



**AGENDA**  
**NOVEMBER 1, 2016**  
**LAVON CITY COUNCIL**  
**CITY HALL, 120 SCHOOL ROAD - LAVON, TEXAS**  
**REGULAR MEETING – EXECUTIVE SESSION**  
**7:00 P.M.**

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**NOTICE OF ATTENDANCE**

**NOTICE** is hereby given that members of the Lavon City Council, Economic Development Corporation, Planning and Zoning Commission, Parks and Recreation Board, Infrastructure and Facilities Commission and Tax Increment Financing Zone #1 Board may be in attendance at the meeting.

- 1. PRESIDING OFFICER TO CALL THE MEETING TO ORDER AND ANNOUNCE THAT A QUORUM IS PRESENT.**
- 2. PLEDGE OF ALLEGIANCE AND INVOCATION**
- 3. CITIZENS COMMENTS**  
Citizens who wish to speak may discuss matters not on the agenda. No formal action may be taken regarding the comments.
- 4. ITEMS OF INTEREST/COMMUNICATIONS**  
Members have the opportunity to notify others of community events, functions and other activities.
- 5. CONSENT AGENDA**  
*Consent items are considered to be routine or non-controversial and will be voted on in one motion unless a separate discussion is requested.*
  - A.** Approve the Minutes of the October 18, 2016 Meeting.
  - B.** Approve Ordinance No. 2016-11-01 approving the 2016 Tax Roll Summary for the City of Lavon, Texas.
- 6. MAYORAL PROCLAMATION**  
Texas Historical Marker Dedication
- 7. DISCUSSION AND ACTION**
  - A.** Discussion and action regarding Resolution No. 2016-11-01 authorizing the Mayor to execute a Professional Services Agreement with Birkhoff, Hendricks & Carter, L.L.P. for engineering design services relating to the City of Lavon Stormwater Management Program.
- 8. EXECUTIVE SESSION**  
In accordance with the provisions of the Texas Government Code, Chapter 551, the City Council will recess into Executive Session (closed meeting) to discuss the following:  

§551.072 - To deliberate the purchase, exchange, lease, or value of real property.
- 9. RECONVENE INTO REGULAR SESSION**  
In accordance with Texas Government Code, Section 551.001, et seq., the City Council will reconvene into Regular Session to discuss and take any action regarding the executive session item(s).

Lavon City Hall will provide reasonable accommodations for persons attending meetings. Please contact the City Secretary at 972-843-4220 no later than 48 hours prior to a meeting if you require special assistance | WiFi password: Guest2014

**10. SET FUTURE MEETINGS AND AGENDAS**

Members and staff may request items be placed on a future agenda or request a special meeting.

**11. PRESIDING OFFICER TO ADJOURN THE MEETING**

1. The Council may vote and/or act upon each of the items listed in this Agenda except for discussion items.
2. The Council may consider and act upon items out of the order listed.
3. The Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (discussing purchase, exchange, lease or value of real property); §551.074 (discussing personnel or to hear complaints against personnel); and §551.087 (discussing economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

This is to certify that this Agenda was duly posted on the glass of the front door of the City Hall, facing the outside, the City’s website at [www.cityoflavon.com](http://www.cityoflavon.com) and on the City Hall bulletin board, on or before 6:00 PM on October 28, 2016.

\_\_\_\_\_  
Kim Dobbs, City Administrator | City Secretary

Removed from posting: \_\_\_\_\_

\_\_\_\_\_  
*signed*



Minutes  
October 18, 2016  
City of Lavon City Council  
Lavon City Hall, 120 School Rd., Lavon, TX  
Regular Meeting – Executive Session

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**1. MAYOR TESKE CALLED THE MEETING TO ORDER AT 7:00 P.M. AND ANNOUNCED A QUORUM PRESENT.**

ATTENDING:   CHUCK TESKE, MAYOR  
                  MATT CHILDERS, MAYOR PRO TEM, PLACE 4  
                  VICKI SANSON, PLACE 1  
                  JASON ARNOLD, PLACE 3  
                  MINDI SERKLAND, PLACE 5

ABSENT:       JASON KIDD, PLACE 2

**2. MAYOR TESKE LED THE RECITATION OF THE PLEDGE OF ALLEGIANCE AND DELIVERED THE INVOCATION.**

**3. CITIZENS COMMENTS**

Kay Wright, President, Lavon Economic Development Corporation Board (LEDC) of Directors, informed the Council of the upcoming Small Business Christmas Bazaar, Saturday November 26, 2016 at Lavon City Hall.

