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VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS

ORDINANCE NO. 1297

AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
BALANCING CHANGE ORDER IN CONNECTION WITH THE
SILVER CREEK STREAMBANK STABILIZATION PROJECT,
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 13TH DAY OF JULY 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 14TH day of JULY 2009

ORDINANCE NO. 1297

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
BALANCING CHANGE ORDER IN CONNECTION WITH THE SILVER
CREEK STREAMBANK STABILIZATION PROJECT, FOR THE
VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF
ILLINOIS.**

* * * * *

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 “Village Clerk”), the Honorable Mary Ann Paolantonio Salemi, and the Board of Trustees of the Village (the “Village Board”), the Honorable Cathleen Cossident Italia, Arturo J. Mota, Anthony J. Prignano, 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”), dated on or about October 27, 2008, with BSL Group, Inc. (the “Contractor”), whereby the Contractor was to perform certain improvements related to the Silver Creek Streambank Stabilization Project in the Village (the “Project”); and

WHEREAS, the Contract price, as adjusted by a prior balancing change order, was Three Hundred Thirty-Five Thousand, Four Hundred Fifty-Five and No/100 U.S. Dollars

(\$335,455.00) (the "Contract Price"); and

WHEREAS, the Contractor has sought a certain balancing change in the adjusted Contract Price, specifically described as follows: "**Change Order No. 2**" dated June 24, 2009, consisting of an increase in the Contract Price of Four Thousand, Five Hundred and No/100 U.S. Dollars (\$4,500.00) (from \$335,455.00 to \$339,955.00, which is an increase from the Contract Price of approximately 1.2%) for the purpose of adding sixty-four (64) linear feet of upper bank geogrid stabilization materials in the vicinity of 521 Winston Drive for the Project (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 during the execution of the work for the Project as well as decisions in the field made by the Public Works Department and the engineers, and recommended by the aforesaid as being necessary for the completion of the Project; and

WHEREAS, both the Village Engineer, Edwin Hancock Engineering Company, and the specialist engineer utilized by the Village for the Project, Living Waters Consultants, Inc., have explicitly recommended that the Change Order be approved, subject to certain qualifications, review, and retainage, and have submitted their recommendations to the Corporate Authorities, copies of which are attached hereto and made a part hereof by this reference as Group Exhibit "B" (the "Recommendations"); and

WHEREAS, because of and in reliance on the Recommendations, 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 proposal was prepared and accepted or at the time that the Contract was executed; (b) the changes were germane to the proposal as accepted and 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, based on the Recommendations, the Corporate Authorities, have heretofore determined and do hereby determine that approval of the Change Order 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.

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**

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 Approval and Execution of Documents.

That the terms and provisions of the Change Order are hereby approved, based on the findings enumerated in this Ordinance and the Exhibits, with such insertions, omissions and changes as shall be approved by the President, the attorney for the Village, 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 and any related documents or 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 10.02 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.

Sections 11.00 – 15.00 Reserved.

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

Section 16.00 Headings.

The headings for the articles and sections 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 thereof 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 thereof 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 Village Board 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.

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 Mota, Trustee Taconi,
Trustee Anguiano, Trustee Abruzzo

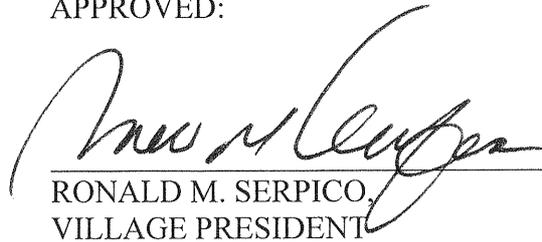
NAY VOTES:

ABSTAIN:

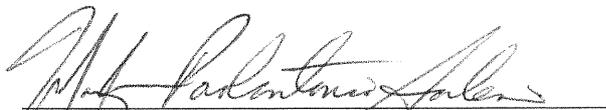
ABSENT: Trustee Prignano

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

APPROVED:


RONALD M. SERPICO,
VILLAGE PRESIDENT

ATTEST:


Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: July 13, 2009
Published in pamphlet form: July 14, 2009