

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
OCTOBER 16, 2012 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Investment Agreements	<ul style="list-style-type: none"> <li>✓ Resolution</li> <li>Ordinance</li> <li>Motion</li> <li>Discussion Only</li> </ul>	Judy Buttny Finance Director

**SYNOPSIS**

Resolutions have been prepared to enter into agreements with Cole Taylor (CDARS), MB Financial, Associated Bank, First Empire Securities and Raymond James to invest Village funds pursuant to the provisions of the Cash Management and Investment Policy. Charter One has notified the Village that it is no longer involved in government banking in this area and does not wish to continue to participate in the Village’s Investment Program.

**STRATEGIC PLAN ALIGNMENT**

The Goals for 2011-2018 include *Steward of Financial and Environmental Sustainability*.

**FISCAL IMPACT**

By expanding the financial institutions that can bid on investments the Village will be able to maximize its interest income. While yields are relatively modest today, there still are variations in secure approved financial instruments that are carried by various institutions. This may allow the Village to take advantage of those variations in yield in the future.

**RECOMMENDATION**

Approval on the October 16, 2012 consent agenda.

**BACKGROUND**

Early in 2008, Village Council approved revisions to the Cash Management and Investment Policy following review by the Finance & Administrative Committee. Among the revisions to the policy was the creation of a Cash Investment Program, which expanded the universe of qualified financial institutions available to the Village for cash management, and created a competitive bidding process to allow the Village to receive the highest secure return on investments. In June 2008, the Village Council approved seven additional financial institutions to participate in the Cash Investment Program, along with incumbent PMA. In January of 2009 the Village Council approved IMET to be added to the program.

Of the five recommended additions three are banks, one is a brokerage firm and one is due to the purchase of an existing financial firm (Raymond James purchased Morgan Keegan). All have provided references and all have provided documentation that they will abide by our investment policies and provide appropriate collateralization. Also Charter One has requested to be decertified as they no longer provide services to Government in this region. After these actions, there will be 13 certified institutions.

A full list of the current and new institutions is below.

Current Members of Village of Downers Grove Investment Group

- PMA
- Illinois Funds
- Harris Bank
- Wintrust – Community Bank of Downers Grove
- US Bank
- Fifth Third Bank
- Federated Money Market
- Charter One (decertifying)
- Morgan Keegan (purchased by Raymond Jones)
- IMET

New Members of Investment Group

- Cole Taylor Bank
- Associated Bank
- MB Financial Bank
- First Empire Securities
- Raymond James (purchased by Morgan Keegan)

**ATTACHMENTS**

Resolutions

Contract Documents

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN  
AGREEMENT BETWEEN THE VILLAGE OF  
DOWNERS GROVE AND MB FINANCIAL BANK, N.A.**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement"), between the Village of Downers Grove ("Secured Party") and MB Financial Bank, N.A. ("Bank"), for the investment of Village funds, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement and that the Village Manager is authorized to designate certain Village employees as "authorized persons" to carry out activities under the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

## COLLATERAL SECURITY AGREEMENT

This COLLATERAL SECURITY AGREEMENT, dated \_\_\_\_\_, ("Agreement") is between **MB Financial Bank, N.A.**, a national banking association, organized under the laws of the United States and authorized to conduct a banking business in the State of Illinois (the "*Bank*") and *Village of Downers Grove* (the "*Secured Party*").

### WITNESSETH:

**WHEREAS**, the Bank is a qualified public depository as defined in **30 ILCS 235** (the "*Public Funds Investment Act*" or the "*Act*"); and

**WHEREAS**, Secured Party from time to time makes deposits, as said term is defined in the Act, in the Bank ("*Public Deposits*"), which Public Deposits shall from time to time aggregate in excess of FDIC insurance limits; and

**WHEREAS**, Secured Party desires to have its Public Deposits secured by collateral in the amount at least equal to the amount of the Public Deposit, reduced to the extent that such Public Deposits are insured by an agency or instrumentality of the United States government, or as otherwise required by the Act or the **Village of Downers Grove** Investment Policy ("*Investment Policy*"), if applicable; and

**WHEREAS**, the Bank has agreed to secure the Public Deposits by granting to the Secured Party a security interest in certain collateral owned by the Bank and maintained in a custody account, which meets the Act's requirements ("*Eligible Collateral*"); and

**WHEREAS**, in order to perfect the security interest of the Secured Party in the Eligible Collateral pledged by the Bank, the Bank of America, N.A. will hold the Eligible Collateral in a Custody Account, as defined in section 5 of this Agreement, for the benefit of the Secured Party.

