

# CITY OF OBERLIN, OHIO

## ORDINANCE No. 14-40 AC CMS

AN ORDINANCE DECLARING THE EXISTENCE OF A REAL AND PRESENT EMERGENCY IN THE DEPARTMENT OF PUBLIC WORKS IN ACCORDANCE WITH SECTION 735.051 OF THE OHIO REVISED CODE AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DON MOULD'S PLANTATION INC. OF NORTH RIDGEVILLE, OHIO TO COMPLETE THE DOWNTOWN SIDEWALK IMPROVEMENTS FOR THE CITY OF OBERLIN WITHOUT FORMAL ADVERTISING AND BIDDING AND DECLARING AN EMERGENCY.

WHEREAS, after advertisement and competitive bidding as required by law, by Ordinance 13-56, this Council authorized the City Manager to enter into an agreement with DCH Landscaping, LLC, ("DCH") as the original contractor, for the construction of the Downtown Sidewalk Improvement Project, ("Project"); and

WHEREAS, there were a number of significant delays in the performance of the work by DCH, portions of the Project were never completed and much of the work that was done was defective and substandard; and,

WHEREAS, DCH failed to complete the Project in accordance with the plans and specifications and on March 4, 2013, the City was advised by legal counsel for DCH that due to adverse financial conditions it had ceased its operations; and,

WHEREAS, the improper installation of many of the pavers utilized by DCH has resulted in heaving, height differentials and improper sloping creating an environment that is hazardous and a danger to the general public which danger and hazards will continue until the pavers installed by DCH are removed and reinstalled and the Project is completed; and

WHEREAS, it is necessary to abate the dangers and hazards existing in the downtown sidewalk areas and to complete the Project as soon as is possible and the delay occasioned by formal advertising and bidding for the repairs and completion of the Project would prolong the danger to the safety of the general public in the downtown area; and,

WHEREAS, the City issued a request for proposal for the work necessary to correct the deficiencies in the work performed by DCH and for the completion of the Project and Don Mould's Plantation Inc., of North Ridgeville, Ohio has submitted a bid in the amount of \$59,482.20 being the lowest bid received; and,

WHEREAS, the Erie Insurance Company, as surety, executed a Performance and Payment Bond ("Bond") of behalf of DCH as principal and the City of Oberlin as the obligee and will issue to the City the sum of Fourteen Thousand, Thirty One and 69/100 Dollars (\$14,031.69) as partial payment for the costs of remedial work and for completion of the Project by the City of Oberlin but subject to the release of its obligations under the Bond.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. It is hereby declared and determined by this Council under the provisions of Section 735.051 of the Ohio Revised Code that a real and present emergency exists in the Department of Public Works due to the failure of DCH to complete the Project and the resulting danger to the public in the downtown sidewalk areas requiring immediate authority for the City Manager to enter into an agreement without advertisement or competitive bidding for the repair of the hazardous conditions and for the completion of the Downtown Sidewalk Improvement Project.

SECTION 2. That the City Manager is hereby authorized and directed to enter into a contract with Don Mould's Plantation, Inc. of North Ridgeville, Ohio for the immediate completion of the Downtown Sidewalk Improvements in an amount not to exceed Sixty Four Thousand, Four Hundred Eighty Two and 20/100 Dollars, (\$64,482.20).

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio or to provide for the usual daily operation of a municipal department, to wit: to allow for the immediate completion of said Downtown Sidewalk Improvements to ensure the public safety of the citizens of Oberlin and shall take effect immediately upon passage.

PASSED: 1st Reading: July 21, 2014

FAILED: 2nd Reading: August 18, 2014

3rd Reading: \_\_\_\_\_

ATTEST:

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BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL

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H. SCOTT BROADWELL  
PRESIDENT OF COUNCIL

POSTED: 08/19/2014

EFFECTIVE DATE: N/A