

ORDINANCE NO. 2016-2
INTRODUCED BY: ADMINISTRATION

**AN ORDINANCE AUTHORIZING CHANGE ORDER NO. 1 WITH
LONGO SEWER CONSTRUCTION, INC. FOR THE 2014 SEWER
REPAIR PROGRAM, AUTHORIZING THE CLOSEOUT OF SAID
CONTRACT, AND DECLARING AN EMERGENCY**

WHEREAS, the City has previously entered into a Contract with Longo Sewer Construction, Inc., for the 2014 Sewer Repair Program; and

WHEREAS, Longo Sewer Construction, Inc. has successfully completed the Contract; and

WHEREAS, it is necessary to enter into a Change Order as set forth herein due to needed additions to the Contract or unforeseen circumstances associated with the contract in order to initiate and complete the close out procedure. Now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDBURST,
CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

SECTION 1. The Mayor be and he is hereby authorized to enter into a Change Order Contract with Longo Sewer Construction, Inc. for the credit amount of Thirteen Thousand Nine Hundred Twenty-Five Dollars (\$13,925.00), in addition to the Contract heretofore authorized by the Board of Control of this Council, as and for final reconciliation of Contract quantities of said Contract, all as more fully set forth in Change Order No. 1 dated January 4, 2016, which is fully incorporated herein. The City Engineer has approved the aforesaid Change Order.

SECTION 2. The Director of Finance be and is hereby authorized and directed to credit the amount provided for in Section 1 of this Ordinance upon passage hereof and execution of the Change Order authorized herein and completion of the work.

SECTION 3. This Council determines that the work included in the Contract with Longo Sewer Construction, Inc. has been completed, and the Contract may be closed out, and the retainage released, pursuant to the application and certificate for final payment, the final Contract price, including additions and deletions, being Two Hundred Nineteen Thousand Eight Hundred Three Dollars (\$219,803.00). This final payment amount has been approved by the City Engineer.

SECTION 4. The Mayor be and he is hereby authorized to execute all documents necessary to complete the closeout of this Contract in accordance with this Ordinance.

SECTION 5. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 6. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City of Lyndhurst and its residents for the reason that it is necessary to approve the aforesaid changes so as to not unnecessarily delay the completion of the aforesaid Project. Therefore, this Ordinance shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: _____

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on _____ and _____.

Clerk of Council

First Reading: _____

Second Reading: _____

Third Reading: _____

Proposed

**RESOLUTION NO. 2016-3
INTRODUCED BY: ADMINISTRATION**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO
AN AGREEMENT WITH CLEMANS, NELSON & ASSOCIATES,
INC., PROVIDING FOR LABOR AND EMPLOYMENT
CONSULTING SERVICES.**

WHEREAS, Clemans, Nelson & Associates, Inc., has proposed to provide labor and employment consulting services at the request of the City; and

WHEREAS, in order to provide said services it is necessary to enter into an Agreement with Clemans, Nelson & Associates, Inc., in the form attached hereto as Exhibit A.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
LYNDHURST, STATE OF OHIO THAT:**

SECTION 1. The Mayor is hereby authorized and directed to enter into an Agreement with Clemans, Nelson & Associates, Inc., to provide labor and employment consulting services for the City.

SECTION 2. The Agreement shall be in the form attached to this Resolution and marked Exhibit "A".

SECTION 3. The annual retainer to be paid by the City shall be Two Thousand One Hundred Dollars (\$2,100.00), and additional services shall be paid at the rates set forth in Exhibit A.

SECTION 4. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution 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 5. This Resolution shall take effect from and after the earliest period allowed by law and upon the signature of the Mayor.

PASSED: _____

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Resolution by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on _____ and _____.

Clerk of Council

First Reading: _____

Second Reading: _____

Third Reading: _____

**ORDINANCE NO. 2016-4
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE AUTHORIZING THE PURCHASE OF
CUYAHOGA COUNTY PERMANENT PARCEL NO. 712-13-
111 FROM SEAN W. BURKE, AND DECLARING AN
EMERGENCY.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
LYNDHURST, CUYAHOGA COUNTY, OHIO, THAT:**

SECTION 1. This Council determines that in order to make full use of the City Hall complex it is necessary to purchase additional property adjacent to the real property currently owned by the City.

SECTION 2. This Council recognizes that negotiations have been initiated with the property owner, Sean W. Burke, and a draft Purchase Agreement has been prepared.

SECTION 3. This Council hereby authorizes the purchase of Cuyahoga County Permanent Parcel No. 712-13-111 from the property owner, Sean W. Burke, generally in accordance with the draft Purchase Agreement attached hereto and made a part hereof as Exhibit A.

SECTION 4. This Council declares that the amount to be paid to the owner for said parcel shall not exceed One Hundred Eighteen Thousand Dollars (\$118,000.00), plus closing costs as outlined in Exhibit A, without further action by this Council.

SECTION 5. This Council authorizes and directs the Mayor to execute all documents necessary to complete said purchase, but only after written legal approval of the Purchase Agreement by the Director of Law.

SECTION 6. This Council authorizes the Director of Finance to deposit the funds in accordance with the executed Purchase Agreement.

SECTION 7. This Council declares that this authorization to purchase is contingent upon approval by the City's Director of Law of the Warranty Deed.

SECTION 8. Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 9. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of Lyndhurst for the reason that the Purchase Agreement provides for a transfer date of April 29, 2016. It shall therefore take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

PASSED: _____

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Resolution by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on and _____.