**NOW THEREFORE**, in consideration of the Secured Party depositing its Public Deposits as herein described, it is hereby agreed between the Secured Party and the Bank as follows:

1. Pursuant to the Act and in order to secure the Public Deposits, the Bank hereby pledges, assigns, transfers and grants to the Secured Party a perfected first priority security interest in such amounts of the Eligible Collateral to meet the collateral ratios and other requirements described in the Act and / or the Investment Policy ("*Security Interest*"). If Bank is notified by Secured Party that the ratio of the market value of the Eligible Collateral to the Public Deposits, plus accrued interest, is less than required by the Act and / or the Investment Policy, the Bank, within 24 hours, shall make additions to the Eligible Collateral such that the ratio of the market value of the Eligible Collateral to the Public Deposits, plus accrued interest, shall be at least equal to that required by the Act and / or the Investment Policy.

2. The Security Interest granted herein shall secure Public Deposits and accrued interest held by the Bank at the time of this Agreement, and any and all subsequent Public Deposits regardless of the accounts in which such funds are held or identified by the Bank.

3. The Bank represents that it is the true and legal owner of all Eligible Collateral pledged under this Agreement, that the Eligible Collateral is free and clear of all liens and claims, that no other person or entity has any right, title or interest therein, and that the Eligible Collateral has not been pledged or assigned for any other purpose. Should an adverse claim be placed on any pledged Eligible Collateral, the Bank shall substitute unencumbered Eligible Collateral of equal value, free and clear of all adverse claims.

4. At any time that the Bank is not in default under this Agreement (as defined in section 7 hereof), the Bank may substitute Eligible Collateral, provided that the total market value of Eligible Collateral shall meet the requirements of the Act and this Agreement. Any additional pledge, substitution, or release of Eligible Collateral shall be approved by an officer of the Bank duly authorized by resolution of the Board of Directors to approve such additional pledges, substitutions, or releases of Eligible Collateral under this Agreement.

5. The Bank agrees to place the Eligible Collateral with a Federal Reserve Bank, a trust department of a commercial bank, or a trust company ("Custodian"), to be held in a custody account for the benefit of the Secured Party ("Custody Account"). As of the date hereof, the Bank has selected the Bank of America, N.A. as the initial Custodian and intends to deposit the Eligible Collateral with such Custodian; provided however, the Bank retains the right to replace any Custodian, or any successor Custodian, from time to time in the Bank's sole discretion, with another qualified Custodian, as defined by the first sentence of this Section 5. Any such commercial bank or trust company shall be a securities intermediary that in the ordinary course of its business regularly maintains securities accounts for its customers.

6. On a monthly basis, or as required by the Act or Investment Policy, the Bank shall report to the Secured Party, specifying the type and market value of Eligible Collateral being held in the Custody Account for the benefit of the Secured Party. Eligible Collateral shall be retained in the Custody Account so long as the Bank holds Public Deposits.

7. In the event the Bank shall fail, suspend active operations, or become insolvent ("Default"), the Public Deposits shall become due and payable. In the event of Default, the Secured Party shall give Bank written notice of such Default and the Bank shall have 5 business days to cure such Default. In the event the Bank shall fail to cure such Default, the Secured Party shall have the right to require that Bank direct the Custodian to liquidate the Eligible Collateral held in the Custody Account as collateral for the Public Deposits, and pay the proceeds thereof to the Secured Party and to exercise any and all other security entitlements, as defined in the Uniform Commercial Code ("UCC"), with respect to the Custody Account. Ownership of the Eligible Collateral shall transfer to the Secured Party. The Bank authorizes the release, withdrawal and delivery of the Eligible Collateral to the Secured Party upon Default by the Bank, and authorizes the Custodian to rely, without verification, on the written statement of the Secured Party as to the existence of a Default and to comply with entitlement orders originated by the Secured Party, without further consent of the Bank. Secured Party may sell all or any part of such Eligible Collateral and out of the proceeds thereof pay damages and losses sustained by it, together with all expenses incurred on account of the Bank's Default, accounting to the Bank for the remainder, if any, of said proceeds or Eligible Collateral remaining unsold.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of **Illinois**, and the laws of the United States, and it supersedes any and all prior agreements, arrangements or understandings with respect to the subject matter hereof. In the event that any conflict of law issue(s) should arise in the interpretation of this Agreement, the parties agree that when **Illinois** law is not preempted by laws of the United States, **Illinois** law shall govern.

9. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement, which shall be given effect without the conflicting provision. To this end the provisions of this Agreement are declared to be severable.

10. Unless applicable law requires a different method, any notice that must be given under this Agreement shall be given in writing and sent by certified mail, return receipt requested or third party overnight priority mail carrier to the address set forth herein or such other address as may be designated by prior written notice received by the other party.

**MB FINANCIAL BANK, N.A.:**

By: \_\_\_\_\_ (Print) \_\_\_\_\_ (Signature)

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**SECURED PARTY: Village of Downers Grove**

By: \_\_\_\_\_ (Print) \_\_\_\_\_ (Signature)

Its: \_\_\_\_\_

Date: \_\_\_\_\_

AUTHORIZED SIGNATURES FOR ACCOUNT OF

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FOR MB FINANCIAL BANK, N.A., CHICAGO

WITHDRAWAL OF SECURITIES, OR PROCEEDS THEREOF, SHALL BE AUTHORIZED BY ANY OF THE FOLLOWING SIGNATURES

NAME	TITLE	SIGNATURE	Phone #
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DATE	APPROVED (by president or general partner)
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PLEDGE DEPOSITORY AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by BANK OF AMERICA, N.A., Chicago, Illinois (the "Depository"), ~~MB Financial Bank N.A.~~ \_\_\_\_\_, (the "Pledgor") and Village of Downers Grove \_\_\_\_\_, (the "Pledgee") in order to set forth the terms and conditions which shall be applicable to all securities pledged by the Pledgor to the Pledgee and deposited with the Depository as hereinafter set forth:

1. The Depository will hold for the account of the Pledgee and subject to its order and direction such securities which the Pledgor shall deposit with the Depository accompanied by written instructions from the Pledgor to the Depository that such securities are pledged to the Pledgee as contemplated by this Agreement. Any securities so deposited by the Pledgor shall be payable to bearer or registered in a form that is acceptable to the Depository. Securities registered in the name of the Pledgor shall be endorsed in blank thereon or on a power attached thereto by the Pledgor, with the signature guaranteed by a bank or trust company or a member firm of a national security exchange. In the event that any securities registered in the name of the Pledgor are not so endorsed, the Depository shall nevertheless accept the same for deposit and as soon as practicable inform the Pledgee in writing of the fact that such securities are not so endorsed. The Pledgee shall have the responsibility for obtaining all such endorsements.

2. The securities may or may not be held by the Depository in the same form as received by the Depository. The Depository will issue to the Pledgee, at its request, non-negotiable receipts evidencing the receipt of the securities deposited hereunder and the Depository will at reasonable intervals, (but not more often than quarterly) issue to the Pledgee or Pledgor a statement of the securities held hereunder as of the statement date. No securities shall be released by the Depository to the Pledgor and no securities shall be accepted in substitution of securities pledged hereunder except upon the instructions of the Pledgee. The Pledgor shall be entitled to receive principal, interest and other amounts as they from time to time are paid. In the event the Pledgor defaults on its obligations to the Pledgee, and written notice of any such default is delivered by the Pledgee to the Depository, the Depository will transfer and deliver the securities to or upon the order of the Pledgee and the right of the Pledgor to receive payments as provided for herein shall immediately terminate. The Pledgor agrees that the Depository shall be fully protected in delivering securities solely upon the instructions of the Pledgee and shall be released from any liability to the Pledgor with respect to securities so delivered.

