which actions are in accordance with Article XII of its Fiscal and Investment Policy (the "Policy"), as previously amended and most recently amended March 6, 2018 per Ordinance No. CO-2018-09 (the "Proceedings"); and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to approve and enter into the attached Agreement (**Exhibit "1"**) pursuant to its home rule powers and contracting authority provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, as well as the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) and finds that entering into this Agreement is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

SECTION 2: The President and Board of Trustees of the Village of Maywood approve and authorize the execution of the agreement entitled "DEPOSITARY AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS AND AMALGAMATED BANK OF CHICAGO, AS DEPOSITARY" (the "Agreement"), a copy of which is attached hereto as **Exhibit "1"** and made a part hereof.

SECTION 3: The President and Board of Trustees of the Village of Maywood authorize and direct the Village President and the Village Clerk, or their designees, to execute the Agreement. The President and Board of Trustees also authorize and direct the Village President, the Village Clerk, the Village Manager and the Village Attorney to execute and deliver all other instruments and documents and arrange to pay all Village Board-authorized costs that are necessary to fulfill the Village's obligations under the Agreement. In addition, the Village Board authorizes and directs the President and Clerk, or their designees, to execute any updated version of the attached Agreement, which may contain certain non-substantive and non-financial modifications that are approved by the Village Attorney.

SECTION 4: All resolutions, or parts of resolutions, in conflict with the provisions of this Resolution, to the extent of such conflict, are repealed.

SECTION 5: Each section, paragraph, clause and provision of this Resolution is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Resolution, nor any part thereof, other than that part affected by such decision.

SECTION 6: This Resolution shall be in full force and effect from and after its adoption, approval and publication in the manner provided by law.

ADOPTED this 1st day of May, 2018, pursuant to a roll call vote as follows:

AYES: Mayor Perkins, Trustee(s) H. Yarbrough, I. Brandon, A. Sanchez, K. Wellington and M. Lightford

NAYS: None

ABSENT: Trustee R. Rivers

APPROVED this 1st day of May, 2018, by the Village President of the Village of Maywood, and attested by the Village Clerk on the same day.

Edwenna Perkins, Village President

ATTEST:

Viola Mims, Village Clerk

Exhibit "1"

**Depositary Agreement Between the Village of Maywood, Cook County, Illinois
and Amalgamated Bank of Chicago, as Depositary**

(attached)

DEPOSITARY AGREEMENT

Between

Village of Maywood, Cook County, Illinois

and

**Amalgamated Bank of Chicago,
as Depositary**

Dated as of May 1, 2018

Re:

**Village of Maywood, Cook County, Illinois
Fiscal and Investment Policy
Working Capital Reserve Fund**

Depository Agreement

This Depository Agreement is dated as of May 1, 2018 (this "**Agreement**") and is between the **Village of Maywood, Cook County, Illinois**, a home rule unit and a political subdivision organized and existing under the laws of the State of Illinois (the "**Village**"), and **Amalgamated Bank of Chicago**, a banking corporation organized under the laws of the State of Illinois, with its corporate trust office located in Chicago, Illinois, as Depository (the "**Depository**").

WITNESSETH:

WHEREAS, the Village has determined that it is desirable and in the best interests of the Village to provide for the deposit with the Depository of its Working Capital Reserve Fund (the "**Working Capital Reserve Fund**"), as established by the Village in accordance with Article XII of its Fiscal and Investment Policy (the "**Policy**"), as previously amended and most recently amended March 6, 2018 per Ordinance No. CO-2018-09 (the "**Proceedings**"), and all such funds to be invested solely in investments authorized under applicable law, as determined by the Village in accordance with the Policy; and

WHEREAS, the Depository has determined that it is willing to enter into this Agreement and to carry out the duties set forth herein.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, and for other good, fair and valuable considerations and reasonably equivalent value, the receipt and sufficiency of which are acknowledged by the parties hereto, the Depository and the Village do agree as follows, intending to be legally bound:

