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VILLAGE OF MELROSE PARK
COOK COUNTY, ILLINOIS

ORDINANCE NO. 1326

AN ORDINANCE AUTHORIZING AND APPROVING CERTAIN
CHANGE ORDERS AND A PAYMENT REQUEST IN
CONNECTION WITH THE 25TH AVENUE WATER MAIN
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 26TH 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 27TH day of OCTOBER 2009

ORDINANCE NO. 1326

AN ORDINANCE AUTHORIZING AND APPROVING CERTAIN CHANGE ORDERS AND A PAYMENT REQUEST IN CONNECTION WITH THE 25TH AVENUE WATER MAIN 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 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, previously, the President and Village Board (collectively, the “Corporate Authorities”) determined that it was in the best interests of its residents to improve the water main on 25th Avenue in the Village (the “Project”) and entered into a contract with Cerniglia Co. (the “Contractor”) to complete the Project (the “Agreement”); and

WHEREAS, the Village employed the Edwin Hancock Engineering Company

(the “Engineer”) to provide construction engineering services for the Project; and

WHEREAS, the Corporate Authorities have been advised that, among other things, the following unforeseen events occurred during the completion of the Project, which increased the cost of the delivery of the Project and changed the time for the delivery of the Project: (a) the fiber-optic line was not known to be in conflict with the proposed water main, the abandoned underground storage tank and surrounding contaminated soil was not known to be in existence and the discovery of these previously unknown items necessitated changes, including upgrading gaskets, the use of a new valve, extending augered casing and lowering augered casing (collectively, “Change Order No. 4”); and (b) project delays prevented service transfers from occurring prior to resurfacing work being done and this unexpected delay and the intervening resurfacing makes the completion of the Project more efficient and effective as the existing facilities were maintained rather than replaced avoiding numerous cuts into newly resurfaced roadways, and excavation, backfill and restoration costs increased due to a required change in the location of a water main connection due to the discovery of conflicting gas mains and telephone ducts (collectively, “Change Order No. 5” and with Change Order No. 4, the “Change Orders”); and

WHEREAS, certain changes in the original contract documents are required due to the aforementioned unforeseen conditions; and

WHEREAS, the terms of the Change Orders are particularly set forth in Group Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, the Engineer has recommended that the Village effectuate the Change Orders as set forth in the recommendation (the “Recommendation”), attached

hereto and incorporated herein as Group Exhibit "B"; and

WHEREAS, based on the information contained in the Recommendation, the Corporate Authorities determined and do hereby determine that the Change Orders were unforeseeable at the time the Agreement was entered into; and

WHEREAS, predicated 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 Orders were not reasonably foreseeable at the time that the Agreement was executed; (b) the changes are germane to the Agreement as signed; and (c) effectuating the terms of the Change Orders is in the best interests of the Village and is authorized by law; and

WHEREAS, the Contractor submitted a request for payment (the "Request for Payment"), attached hereto as Exhibit "C" and made a part hereof by this reference, as Pay Application No. 4, dated October 12, 2009, in the amount of One Hundred Fifty Thousand, Three Hundred Ninety-Five and 57/100 U.S. Dollars (\$150,395.57); and

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

WHEREAS, based on the aforesaid recommendations, the Corporate Authorities have heretofore determined and do hereby determine that approval of the Change Orders

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 the Change Order and Request for Payment are in accordance with the Agreement; 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 Orders 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 FOR CHANGE ORDERS**

Section 10.00 Authorization for Change Orders.

The Change Orders are hereby approved in substantially the same form and amounts as set forth in Group Exhibit "A", as modified by Group Exhibit B. Change Order No. 4 shall result in an increase of Thirty-Two Thousand, Four Hundred Sixty-Three and 00/100 U.S. Dollars (\$32,463.00) and Change Order No. 5 shall result in a decrease of Fifty-Five Thousand, Ninety and 42/100 U.S. Dollars (\$55,090.42). Based 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 determine that: (a) the circumstances necessitating the changes set forth in the Change Orders were not reasonably foreseeable at the time that the Agreement was executed; (b) the changes are germane to the Agreement as signed; and (c) effectuating the terms of the Change Orders is in the best interests of the Village and is authorized by law. The Corporate Authorities hereby ratify any previous actions taken to effectuate the goals of this Ordinance.

Section 10.01 Approval and Execution of Documents.

That the terms and provisions of the Change Orders are hereby approved in the amounts set forth in Group Exhibit A, as modified by Group Exhibit B, with such insertions, omissions and changes as shall be approved by the President, the Village Attorney or other members of the governing body of the Village executing the same. 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 Orders and any related exhibits attached thereto, whether or not such documents are attached to this

Ordinance and the Village Clerk is also authorized to affix the Seal of the Village to such documentation as is deemed necessary.

Section 10.02 Approval of Request for Payment.

That the Request for Payment is hereby approved in substantially the same form, specifications and amount as particularly described in Exhibit "C."

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 Orders.

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

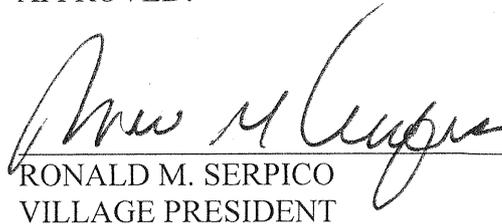
NAY VOTES:

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