3. The Depository's duties and responsibility shall be limited to those expressly set forth in the Agreement and this Agreement may not be modified or amended without prior written agreement of the Depository. The Depository shall be fully protected in acting upon written or at the Depository's option, recorded telephonic instructions which it in good faith believes to be genuine and from a properly authorized person, whether or not that is in fact the case. The Depository shall have no responsibility for the value, validity, regularity and genuineness of any of the securities, any endorsement thereon or the effectiveness of any pledge of the securities by the Pledgor to the Pledgee or to notify the Pledgee of any payments made with respect to any securities. The Depository shall be entitled to rely on the advice of counsel (including counsel who are employees of the Depository) concerning all matters pertaining to the duties of the Depository hereunder or relating hereto. Neither the Depository nor any of its directors, officers, employees or agents shall be liable for any action taken or omitted to be taken hereunder at the request or with the approval of the Pledgee or believed by it in good faith to be within the powers conferred on it hereunder. If any securities held by the depository are at any time attached, garnished or become subject to similar processes or any order or decree



issued by any court, the Depository may in its sole discretion rely upon and comply with such process, order or decree which it is advised by legal counsel is binding upon it and the Depository shall not be liable to either the Pledgor or Pledgee by reason of such compliance even though such process, order or decree may be subsequently reversed, modified, annulled or vacated. Also, in the event of conflicting demands upon the Depository, the Depository is authorized to withhold performance until such time as such conflicting demands shall have been withdrawn or the rights of the parties shall have been settled by court adjudication or otherwise. The Pledgee and Pledgor shall from time to time certify to the Depository the names and signatures of the officials or other persons authorized to give instructions with respect to the securities and the Depository may conclusively rely thereon. All written communications to the Depository hereunder shall not be deemed to have been given until actually received by the Depository. All communications by the Depository to the Pledgor or Pledgee, as the case may be, shall be deemed to have been given when delivered personally or mailed to the Pledgor or Pledgee at their respective addresses than shown in the Depository's records or at such other address as the Pledgor or the Pledgee may designate in writing to the Depository.

4. The Depository shall be entitled to receive fees in accordance with its schedule of compensation as in effect from time to time (provided that no increase in such fees shall become effective until 30 days after the Depository shall have mailed to the Pledgor notice of such increase) and shall be entitled to be reimbursed for all costs and expenses (including reasonable attorney's fees and court costs) incurred in connection with any transactions hereunder or any legal proceedings to which the Depository may be subject by reason of it acting as a Depository hereunder. The Depository shall have a prior lien on all securities deposited hereunder for the reimbursement of all such fees, costs, charges and other expenses. The Pledgor agrees to pay and reimburse the Depository for all such fees, costs and expenses and the Depository is authorized at any time and without notice to charge any account or the Pledgor for the same.

5. The Depository may resign hereunder at any time upon delivery of five days prior written notice to the Pledgor and Pledgee and upon such resignation becoming effective the Depository is irrevocably authorized to deliver all the securities then held by it hereunder to or upon the order of the Pledgee and upon such delivery, this Agreement shall terminate as to the Depository and the Depository shall be fully discharged from all liability to the Pledgor and Pledgee.

6. While it is contemplated that the Pledgor and Pledgee may enter into separate pledge agreements respecting the securities held hereunder, nevertheless, by the execution hereof the Pledgor agrees that the Pledgee shall have a security interest under the Illinois Uniform Commercial Code in all securities held by the Depository for the account of the Pledgee as herein contemplated as security for the payment of all deposit liabilities of Pledgor to Pledgee. This security interest shall be supplementary to, and not exclusive of, any other security interests, rights or remedies which the Pledgee may now or hereafter have, whether by operation of law, by agreement or otherwise, with respect to such securities, provided that the Depository shall have no responsibility to ascertain or to comply with any of the same.

\_\_\_\_\_  
Pledgor

By \_\_\_\_\_

Its \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Tax Iden. No. \_\_\_\_\_

