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VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS

ORDINANCE NO. 962

AN ORDINANCE AMENDING A HIGHWAY AUTHORITY
AGREEMENT IN CONNECTION WITH 1503 N. BROADWAY
AVENUE 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 13TH DAY OF MARCH 2006

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 14th day of MARCH 2006

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AN ORDINANCE AMENDING A HIGHWAY AUTHORITY AGREEMENT IN CONNECTION WITH 1503 N. BROADWAY AVENUE IN THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.

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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, on or about October 28, 2002, the Village enacted Ordinance No. 717 entitled “AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A HIGHWAY AUTHORITY AGREEMENT IN CONNECTION WITH 1503 N. BROADWAY AVENUE IN THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.” (hereinafter “Ordinance 717”); and

WHEREAS, Ordinance 717 authorized a Highway Authority Agreement between the Village of Melrose Park and Norm Oyen & Northern Illinois Brokers, beneficiary(s) of Midwest Bank & Trust Agreement #80-05-3340 (hereinafter the “Highway Authority

Agreement"). Handex of Illinois, Inc., (hereinafter "Handex") is the current owner of 1503 N. Broadway Avenue (hereinafter the "Site"); and

WHEREAS, the Highway Authority Agreement, among other things, set forth the requirements for the environmental clean-up of the Site and any rights of way adjacent to the Site; and

WHEREAS, the Highway Authority Agreement approved by Ordinance 717, is applicable to the entire right of way (hereinafter the "Handex ROW") of North Broadway Avenue, adjacent to the Site. This area is more specifically identified as the lined area in Figure 1. A copy of Figure 1 is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, subsequent to the enactment of Ordinance 717, the Village of Melrose Park enacted Ordinance No. 824, entitled "AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES AGREEMENT IN CONNECTION WITH 1500 BROADWAY AVENUE IN THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS." (hereinafter "Ordinance 824"); and

WHEREAS, Ordinance 824 authorized a Tiered Approach to Corrective Action Objectives Agreement (hereinafter the "TACO Agreement") between the Village of Melrose Park and Shell Oil Products U.S.; and

WHEREAS, the TACO Agreement, among other things, set forth the requirements for the environmental clean-up of 1500 Broadway Avenue (northwest corner of the intersection of Division Street & Broadway Avenue) in the Village and the right of way adjacent thereto (hereinafter the "Shell Site"); and

WHEREAS, the TACO Agreement approved by Ordinance 824, is applicable to the western portion of the right of way of North Broadway Avenue, adjacent to the Shell Site (hereinafter the "Shell ROW"). This area is more specifically identified as the lined area in Figure 2. A copy of Figure 2 is attached hereto and made a part hereof as Exhibit B; and

WHEREAS, the Handex ROW and Shell ROW overlap, however pursuant to the Highway Authority Agreement authorized by Ordinance 717, Handex is currently responsible for the entire right of way of North Broadway Avenue adjacent to the Site. Therefore, there currently exists redundant coverage of the right of way of North Broadway Avenue adjacent to the Site; and

WHEREAS, Handex has requested that the Highway Authority Agreement, authorized by Ordinance 717, be amended to reduce the area of the Handex ROW to include only the eastern portion of the North Broadway right of way. The proposed amended Handex ROW is more specifically identified as the lined area in Figure 3. A copy of Figure 3 is attached hereto and made a part hereof as Exhibit C; and

WHEREAS, Daniel M. Caplice, P.E. of K-Plus Environmental has reviewed, on behalf of the Village, Handex's request for an amendment of the Handex ROW and has determined that said amendment would eliminate the redundant coverage that now exists. Further, Mr. Caplice has determined that the amendment would not impact or in any way lessen the degree of protection (environmentally and fiscally) which is afforded to the Village in order to deal with the private contamination of the North Broadway right of way. A copy of Mr. Caplice's correspondence is attached hereto as Exhibit D; and

WHEREAS, in an effort to eliminate redundant coverage of the North Broadway right of way adjacent to the Site, the President and the Board of Trustees (the "Corporate Authorities") of the Village of Melrose Park, County of Cook, State of Illinois, have determined that amendment of the Highway Authority Agreement (hereinafter the "Agreement") between the Village and Norm Oyen & Northern Illinois Brokers, beneficiary(s) of Midwest Bank & Trust Agreement #80-05-3340 is 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:

**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 amend a Highway Authority Agreement, in connection with 1503 N. Broadway Avenue in the Village of Melrose Park.

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.
AMENDMENT TO HIGHWAY AUTHORITY AGREEMENT**

Section 10.00 Amendment to Section 185-54 of Ordinance No. 185

That the Highway Authority Agreement, a copy of which is attached hereto as Exhibit E, authorized by Ordinance 717 is hereby amended by reducing the area of the Handex ROW to eliminate redundant coverage of the North Broadway right of way adjacent to the Site. The actual reduction of the Handex ROW is reflected in Exhibit C attached hereto and made a part of the Highway Authority Agreement.

Section 11.00 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 amendment to the Highway Authority Agreement.

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

Section 12.00 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 13.00 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 14.00 Superseder.

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

Section 15.00 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 16.00 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 Klein, Trustee Lomeli, Trustee Mota,
Trustee Prignano

NAY VOTES:

ABSTAIN:

ABSENT: Trustee Conteduca, Trustee Italia

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE
VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS
THIRTEENTH DAY OF MARCH, 2006 A.D.

APPROVED:



RONALD M. SERPICO,
VILLAGE PRESIDENT

ATTEST:



Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: March 13, 2006
Published in pamphlet form: March 14, 2006