

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO AN ADDENDUM OF CONTRACT WITH VITO GIRONDA CONSTRUCTION AND DECLARING AN EMERGENCY

WHEREAS, this Council authorized entering into an agreement with Vito Gironda Construction Company on May 19, 2000 for the Village Streetscape Project; and

WHEREAS, there is currently a balance due on the contract of \$10,801.23 (of which \$8,952.25 is retainage); and

WHEREAS, in the course of the contract, the Service Director has recommended Change Order Nos. 2 (\$5,966.00) and 3 (\$1,636.00); and

WHEREAS, after mediation, the Service Director, the Mayor and the Law Director are recommending Change Order No. 4 (\$2,596.77) for replacement of dead trees and storage of trees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into an Addendum of Contract with Vito Gironda Construction, a copy of which Addendum of Contract is attached hereto as Exhibit "A" and incorporated herein fully as if by reference, which will authorize closing out of the contract and Change Order Nos. 2, 3 and 4.

SECTION 2. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to allow for the delivery of new replacement trees at the earliest possible time; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: July 2, 2002

May N. Malone
President of Council

ATTEST:
Carole Ebers
Clerk of Council

Donald W. Larsen
Mayor

Dated: 7/5/2002

ADDENDUM OF CONTRACT

THIS ADDENDUM to a contract entered into this ____ day of June, 2002, by and between THE VILLAGE OF RICHFIELD, Summit County, Ohio, a municipal corporation (hereinafter known as "Village"), and VITO GIRONDA CONSTRUCTION (hereinafter designed as "Gironda").

WHEREAS, the Village and Gironda entered into an Agreement dated May 19, 2000 for Streetscape Village of Richfield Project as amended and/or supplemented (the "Contract"); and

WHEREAS, the parties have approved certain Contract change orders; and

WHEREAS, the parties wish to enter into this Addendum of Contract to finally resolve all issues and claims between the parties.

NOW, THEREFORE, it is hereby agreed between the parties as follows:

- | | | |
|----|----------------------------------|---|
| 1. | Balance due on contract to date: | \$10,801.23 (retainage \$8,952.25) |
| | Change Order No. 2: | 5,966.00 |
| | Change Order No. 3: | 1,636.00 (conduit) |
| | Change Order No. 4: | <u>2,596.77</u> (dead trees and storage of trees) |
| | Total Due | \$21,000.00 |
2. Gironda will cause to be furnished to the Village forty replacement trees at no cost to the Village. The replacement trees shall be of the size and type set forth in the Contract specifications. The Village will have the ability to inspect these trees prior to delivery and they will be delivered to the Village service garage on Brecksville Road free of charge to the Village. Gironda shall make no warranty on these trees and the Village shall have the obligation to install and the replacement trees without recourse or right of contribution from Gironda.
 3. Gironda shall furnish to the Village all manuals prior to the payment of the final balance due Gironda under this Agreement.
 4. Gironda shall have no further obligation under the Contract to the Village and all Gironda warranties shall be and are hereby extinguished.
 5. Each party releases the other party from any and all claims, actions, causes of action which now exist or may exist in the future as a result of, or in relation to the Contract.
 6. Each party shall pay one half of the American Arbitration Association mediation fee and mediator's fee in Case No. AAA53124002802. The parties shall notify the

American Arbitration Association of this settlement and withdraw their respective claims from mediation and arbitration

IN WITNESS WHEREOF, we have set our hands as of the date and place first above written.

Witness:

VITO GIRONDA CONSTRUCTION CO.

By: _____

Its: _____

VILLAGE OF RICHFIELD

By: _____
Its Mayor

And: _____
Its Finance Director