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

ORDINANCE NO. 1356

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
BALANCING CHANGE ORDER AND A PAYMENT REQUEST IN
CONNECTION WITH THE 2009 ALLEY PAVING 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 8TH DAY OF FEBRUARY 2010

**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 9TH day of FEBRUARY 2010**

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CONNECTION WITH THE 2009 ALLEY PAVING PROJECT, 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 the Village Board (collectively, the “Corporate Authorities”) previously approved a contract (the “Contract”) with G&M Cement Construction, Inc. (the “Contractor”), whereby the Contractor was to perform construction work related to the 2009 Alley Paving Project (CDBG #08-032) involving paving and repairing on various alleys in the Village (the “Project”); and

WHEREAS, the original Contract price was Ninety-Two Thousand, Three Hundred

Seventy-Four and No/100 U.S. Dollars (\$92,374.00) (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. 2" dated January 29, 2010, consisting of a decrease in the Original Contract Price in the amount of Eight Thousand, Three Hundred Sixty-One and 58/100 U.S. Dollars (\$8,361.58) (from \$92,374.00 to \$85,892.68, which is a decrease from the Original Contract Price of approximately 9.05%) (the "Change Order"), attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the Change Order has occurred because of final measurements and actual quantities used in the work and is recommended by the Village Engineer, Edwin Hancock Engineering Company, and the Village Public Works Department ; and

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

WHEREAS, pursuant to the Contract, the Contractor has also submitted to the Village a request for payment for services rendered (the "Request for Payment"), known as "Final Invoice" (also referred to as Pay Estimate No. 2), dated December 1, 2009, in the amount of Nine Thousand, Five Hundred Eighteen and 11/100 U.S. Dollars (\$9,518.11), attached hereto and incorporated herein as Exhibit "B"; and

WHEREAS, the Village Engineer 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 (the "Recommendation") to the Corporate Authorities, which Recommendation is attached hereto and incorporated herein as Exhibit "C"; and

WHEREAS, because of and in reliance on the Recommendation, and in accordance with Section 33E-9 of the 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 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 Change Order and the Request for Payment should be approved; and

WHEREAS, based on the aforesaid Recommendation, the Corporate Authorities 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 terms of 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 Mota,
Trustee Taconi, Trustee Anguiano, Trustee Abruzzo


NAY VOTES:

ABSTAIN:


ABSENT:

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE VILLAGE
OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS EIGHTH DAY OF
FEBRUARY, 2010, A.D.

APPROVED:


RONALD M. SERPICO
VILLAGE PRESIDENT

ATTEST:


Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: February 8, 2010
Published in Pamphlet Form: February 9, 2010