**4. ITEMS OF INTEREST/CITY COUNCIL COMMUNICATIONS**

Council Member Serkland noted that Grand Heritage Main will be hosting Trunk or Treat on Monday October 31st. City Administrator Kim Dobbs announced the Historical Marker Unveiling will be held at City Hall on November 12 beginning at 10:30 a.m. U.S. Congressman John Ratcliffe and students from NeSmith Elementary will be in attendance.

**5. CONSENT AGENDA**

- A. Approve the Minutes of the September 20, 2016 Meeting.**
- B. Accept the Heritage Public Improvement District #1 Assessment Report Summary dated 09/30/16 and authorize the payment of invoices included therein.**
- C. Approve Resolution No. 2016-10-01, authorizing the Mayor to execute an Interlocal Dispatch Services Agreement with Collin County for dispatch services for a 1 (one) year period from October 1, 2016 to September 30, 2017; and providing for an effective date.**
- D. Approve Resolution No. 2016-10-02, authorizing the Mayor to execute Contract Amendment No. Ten (10) to extend the Interlocal Agreement with Collin County for Animal Control and Animal Shelter Services for a 1 (one) year period from October 1, 2016 to September 30, 2017; and providing for an effective date.**

**MOTION: APPROVE THE CONSENT AGENDA AS PRESENTED.**

**MOTION MADE:** CHILDERS

**SECONDED:** ARNOLD

**APPROVED:** UNANIMOUS

Absent: KIDD

## 6. STAFF REPORTS

- A. Police Department** – Lieutenant Myers discussed the drug take back program, set for October 22. He explained how the program works, the type of drugs they will take back and how they are exposed of. He informed the Council that for the last two years they have taken back over 50 lbs of drugs. Lieutenant Myers reported that National Night Out (NNO) went very well and Lakeridge Meadows neighborhood won the best neighborhood celebration.
- B. Fire Department** – Director of Health and Life Safety Jon Scott reported that the calls have increased within the city limits. The calls being reported on are not including the ETJ. Scott noted that Wylie has responded to 48 calls in the last 3 years, consisting primarily of motor vehicle accidents at the shared jurisdiction lines at the intersection of Highways 205 and 78. . The fire department expects over 660 calls for this 2016 year. Response time has gone down due to having stipend Firefighters on duty.
- C. Public Works Department** – Director of Public Works Sonny Mancias reported that his department continues to mow around the city, has recently had to work on the lift station and is waiting to hear from TXDOT regarding the Engine Brake permit. He added there have been several Code Enforcement issues resolved. Public Works will be adding 7 new stop signs in the Grand Heritage Subdivisions.
- D. Administration** – Ms. Dobbs noted that the Financial Outlook included the entire fiscal year of 2015-16. She also explained the Open Space project funding determination letters included in the packet.

## 7. DISCUSSION AND ACTION

- A. Discussion and action regarding payment to the Public Improvement District (PID) developer from excess debt service reserve funds held by the PID trustee pursuant to the PID Trust Indenture for the reimbursement of the improvement projects constructed in the Heritage Public Improvement District No. 1 (Residential).**

Abdi Yassin, Vice President of MuniCap, Inc. explained there were 2 conditions to be met before the disbursement from the Improvement Fund could be made to the developer:1) 95% collection rate of assessments and 2) at least 779 homes completed. Yassin informed the Council that the conditions have been met and that the transfer from the Debt Service Reserve Fund to the improvement should be approved.

**MOTION: APPROVE PAYMENT TO THE PUBLIC IMPROVEMENT DISTRICT(PID) DEVELOPER FROM EXCESS DEBT SERVICE RESERVE FUNDS HELD BY THE PID TRUSTEE PURSUANT TO THE PID TRUST INDENTURE FOR THE REIMBURSEMENT OF THE IMPROVEMENT PROJECTS CONSTRUCTED IN THE HERITAGE PUBLIC IMPROVEMENT DISTRICT NO. 1 (RESIDENTIAL).**

**MOTION MADE:** CHILDERSON  
**SECONDED:** ARNOLD  
**APPROVED:** UNANIMOUS  
Absent: KIDD

**B. Discussion and action regarding payment to the Public Improvement District (PID) developer from funds available in the city held PID bank account for the reimbursement of the improvement projects constructed in the Heritage Public Improvement District No. 1 (Residential).**

Abdi Yassin, Vice President of MuniCap, Inc. explained that all conditions have been satisfied and the remainder on account should be paid to the developer