Section 1. Establishment of Account

The Village, pursuant to and in connection with the Proceedings, deposits with the Depository its Working Capital Reserve Fund, to be held by the Depository. The Depository accepts said funds and agrees to establish and maintain a separate account (the "**Account**") therefor in its capacity as Depository, acting as a custodian for the benefit of the Village, pursuant to the terms of this Agreement. The Account established shall remain the property of the Village. Subaccounts may be established within the Account when deemed necessary or convenient by the Village or the Depository. The Depository shall have custody of the Account, which shall be held on behalf of the Village and kept separate from the other assets of the Depository, and the money on deposit in the Account shall be held, invested and disbursed as directed by the Village pursuant to this Agreement.

Section 2. Investments

(a) The Depository agrees to invest and reinvest funds in the Account as directed by an authorized agent of the Village in writing in Permitted Investments (as defined below). The Village Treasurer, any assistant or deputy Village Treasurer and any other authorized officer of the Village, including the Village Finance Director, shall be authorized to give the Depository investment instructions.

"Permitted Investments" shall mean securities in which a county treasurer or fiscal officer of a political subdivision may invest under Illinois law, as amended from time to time, and subject to the limitations and procedures set forth therein and in the Policy.

(b) The Village recognizes and agrees that the Depository will not provide supervision, recommendations or advice relating to either the investment of moneys held in the Account or the purchase, sale, retention or other disposition of any Permitted Investment. The Village shall be solely responsible for complying with the provisions of any law, rule or regulation concerning the investment of public funds. Earnings on Permitted Investments shall be added to the Account. The Depository shall be under no obligation to invest moneys in the Account other than as directed by the Village. Any loss or expense incurred as a result of an investment will be borne by the Account. In no event shall the Depository be liable for the selection of investments or for investment losses incurred thereon.

(c) The Depository is authorized to trade with itself and any affiliated entity in the purchase and sale of securities for investment, and is authorized to execute purchases and sales of Permitted Investments through the facilities of its own trading or capital markets operations or those of any affiliated entity. The Depository shall send statements to the Village on a monthly basis reflecting activity in the Account for the preceding month. Although the Village recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Village agrees that confirmations of Permitted Investments are not required to be issued by the Depository for each month in which a monthly statement is rendered.

(d) The Village acknowledges and agrees that the delivery of the funds held hereunder is subject to the sale and final settlement of Permitted Investments. Proceeds of a sale of Permitted Investments will be delivered on the business day on which the appropriate instructions are delivered to the Depository if received prior to the deadline for same day sale of such Permitted Investments. If such instructions are received after the applicable deadline, proceeds will be delivered on the next succeeding business day.

Section 3. Disbursement of Account

Moneys deposited in the Account shall be paid out from time to time by the Depository within two (2) business days after receipt by the Depository of a written direction of the Village, properly completed and executed in substantially the form of **Exhibit "A"** attached hereto.

Section 4. Concerning the Depository

Notwithstanding any provision contained herein to the contrary, the Depository, including its officers, directors, employees and agents, shall:

(a) not be liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence;

(b) have no responsibility to inquire into or determine the genuineness, authenticity, or sufficiency of any securities, checks, or other documents or instruments submitted to it in connection with its duties hereunder;

(c) be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of the Village, and shall be entitled to rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind;

(d) have no responsibility or liability for any diminution in value of any assets held hereunder which may result from any investments or reinvestment made in accordance with any provision which may be contained herein;

(e) be entitled to compensation for its services hereunder as per **Exhibit "B"** attached hereto, which is made a part hereof, and for reimbursement of its out-of-pocket expenses including, but not by way of limitation, the fees and costs of attorneys or agents which it may find necessary to engage in performance of its duties hereunder, all to be paid by the Village, and the Depository shall have, and is granted, a prior lien upon any property, cash, or assets of the Account, with respect to its unpaid fees and nonreimbursed expenses, superior to the interests of any other persons or entities;

(f) be entitled and is granted the right to set off and deduct any unpaid fees and/or nonreimbursed expenses from amounts on deposit in the Account;