Clerk of Council

First Reading: _____

Second Reading: _____

Third Reading: _____

Proposed

ORDINANCE NO. 2016-5
INTRODUCED BY: ADMINISTRATION AND COUNCIL

AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO REIMBURSE THE CITY OF BRECKSVILLE, OHIO, FOR LEGAL FEES ADVANCED IN DEFENDING THE CASE CAPTIONED NORTHEAST OHIO REGIONAL SEWER DISTRICT VS. BATH TOWNSHIP, OHIO, ET AL., OHIO SUPREME COURT CASE NO. 2013-1770, AND DECLARING AN EMERGENCY.

WHEREAS, in 2010 the Northeast Ohio Regional Sewer District filed a lawsuit against the City of Lyndhurst and numerous other communities, Northeast Ohio Regional Sewer District v. Bath Township, Ohio, et al., Cuyahoga County Common Pleas Court Case No. 714945, seeking to have its proposed stormwater management program (Title V) determined to be within the scope of its legal authority; and

WHEREAS, the City was required to retain legal representation to defend the lawsuit in Cuyahoga County Common Pleas Court; and

WHEREAS, after a trial in Common Pleas Court, that Court determined Title V was within the authority granted to the Northeast Ohio Regional Sewer District; and

WHEREAS, the City and other communities determined to appeal that judgment to the Eighth District Court of Appeals; and

WHEREAS, in order to pursue such appeal, the City was required to retain legal counsel; and

WHEREAS, after briefing and oral argument, the Court of Appeals determined the trial court had erred, and the Sewer District did not have the authority under either State law or its Charter to implement Title V; and

WHEREAS, the Sewer District appealed that decision to the Ohio Supreme Court, Case No. 13-1770; and

WHEREAS, the City was required to retain legal representation to defend the appeal in the Ohio Supreme Court; and

WHEREAS, by Opinion dated September 15, 2015, the Ohio Supreme Court determined the Sewer District had the authority to implement Title V; and

WHEREAS, upon recommendation of the Law Director, the City joined with the City of Brecksville and others to request reconsideration of that Opinion, which request was filed and was denied; and

WHEREAS, it is necessary to reimburse the City of Brecksville for legal fees paid. Now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST, CUYAHOGA COUNTY, STATE OF OHIO, THAT:

SECTION 1. The Director of Finance is hereby authorized to reimburse the City of Brecksville, Ohio, its share of legal fees advanced in defending the case captioned Northeast Ohio Regional Sewer District vs. Bath Township, Ohio, et al., Ohio Supreme Court Case No. 2013-1770.

SECTION 2. The amount to be reimbursed shall be One Thousand One Hundred Forty-Eight and 72/100 (\$1,148.72).

SECTION 3. This Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council, and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Lyndhurst for the reason that the retention of such special legal services is necessary in order to defend the legal interests of the City and other municipalities with common interests in this significant pending litigation. Therefore, this Ordinance shall take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and signature by the Mayor or otherwise at the earliest time allowed by law.

PASSED: _____

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on _____ and _____

Clerk of Council

First Reading: _____

Second Reading: _____

Third Reading: _____

**RESOLUTION NO. 2016-6
INTRODUCED BY: ADMINISTRATION**

**A RESOLUTION DEMANDING THAT THE CLEVELAND
PLAIN DEALER AND CLEVELAND.COM
IMMEDIATELY STOP LITTERING PUBLIC PROPERTY
WITH THE “SHOP CLE” WEEKLY CIRCULAR,
REQUESTING THAT THE CLEVELAND PLAIN DEALER
BEGIN MAILING THE CIRCULAR TO HOMES IN THE
CITY OF LYNDHURST AS HAS BEEN DONE IN
CLEVELAND HEIGHTS AND NEWBURGH HEIGHTS,
AND DECLARING AN EMERGENCY**

WHEREAS, the Cleveland Plain Dealer and Cleveland.com have started to provide a “weekly circular” of advertisements and promotions known as “shopCLE” which is placed in plastic bags and carelessly tossed along the City’s roadways, sidewalks, driveways and tree lawns; and

WHEREAS, this weekly circular is really a collection of unsolicited advertisements and promotions which profit the Cleveland Plain Dealer and Cleveland.com; and

WHEREAS, the careless tossing of these advertisements violates this City’s Littering Ordinances, Sections 432.40 and 660.03 of the Codified Ordinances, and is a public nuisance in accordance with the City’s Building and Housing Code; and

WHEREAS, the plastic bags containing the advertisements are thrown all over the neighborhoods, and pose serious hazards to wildlife, human health and the environment; and

WHEREAS, this Council has received numerous complaints from residents regarding the littering of neighborhoods with these advertisements encased in plastic bags; and

WHEREAS, at least two Cleveland suburbs have complained to the Cleveland Plain Dealer and have negotiated that the advertisements will be mailed instead of dumped onto the public right-of-way. Now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNDHURST,
COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:**

SECTION 1. This Council demands the Cleveland Plain Dealer and Cleveland.com to immediately stop littering public property with the “shopCLE” weekly circular, and requests that the Cleveland Plain Dealer begin mailing the circular to homes in the City of Lyndhurst as has been done in the City of Cleveland Heights and Newburgh Heights Village.

SECTION 2. The Clerk of Council is hereby directed to transmit copies of this Resolution to the Plain Dealer Depot Manager in charge of shopCLE distribution, Cathy McBride, to Plain Dealer Director of Planning and Project Management, Chris Chimes, and to Sara Dorn, the local reporter for Cleveland.com.

SECTION 3. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

PASSED: _____

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Resolution by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on _____ and _____.

Clerk of Council

First Reading: _____

Second Reading: _____

Third Reading: _____