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

**ORDINANCE NO. 1324**

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN  
BALANCING CHANGE ORDER AND A PAYOUT REQUEST IN  
CONNECTION WITH THE NORTH AVENUE SHARED USE  
PATH, FOR 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 26<sup>TH</sup> DAY OF OCTOBER 2009**

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

**Board Of Trustees**

- CATHLEEN COSSIDENT ITALIA**
- ANTHONY J. PRIGNANO**
- ARTURO J. MOTA**
- MARY RAMIREZ TACONI**
- JAIME ANGUIANO**
- ANTHONY N. ABRUZZO**

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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 27<sup>TH</sup> day of OCTOBER 2009**

**ORDINANCE NO. 1324**

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN  
BALANCING CHANGE ORDER AND A PAYMENT REQUEST IN  
CONNECTION WITH THE NORTH AVENUE SHARED USE PATH, FOR  
THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF  
ILLINOIS.**

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

**WHEREAS**, the Village President (the “President”), the Honorable Ronald M. Serpico, the Village Clerk, the Honorable Mary Ann Paolantonio Salemi, and the Board of Trustees of the Village (the “Village Board”), the Honorable Cathleen Cossident Italia, Anthony J. Prignano, Arturo J. Mota, Mary Ramirez Taconi, Jaime Anguiano and Anthony N. Abruzzo, having taken office on April 30, 2009, constitute the duly elected, qualified and acting officials of the Village; and

**WHEREAS**, the President and Village Board (collectively, the “Corporate Authorities”) previously approved a contract (the “Contract”) with Schroeder Asphalt Services, Inc. (the “Contractor”), whereby the Contractor was to furnish certain labor and materials related to the North Avenue Shared Use Path Project in the Village (the “Project”); and

**WHEREAS**, the original Contract price was Eighty Thousand, Two Hundred Ninety-Two and 25/100 U.S. Dollars (\$80,292.25) (the “Original Contract Price”); and

**WHEREAS**, the Contractor has sought a certain balancing change in the Original Contract Price, specifically described as follows: “Change Order No. 1 (balancing)” dated October 7, 2009, consisting of a decrease in the Original Contract Price of Twelve Thousand, Three Hundred Forty-Nine and 55/100 U.S. Dollars (\$12,349.55) (from \$80,292.25 to \$67,942.70, which is a decrease from the Original Contract Price of approximately 15.4%) due to a general reduction of quantities achieved by value engineering the Project in the field, most notably by adjusting alignment to avoid excessive tree removal, and a final balancing of quantities measured in place as compared to original quantities bid and estimated on the plans, all such reductions and corrections having been discovered during execution of the work (the “Change Order”), a copy of which is attached hereto and made a part hereof by this reference as Exhibit “A”; and

**WHEREAS**, the Change Order is required due to unforeseen events and contingencies that were discovered in the field during the Project; and

**WHEREAS**, the Contractor has also submitted to the Village a request for payment for services rendered (the “Request for Payment”), as “Pay Estimate No. 3 and Final” dated September 30, 2009, in the amount of Eleven Thousand, Two Hundred Seventy-Five and 60/100 U.S. Dollars (\$11,275.60), pursuant to the Contract, a copy of which is attached hereto and made a part hereof by this reference as Exhibit “B”; and

**WHEREAS**, the Village Engineer, Edwin Hancock Engineering Company, has recommended that the Change Order and the Request for Payment be approved, subject to certain qualifications, review, and retainage, and has submitted its recommendation to the Corporate Authorities, a copy of which is attached hereto and made a part hereof by this reference as Exhibit “C” (the “Recommendation”); and

**WHEREAS**, because of and in reliance on the Recommendation, and in accordance with Section 33E-9 of the Illinois Criminal Code of 1961 (720 ILCS 5/33E-9), the Corporate Authorities have heretofore determined and do hereby determine that: (a) the circumstances necessitating the changes set forth in the Change Order were not reasonably foreseeable at the time that the Contract was executed; (b) the changes were germane to the Contract as executed; and (c) effectuating the terms of the Change Order is in the best interests of the Village and is authorized by law; and

