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

**ORDINANCE NO. 1260**

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN  
BALANCING CHANGE ORDER AND A FINAL PAYOUT  
REQUEST IN CONNECTION WITH THE CDBG 2008 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 23<sup>RD</sup> DAY OF FEBRUARY 2009**

**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  
JAIME ANGUIANO**

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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 24<sup>TH</sup> day of FEBRUARY 2009**

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**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN  
BALANCING CHANGE ORDER AND A FINAL PAYOUT REQUEST IN  
CONNECTION WITH THE CDBG 2008 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 “Village Clerk”), the Honorable Mary Ann Paolantonio Salemi, 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, and the Honorable Jaime Anguiano, having taken office on March 10, 2008, 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 A&R Cement, Inc. (the “Contractor”), whereby the Contractor was to perform certain improvements related to the CDBG 2008 Alley Paving Project (Edwin Hancock Engineering Company No. 600-07-24901; CDBG Project No. 07-031) in the Village (the “Project”); and

**WHEREAS**, the original price of the Contract is Forty-Eight Thousand, Nine Hundred

Ninety and No/100 U.S. Dollars (\$48,990.00) (the “Original Contract Price”); and

**WHEREAS**, the Contractor has sought, and the Village Engineer Edwin Hancock Engineering Company (the “Village Engineer”) has recommended for approval, a certain balancing change in the Original Contract Price, specifically described as follows: “**CHANGE ORDER NO. 1**” dated February 4, 2009, consisting of an increase in the Original Contract Price of Three Thousand, Three Hundred Twelve and 47/100 U.S. Dollars (\$3,312.47) (increase from \$48,990.00 to \$52,302.47, which is an increase from the Original Contract Price of approximately 6.76%) for the purpose of a final reconciling of changes in question based on final measurement of the work and decisions made in the field based on conditions 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 during the Project; and

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

**WHEREAS**, the Contractor has also submitted to the Village a request for final payment for services rendered, referred to as “Pay Estimate No. 3 and Final” as Contractor Invoice Nos. 1691 (dated August 6, 2008) and 1730 (dated November 5, 2008) (the “Request for Payment”), in the amount of Five Thousand, Two Hundred Thirty and No/100 U.S. Dollars (\$5,230.00) pursuant to the Contract; and

**WHEREAS**, the Request for Payment and a letter from the Village Engineer recommending its 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 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, 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 documents or exhibits attached thereto 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 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.

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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 Conteduca, Trustee Italia, Trustee Mota,  
Trustee Prignano, Trustee Taconi, Trustee Anguiano

NAY VOTES:

ABSTAIN:

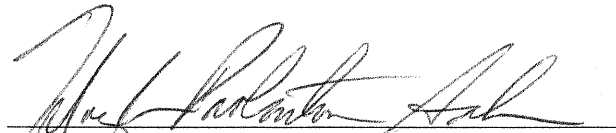
ABSENT:

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

APPROVED:

  
RONALD M. SERPICO  
VILLAGE PRESIDENT

ATTEST:

  
Mary Ann Paolantonio Salemi  
Village Clerk

(SEAL)

Recorded in the Municipal Records: February 23, 2009  
Published in Pamphlet Form: February 24, 2009