**MOTION: APPROVE PAYMENT TO THE PUBLIC IMPROVEMENT DISTRICT DEVELOPER FROM FUNDS AVAILABLE IN THE CITY HELD PID BANK ACCOUNT FOR THE REIMBURSEMENT OF THE IMPROVEMENT PROJECTS CONSTRUCTED IN THE HERITAGE PUBLIC IMPROVEMENT DISTRICT NO 1. (RESIDENTIAL).**

**MOTION MADE:** SANSON  
**SECONDED:** CHILDERSON  
**APPROVED:** UNANIMOUS  
Absent: KIDD

**C. Discussion and action regarding Resolution No. 2016-10-03 approving the 2016 Annual Service Plan including the collection of the 2016-17 Annual Installments for the Heritage Public Improvement District No. 1 (Residential).**

City Administrator Kim Dobbs explained this is an annual review and that MuniCap, Inc. recommends approval. Abdi Yassin, Vice President of MuniCap, Inc. explained that the approval is pursuant to Texas Local Government Code Chapter 372 and that this year represents the 9<sup>th</sup> update.

**MOTION: APPROVE RESOLUTION 2016-10-03 APPROVING THE 2016 ANNUAL SERVICE PLAN INCLUDING THE COLLECTION OF THE 2016-17 ANNUAL INSTALLMENTS FOR THE HERITAGE PUBLIC IMPROVEMENT DISTRICT NO. 1. (RESIDENTIAL)**

**MOTION MADE:** ARNOLD  
**SECONDED:** SANSON  
**APPROVED:** UNANIMOUS  
Absent: KIDD

**D. Discussion and action regarding Resolution No. 2016-10-04 authorizing the Mayor to execute an Interlocal Agreement with Collin County for Project Funding Assistance for the acquisition of open space; and providing for an effective date.**

Ms. Dobbs advised that this Agreement formalizes the County's award of the partial funding for park land acquisition.

**MOTION: APPROVE RESOLUTION 2016-10-04 AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH COLLIN COUNTY FOR PROJECT FUNDING ASSISTANCE FOR THE**

**ACQUISITION OF OPEN SPACE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**MOTION MADE:** SERKLAND  
**SECONDED:** SANSON  
**APPROVED:** UNANIMOUS  
Absent: KIDD

- E. Discussion and action regarding Resolution No. 2016-10-05 authorizing the Lavon Economic Development Corporation to expend funds for an incentive to Exint Inc., 4812 Rancho Del Norte Trail, McKinney, TX 75075 for up to 50% of the cost of constructing a sanitary sewer line from Main Street to a proposed retail center facing Lake Road, such incentive to not exceed \$21,500.**

Mayor Teske noted that the item would be tabled to the next meeting per the request for the Lavon Economic Development Corporation. .

- F. Discussion and action regarding Resolution No. 2016-10-06 Collin County Hazard Mitigation Plan; and providing for an effective date.**

**MOTION: APPROVE RESOLUTION 2016-10-06ADOPTING THE COLLIN COUNTY HAZARD MITIGATION PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.**

**MOTION MADE:** SERKLAND  
**SECONDED:** SANSON  
**APPROVED:** UNANIMOUS  
Absent: KIDD

- G. Discussion and action regarding Board and Commission Appointments: Lavon Reinvestment Zone #1 (TIF) Board of Directors.**

**MOTION: APPOINT RYAN LISKO TO THE UNEXPIRED TERM OF THE LAVON REINVESTMENT ZONE #1 (TIF) BOARD OF DIRECTORS, SEAT 2.**

**MOTION MADE:** CHILDERS  
**SECONDED:** ARNOLD  
**APPROVED:** UNANIMOUS  
Absent: KIDD

**8. EXECUTIVE SESSION**

At 7:33 p.m., the Mayor recessed the meeting to go into Executive Session (Closed Meeting) pursuant to the provisions of Chapter 551, TEXAS GOVERNMENT CODE, to discuss the following, in accordance with the authority contained in Section 551.072: Deliberate the purchase, exchange, lease, or value of real property.

**9. RECONVENE INTO REGULAR SESSION**

The Mayor reconvened the meeting at 8:05 p.m. and stated that no action was taken in executive session.

**MOTION: DIRECT THE MAYOR TO NEGOTIATE THE PURCHASE OF THE FOLLOWING PROPERTY: TRACTS 4, 29, 30 AND 31 OF THE SM RAINIER SURVEY, ABSTRACT 0740.**

**MOTION MADE:** CHILDERS

**SECONDED:** SANSON

**APPROVED:** UNANIMOUS

Absent: KIDD

**10. CITY COUNCIL TO SET FUTURE MEETINGS AND AGENDAS**

The City Council scheduled future Meeting Dates as follows:

November 1 and November 15

December 6

Ms. Dobbs reported that Council Member Kidd, who was absent due to a death in his family, had asked that a discussion item be included on the next agenda for him to report regarding video streaming meetings.