(g) be, and is indemnified and saved harmless, to the extent permitted by law, by the Village from all losses, liabilities, costs and expenses, including attorney fees and expenses, which may be incurred by it as a result of its acceptance of the Account or arising from the performance of its duties hereunder, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have resulted from the bad faith or gross negligence of the Depository, and such indemnification shall survive its resignation or removal, or the termination of this Agreement;

(h) be under no obligation to institute any suit or action or other proceeding under this Agreement or to enter any appearance in any suit, action or proceeding in which it may be a defendant or to take any steps in the enforcement of its rights and powers hereunder, nor shall be deemed to have failed to take any such action, unless and until it shall have been indemnified by the Village to its satisfaction against any and all costs and expenses, outlays, counsel fees and expenses, and other disbursements, including its own reasonable fees, and if any judgment, decree or recovery be obtained by the Depository, payment of all sums due it, as aforesaid, shall be a first charge against the amount of any such judgment, decree or recovery. No provision of this Agreement shall require the Depository to risk or expend its own funds;

(i) have only those duties as are specifically provided herein and shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument or document between the other parties hereto, in connection herewith. This Agreement sets forth all matters pertinent to the Account, and no additional obligations of the Depository shall be inferred from the terms of this Agreement or any other agreement. **IN NO EVENT SHALL THE DEPOSITARY BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (i) DAMAGES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES WHICH RESULT FROM THE DEPOSITARY'S FAILURE TO ACT IN ACCORDANCE WITH THE STANDARDS SET FORTH IN THIS**

AGREEMENT, OR (ii) SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF THE DEPOSITARY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES;

(j) have the right, but not the obligation, to consult with counsel of choice and shall not be liable for action taken or omitted to be taken by Depositary either in accordance with the advice of such counsel or in accordance with any opinion of counsel to the Village addressed and delivered to the Depositary;

(k) not have any liability or obligation with respect to any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that the Depositary shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; and

(l) have the right to perform any of its duties hereunder through agents, attorneys, custodians or nominees, and shall not be responsible for the misconduct or negligence of such agents, attorneys, custodians and nominees appointed by it with due care.

The Depositary shall have the right to accept and act upon instructions, including funds transfer instructions ("**Instructions**") given pursuant to this Agreement and delivered using Electronic Means; provided, however, that the Village shall provide to the Depositary an incumbency certificate listing officers with the authority to provide such Instructions ("**Authorized Officers**") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Village whenever a person is to be added or deleted from the listing. If the Village elects to give the Depositary Instructions using Electronic Means and the Depositary in its discretion elects to act upon such Instructions, the Depositary's understanding of such Instructions shall be deemed controlling. The Village understands and agrees that the Depositary cannot determine the identity of the actual sender of such Instructions and that the Depositary shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Depositary have been sent by such Authorized Officer. The Village shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Depositary and that the Village and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Village. The Depositary shall not be liable for any losses, costs or expenses arising directly or indirectly from the Depositary's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Village agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Depositary, including without limitation the risk of the Depositary acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Depositary and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Village; (iii) that the security

procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Depository immediately upon learning of any compromise or unauthorized use of the security procedures.

“**Electronic Means**” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Depository, or another method or system specified by the Depository as available for use in connection with its services hereunder.

Any banking association or corporation into which the Depository may be merged, converted or with which the Depository may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Depository shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Depository shall be transferred, shall succeed to all the Depository's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 5. Resignation or Removal of Depository

Each of the Village and the Depository may terminate this Agreement by giving thirty (30) calendar days prior written notice to the other party. In such event, the duties of the Depository shall terminate (30) calendar days after receipt of such notice (or as of such earlier date as may be mutually agreeable) and the Depository shall then deliver the balance of the moneys or assets then in its possession to the Village or as the Village shall direct.

Section 6. Notices

Any notice, direction or request to be given in connection with any of the terms or provisions of this Agreement shall be in writing and be given in person, by email or facsimile transmission, courier delivery service or by mail, and shall become effective (a) on delivery if given in person, (b) on the date of delivery if sent by courier delivery service, (c) on the date of transmission if sent by email or facsimile with the original notice together with the confirmation of transmission mailed by certified mail, postage prepaid, return receipt requested, or (d) four (4) business days after being deposited in the mails, with proper postage for first-class registered or certified mail, prepaid.

