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**VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 922

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
BALANCING CHANGE ORDER AND A PAYOUT REQUEST IN
CONNECTION WITH THE 2005 MFT ROAD IMPROVEMENT
PROJECT IN THE VILLAGE OF MELROSE PARK, COUNTY OF
COOK, STATE OF ILLINOIS.**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF MELROSE PARK**

THIS 25TH DAY OF JULY 2005

**RONALD M. SERPICO, Village President
MARY ANN PAOLANTONIO SALEMI, Village Clerk**

Board Of Trustees

**JOHN S. CONTEDEUCA
CATHLEEN COSSIDENT ITALIA
THOMAS KLEIN
RUBEN LOMELI
ARTURO J. MOTA
ANTHONY J. PRIGNANO**

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**Published by authority of the
President and Board of Trustees
Of the Village of Melrose Park,
Cook County, Illinois on
This 26TH day of JULY 2005**

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WHEREAS, the Village of Melrose Park, Cook County, State of Illinois (“the Village”) is a duly organized and existing Village created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto with full powers to enact ordinances for the benefit of the residents of the Village; and

WHEREAS, the Village President, the Honorable Ronald M. Serpico, the Village Clerk, the Honorable Mary Ann Paolantonio Salemi, having taken office on May 2, 2005 and the Village Board of Trustees, the Honorable John S. Conteduca, Cathleen Cossident Italia, Tom "T.K." Klein, Ruben Lomeli, Trustee Arturo J. Mota and Anthony J. Prignano, having taken office on May 2, 2005, constitute the duly elected, qualified and acting officials of the Village; and

WHEREAS, the Village has previously entered into an agreement with Kings Point General Cement for concrete work associated with the improvement of municipal sidewalks within the Village (hereinafter “2005 MFT Sidewalk Project”); and

WHEREAS, a certain balancing change in the original contract documents is required due to unforeseen conditions that were discovered during construction efforts of said 2005 MFT Sidewalk Project; and

WHEREAS, the changes contemplated hereby are further specified herein as particularly set forth in the Balancing Change Order, attached hereto and made a part hereof by this reference as Exhibit A; and

WHEREAS, Payment Application Request #1 (hereinafter the "Request for Payment") has been made by Kings Point General Cement in the amount of Eighty Nine Thousand Five Hundred Seventy Six Dollars and 45/100 (\$89,576.45) pursuant to its Agreement with the Village for concrete construction services rendered. Said Request for Payment is attached hereto and made a part hereof by this reference as Exhibit B; and

WHEREAS, the President and Board of Trustees have heretofore determined and do hereby determine that the circumstances necessitating the changes in performance were not reasonably foreseeable at the time the Contract was signed; that the change is germane to the original Contract as signed; and that the Balancing Change Order is in the best interest of the Village of Melrose Park; and

WHEREAS, the President and the Board of Trustees (the "Village Board") of the Village of Melrose Park, County of Cook, State of Illinois, have heretofore determined and do hereby determine that the balancing change order is authorized by law, as well as advisable and in the best interest of the Village and its residents; and

NOW THEREFORE, BE IT ORDAINED by the Village President and the Board of Trustees of the Village of Melrose Park, Cook County, Illinois, as follows:

ARTICLE I. IN GENERAL

Section 01. Incorporation Clause.

The President and Board of Trustees of the Village (the "Village Board") hereby find that all of the recitals hereinbefore stated as contained in the preambles to this

Ordinance are full, true and correct and does hereby, by reference, incorporate and make them part of the Ordinance as legislative findings.

Section 02. Purpose.

The purpose of this Ordinance is to authorize and approve a certain balancing change order and a payout request in connection with the construction efforts of the 2005 MFT Sidewalk Project.

Section 03. Invocation of Authority.

This Ordinance is enacted pursuant to the authority granted to this Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes.

Section 04. State Law Adopted.

All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

Sections 05-09. Reserved.

**ARTICLE II.
AUTHORIZATION FOR BALANCING CHANGE ORDER AND PAYMENT
APPLICATION**

Section 10.00 Authorization for Balancing Change Order.

That change order, concerning construction in connection with the 2005 MFT Sidewalk Project (hereinafter the "Balancing Change Order"), is hereby approved in substantially the same form, specifications and amount as particularly described in the Balancing Change Order attached hereto and made a part hereof as "Exhibit A."

Section 12.00 Approval for Payment Application Request #2.

That Payment Application Request # 1, concerning concrete construction in connection with the 2005 MFT Sidewalk Project ("Payment Application Request # 1"), is hereby approved in substantially the same form, specifications and amount as particularly described in Payment Application Request # 1 attached hereto and made a part hereof as "Exhibit B."

Section 13.00 Approval and Execution of Documents.

That the terms and provisions of the Balancing Change Order, are hereby approved, based on the findings enumerated in this Ordinance, including, without limitation, Exhibit A, with such insertions, omissions and changes as shall be approved by the Village President, Village Attorney or other members of the governing body of the Village executing the same; and the Village President is hereby authorized and directed to execute, and the Village Clerk, if necessary, is hereby authorized and directed to attest and countersign the Balancing Change Order and any related exhibits attached thereto, whether or not such documents are attached to this Ordinance, and the Village Clerk, if necessary, is also authorized to affix the seal of the Village to such documents.

Section 14.00 Other Actions Authorized.

The officers, employees and/or agents of the Village shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated by this Ordinance and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any documents required to be delivered in connection with the Balancing Change Order.

**ARTICLE III.
SAVINGS CLAUSES,
PUBLICATION, EFFECTIVE DATE**

Section 15.00 Headings.

The headings for the articles, sections, paragraphs and sub-paragraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provisions of this Ordinance.

Section 16.00 Severability.

The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the Board of Trustees that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, sub-paragraph, section, or part thereof had not been included.

Section 17.00 Superseder.

All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded.

Section 18.00 Publication.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

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Section 19.00 Effective date

This Ordinance shall be in full force and effect upon passage and approval, as provided by the Illinois Municipal Code, as amended.

On The Individual Poll And Voice Vote Of The Board Of Trustees:

AYE VOTES: Trustee Conteduca, Trustee Italia, Trustee Lomeli,
Trustee Mota

NAY VOTES:

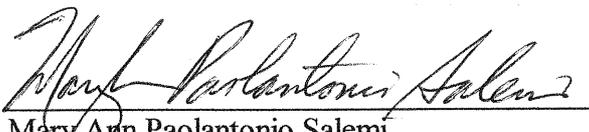
ABSTAIN:

ABSENT: Trustee Klein, Trustee Prignano

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE
VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS
TWENTY-FIFTH DAY OF JULY, 2005 A.D.

APPROVED:


RONALD M. SERPICO,
VILLAGE PRESIDENT

ATTEST: 
Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: July 25, 2005
Published in pamphlet form: July 26, 2005