Safekeeping Acct. No. \_\_\_\_\_

Seal

Demand Deposit Acct. No. \_\_\_\_\_

\_\_\_\_\_  
Pledgee

By \_\_\_\_\_

Its \_\_\_\_\_

Address \_\_\_\_\_

Seal

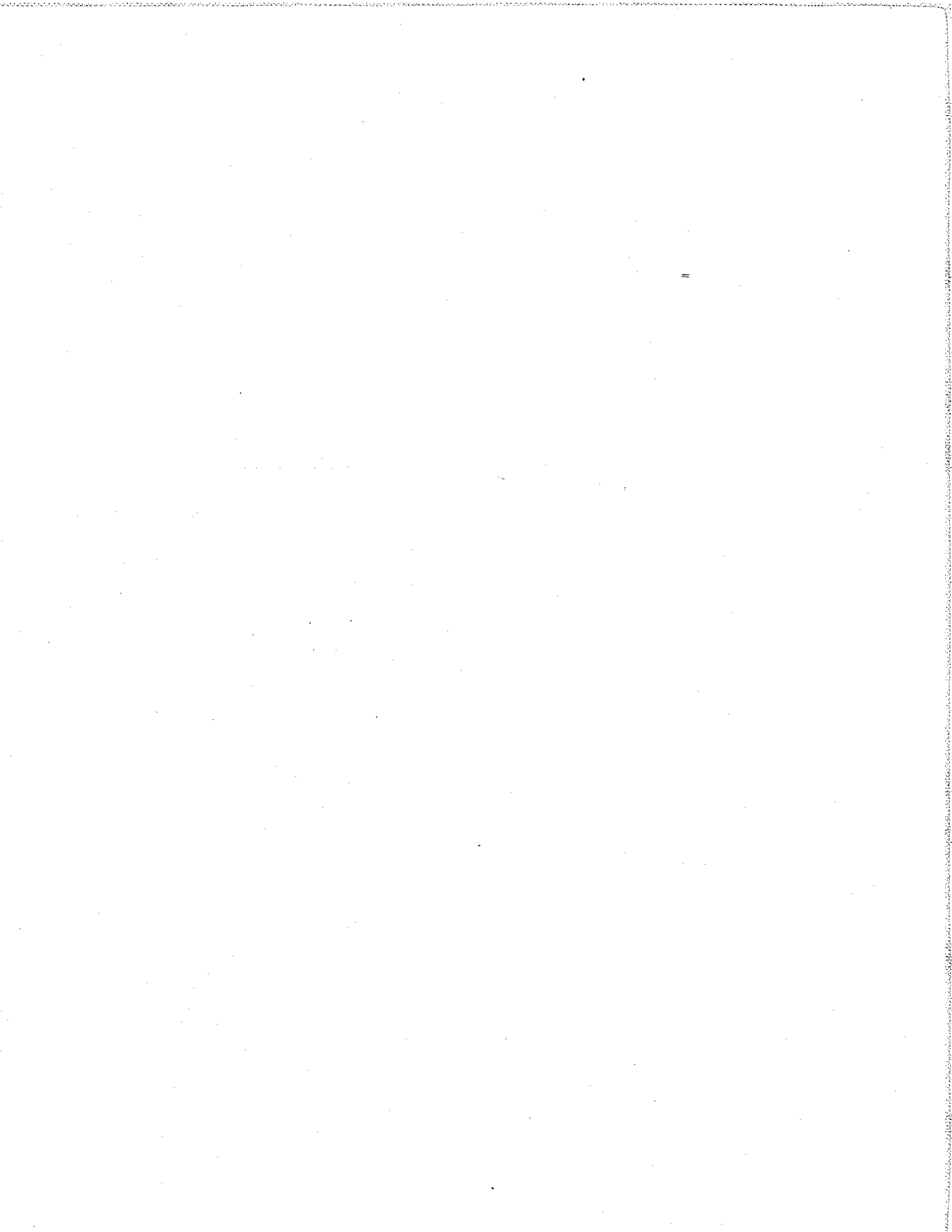
Tax Iden. No. \_\_\_\_\_

Accepted by

**BANK OF AMERICA, N.A.**

By \_\_\_\_\_

Its \_\_\_\_\_





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135 South LaSalle Street  
Chicago IL 60603-4192

Bank of America, N.A. Pledge Depository Agreement  
Addendum

This addendum, dated \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_ supplements the agreement  
signed and entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

The Pledgee hereby further authorizes the Pledgor the right of substitution of securities upon and in exchange for the deposit in the account by the Pledgor of securities aggregating equal or greater Par Value of the security released.

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**Pledgor:**

By: MB Financial Bank

Title: \_\_\_\_\_

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**Pledgee:**

By: Village of Downers Grove

Title: \_\_\_\_\_

