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

ORDINANCE NO. 1340

**AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN
CHANGE ORDER AND A PAYOUT 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 14TH DAY OF DECEMBER 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 15TH day of DECEMBER 2009**

ORDINANCE NO. 1340

AN ORDINANCE AUTHORIZING AND APPROVING A CERTAIN CHANGE ORDER 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.

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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, previously, the President and Village Board (collectively, the “Corporate Authorities”) determined that it was in the best interests of the Village and 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 Project and changed the time for the delivery of the Project: (a) the existing fence was necessarily modified to allow for additional room around the new fire hydrant to improve accessibility by fire department personnel; and (b) the existence of contaminated soil was discovered during the work, was stockpiled and disposed of under the supervision of an environmental engineer (collectively, the “Change Order”); and

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

WHEREAS, the terms of the Change Order and the Engineer’s recommendation for the approval of the same (the “Recommendation”) is particularly set forth in Exhibit “A,” attached hereto and incorporated herein; and

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

WHEREAS, predicated 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 Agreement was executed; (b) the changes are germane to the Agreement as signed;

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 Contractor submitted a request for payment (the “Request for Payment”), attached hereto and incorporated herein as Exhibit “B,” as Pay Application No. 5, dated November 1, 2009, in the amount of One Hundred Eighty-Eight Thousand, Sixty-Three and 30/100 U.S. Dollars (\$188,063.30); and

WHEREAS, the Engineer has recommended that the Village pay the requested amount as set forth in the “Payment Recommendation,” attached hereto and incorporated herein as Exhibit “C”; and

WHEREAS, due to the findings set forth in the Recommendation and the Payment 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 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 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 the Change Order and Request for Payment are in accordance with the terms of 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 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 FOR CHANGE ORDER**

Section 10.00 Authorization for Change Order.

The Change Order is hereby approved in substantially the same form and amounts as set forth in Exhibit "A," as modified by Exhibit "B." The Change Order shall increase the amount of the Agreement by Twenty-One Thousand, Seven Hundred Seventy-One and 80/100 U.S. Dollars (\$21,771.80). Based 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 determine that: (a) the circumstances necessitating the changes set forth in the Change Order were not reasonably foreseeable at the time that the Agreement was executed; (b) the change is germane to the Agreement as signed; and (c) effectuating the terms of the Change Order 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 Order are hereby approved in the amounts set forth in Exhibit "A," 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 Order 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 "B," as modified by 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 Order.

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:

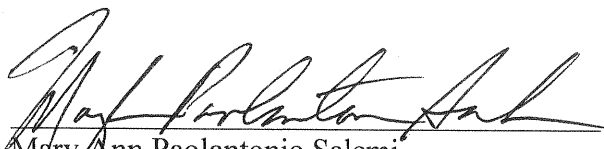
ABSENT:

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

APPROVED:


RONALD M. SERPICO
VILLAGE PRESIDENT

ATTEST:


Mary Ann Paolantonio Salemi
Village Clerk

(SEAL)

Recorded in the Municipal Records: December 14, 2009
Published in Pamphlet Form: December 15, 2009