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

ORDINANCE NO. 1144

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
BALANCING CHANGE ORDER AND PAYOUT REQUEST IN
CONNECTION WITH THE 5TH AVENUE WATER MAIN
IMPROVEMENT PROJECT, 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 11TH DAY OF FEBRUARY 2008

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

Board Of Trustees

**JOHN S. CONTEDEUCA
CATHLEEN COSSIDENT ITALIA
ARTURO J. MOTA
ANTHONY J. PRIGNANO
MARY RAMIREZ TACONI**

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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 12TH day of FEBRUARY 2008**

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BALANCING CHANGE ORDER AND PAYOUT REQUEST IN
CONNECTION WITH THE 5TH AVENUE WATER MAIN
IMPROVEMENT PROJECT, IN 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 (the “Village Clerk”), having taken office on May 2, 2005 and the Board of Trustees of the Village (the “Village Board”), the Honorable John S. Conteduca, Cathleen Cossident Italia, Arturo J. Mota, Anthony J. Prignano and Mary Ramirez Taconi having taken office on May 14, 2007, constitute the duly elected, qualified and acting officials of the Village; and

WHEREAS, the President and the Village Board (collectively, the “Corporate Authorities”) approved a contract (the “Contract”) with Cerniglia Company (“Cerniglia”), whereby Cerniglia was to perform certain improvements related to the 5th Avenue Water Main Improvement Project in the Village (the “Program”); and

WHEREAS, a certain balancing change in the price of the Contract, specifically a decrease from the current price in the amount of Thirty-Two Thousand, Three Hundred Fifteen

and 93/100 USD (\$32,315.93) (from \$588,356.00 to \$556,040.07, a decrease of approximately 6.35%), is required due to unforeseen events and contingencies that were discovered during the Program, as specifically set forth in the change order documents, referred to as "Change Order No. 3 (Final/Balancing)," (the "Change Order"), attached hereto and made a part hereof by this reference as Exhibit A; and

WHEREAS, the Change Order specifically includes a recommendation for approval of the Change Order by the Village Engineer; and

WHEREAS, a request for final payment for services rendered, referred to as "Pay Application No. 4 and FINAL," dated December 1, 2007 (the "Request for Payment") has been made by Cerniglia in the amount of One Hundred and One Thousand, Forty Two and 15/100 USD (\$101,042.15) pursuant to the Contract. The Request for Payment and a letter from the Village Engineer recommending approval of the Request for Payment are attached hereto and made a part hereof by this reference as Exhibit B; and

WHEREAS, based on the information contained in the Village Engineer's recommendations, the Corporate Authorities have heretofore determined and do hereby determine that the Change Order was unforeseeable at the time the transaction was finalized; and

WHEREAS, due to the Village Engineer's 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, the Corporate Authorities, based on the aforesaid recommendations, 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 are in accordance with the proposal and the Contract; and

NOW, THEREFORE, BE IT ORDAINED by the Village 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 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 CHANGE ORDER AND REQUEST FOR PAYMENT**

Section 10.00 Authorization for and Approval of Change Order.

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

Section 10.01 Authorization for and Approval of 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, Exhibits A and B, with such insertions, omissions and changes as shall be approved by the President, 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 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 10.03 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 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 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 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, sub-paragraph, 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, sub-paragraph, 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, sub-paragraph, 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 Conteduca, Trustee Italia, Trustee Mota,
Trustee Prignano, Trustee Taconi

NAY VOTES:

ABSTAIN:

ABSENT:

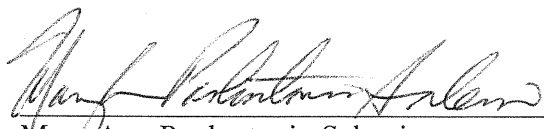
SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE VILLAGE
OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS ELEVENTH DAY
OF FEBRUARY, 2008, A.D.

APPROVED:



RONALD M. SERPICO
VILLAGE PRESIDENT

ATTEST:



Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: February 11, 2008
Published in Pamphlet Form: February 12, 2008