Until notified in writing by the appropriate party of a change to a different address or a different email address, notices shall be addressed and sent as set forth below and emails shall be sent to the current email address used by the person:

- (i) if to the Village:

Village of Maywood
40 Madison Street
Maywood, Illinois 60153
Attention: Village Manager
Fax Number: (708) 681-8811

(ii) if to the Depositary:

Amalgamated Bank of Chicago
30 North LaSalle Street
Chicago, Illinois 60602
Attention: Pamela Sumerall/Corporate Trust
Fax Number: (312) 267-8782

Section 7. Governing Law, Counterparts

This Agreement shall be construed in accordance with the laws of the State of Illinois. It may be executed in several counterparts, each one of which shall constitute an original and all collectively shall constitute but one instrument.

Section 8. Amendment, Modification or Waiver

This Agreement may be amended or modified and any term of this Agreement may be waived if such amendment, modification or waiver is in writing and signed by all parties.

Section 9. Assignments of Interests

No assignment of the interest of either of the parties hereto shall be binding in the absence of the written consent of the other party, provided, however, that the Depositary may assign its interest under the circumstances set forth in the last paragraph of Section 4 hereof without such written consent.

Section 10. Waiver of Trial by Jury

Each party hereto agrees not to elect a trial by jury of any issue triable of right by jury, and waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to this Agreement, or any claim, counterclaim or other action arising in connection herewith. This waiver of right to trial by jury is given knowingly and voluntarily by each party, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue.

Section 11. Termination

This Agreement shall be terminated upon the dissolution of the Working Capital Reserve Fund by the Village or as otherwise provided pursuant to further Village Proceedings. At such time, the Depositary shall deliver the balance of the moneys or assets then in its possession to the Village or as the Village shall direct.

IN WITNESS WHEREOF, the parties have been duly executed this Depository Agreement as of the date written below.

VILLAGE OF MAYWOOD
Cook County, Illinois

By: _____
Name: Edwenna Perkins
Title: Mayor
Date: _____, 2018

AMALGAMATED BANK OF CHICAGO,
as Depository

By: _____
Name:
Title: Senior Vice President
Date: _____, 2018

EXHIBIT "A"

Disbursement Direction

To: Amalgamated Bank of Chicago
30 North LaSalle Street
Chicago, Illinois 60602
Attention: Corporate Trust Division, _____

Re: Depository Agreement dated as of May 1, 2018 between
the Village of Maywood, Cook County, Illinois and
Amalgamated Bank of Chicago, as Depository
(the "Depository Agreement")

Ladies and Gentlemen:

You are authorized and directed as Depository under the above-referenced
Depository Agreement to wire \$ _____ to _____.

VILLAGE OF MAYWOOD
Cook County, Illinois

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "B"

Fee Schedule

**Annual Fee - \$500
Payable in Advance**

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the attached document is a true and correct copy of that certain Resolution now on file in my office, entitled:

RESOLUTION NO. R-2018-17

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION A DEPOSITARY AGREEMENT BETWEEN THE VILLAGE OF MAYWOOD AND AMALGAMATED BANK OF CHICAGO, AS DEPOSITARY FOR THE ESTABLISHMENT AND MAINTENANCE OF AN ACCOUNT CONTAINING THE VILLAGE OF MAYWOOD WORKING CAPITAL RESERVE FUND

which Resolution was passed by the Board of Trustees of the Village of Maywood at a Regular Village Board Meeting on the 1st day of May, 2018, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 1st day of May, 2018.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Perkins, Trustee(s) H. Yarbrough, I. Brandon, A. Sanchez, K. Wellington and M. Lightford

NAYS: None

ABSENT: Trustee R. Rivers

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 2nd day of May, 2018.

Viola Mims, Village Clerk

[SEAL]