**WHEREAS**, due to the findings set forth in the Recommendation, the Corporate Authorities determine that the Change Order is authorized by law, is advisable and is in the best interests of the Village and its residents, is necessary for the proper completion of the Project and is in accordance with the intent of the original construction documents and previous findings of the Village Board and thus, the Request for Payment should be granted; and

**WHEREAS**, the Corporate Authorities, based on the aforesaid Recommendation, have heretofore determined and do hereby determine that approval of the Change Order and the Request for Payment is authorized by law, as well as necessary, advisable and in the best interests of the Village and its residents and is in accordance with the Contract; and

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

**ARTICLE I.  
IN GENERAL**

**Section 01. Incorporation Clause.**

All of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct, and the Village Board does hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

**Section 02. Purpose.**

The purpose of this Ordinance is to authorize and approve the Change Order and to authorize and approve the Request for Payment.

**Section 03. Invocation of Authority.**

This Ordinance is adopted pursuant to the authority granted to the 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 OF THE CHANGE ORDER  
AND THE REQUEST FOR PAYMENT**

**Section 10.00 Authorization for and Approval of the Change Order.**

That the Change Order is hereby approved as further described herein.

**Section 10.01 Authorization for and Approval of the Request for Payment.**

That the Request for Payment is hereby approved as further described herein.

**Section 10.02 Approval and Execution of Documents.**

That the terms and provisions of the Change Order and the Request for Payment are hereby approved, based on the findings enumerated in this Ordinance including, without limitation, Exhibit "A," Exhibit "B," and Exhibit "C," with such insertions, omissions and changes as shall be approved by the President, the Village Attorney, or other officials of the governing body of the Village executing the same, and the President is hereby authorized and

directed to execute, and the Village Clerk, if necessary, is hereby authorized and directed to attest to and countersign the Change Order, the Request for Payment and any related documents or exhibits attached to either, 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 10.03 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 shall 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 Change Order and the Request for Payment.

**Sections 11.00 – 15.00 Reserved.**

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

**Section 16.00 Headings.**

The headings for the articles, sections, paragraphs and subparagraphs 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 17.00 Severability.**

The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, subparagraph, 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, clause, sentence, paragraph, subparagraph, section, or part 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 Corporate Authorities that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, subparagraph, section, or part thereof been included.

**Section 18.00 Superseder.**

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

**Section 19.00 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 20.00 Effective Date.**

This Ordinance shall be in full force and effect upon its passage, approval and publication, as provided by law.

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

AYE VOTES: Trustee Italia, Trustee Prignano, Trustee Taconi,  
Trustee Anguiano, Trustee Abruzzo

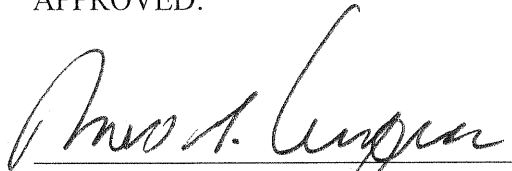
NAY VOTES:

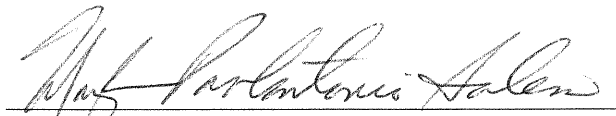
ABSTAIN:

ABSENT: Trustee Mota

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS TWENTY-SIXTH DAY OF OCTOBER, 2009, A.D.

APPROVED:

  
RONALD M. SERPICO  
VILLAGE PRESIDENT

ATTEST:   
Mary Ann Paolantonio Salemi  
Village Clerk

(SEAL)

Recorded in the Municipal Records: October 26, 2009  
Published in Pamphlet Form: October 27, 2009