**11. PRESIDING OFFICER TO ADJOURN THE CITY COUNCIL MEETING**

Mayor Teske adjourned the meeting at 8:09 p.m.

**Duly passed and approved on this 1<sup>st</sup> day of November, 2016.**

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Charles A. Teske, Jr., Mayor

Attest:

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Kim Dobbs, City Administrator | City Secretary



**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: November 1, 2016**

**ITEM: 5-B**

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**Item:**

Consent Agenda – Approve Ordinance No. 2016-11-01 approving the 2016 Tax Roll Summary for the City of Lavon.

**Background:**

According to the Collin County Tax Assessor Collector, the Texas Property Tax Code sets out a formality that the City Council approves the submitted 2016 Tax Roll.

**Attachments:** Proposed Ordinance  
Correspondence from the Collin County Tax Assessor Collector

October 28, 2016



**CITY OF LAVON, TEXAS**

**ORDINANCE NO. 2016-11-01**

2016 Tax Roll Adoption

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS APPROVING THE 2016 TAX ROLL SUMMARY FOR THE CITY OF LAVON, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 26.09 of the Texas Tax Code, it is necessary for the 2016 Tax Roll Summary, which constitutes the 2016 Tax Roll for the City of Lavon, to be approved by the City Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS THAT:**

**SECTION 1.** The City Council of the City of Lavon hereby accepts and approves the 2016 Tax Roll Summary as submitted by the Collin County Tax Assessor Collector which constitutes the 2016 Tax Roll for the City of Lavon, which is attached hereto and labeled "Exhibit A"; and

**SECTION 2.** It is hereby declared by the City Council that if any of the sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance should be declared unconstitutional or otherwise invalid for any reason, such event shall not affect any remaining sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance; and

**SECTION 3.** This ordinance shall be in full force and effect immediately upon its passage and approval by the City Council.

**DULY PASSED AND APPROVED** by the City Council of the City of Lavon, Collin County, Texas on this 1<sup>st</sup> day of November 2016.

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Charles A. Teske Jr. Mayor

ATTEST:

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Kim Dobbs, City Administrator | City Secretary

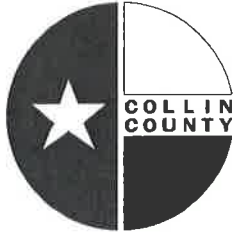
**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2016-11-01**

**EXHIBIT A**

2016 Tax Roll Summary for City of Lavon

## 2016 TAX ROLL SUMMARY

	Amount	Count
NUMBER OF ACCOUNTS		1,581
MARKET VALUES		
ROLLCODE: PERSONAL		
Personal	\$4,205,508	
ROLLCODE: REAL		
Agriculture	\$13,765,940	
Improvement	\$195,301,988	
Improvement Non-Home Site	\$18,851,669	
Land	\$56,980,603	
Land Ag Land	\$69,663	
Land Non-Home Site	\$16,600,053	
	<b>TOTAL MARKET VALUE</b>	<b>\$305,775,424</b>
DEFERRALS		
Ag	\$13,765,940	33
	<b>TOTAL DEFERRALS</b>	<b>\$13,765,940</b>
EXEMPTIONS		
Autos , XO , PPV , XO , PPV	\$1,962,060	14
Cap Adjustment , XT , XT	\$4,823,542	493
Disabled	\$320,000	16
Disabled Veteran	\$2,200,694	38
Homestead	\$8,565,000	861
Miscellaneous , XV , XV	\$15,834,897	49
Nominal Value	\$2,815	13
Over 65	\$2,770,000	140
	<b>TOTAL EXEMPTIONS</b>	<b>\$36,479,008</b>
<b>GRAND TOTAL FOR DEFERRALS AND EXEMPTIONS</b>		<b>\$50,244,948</b>
<b>TOTAL MARKET VALUE</b>		<b>\$305,775,424</b>
<b>TAXABLE VALUE</b>		<b>\$255,530,476</b>
<b>TAX RATE</b>		<b>0.4557</b>
ROLLCODE: PERSONAL		
Levy	\$10,210.60	100
ROLLCODE: REAL		
Levy	\$1,134,167.26	1,481
	<b>TOTAL LEVY</b>	<b>\$1,144,377.86</b>
<b>LEVY LOST DUE TO FROZEN</b>		<b>\$20,074.53</b>
<b>OTHER LOST LEVY</b>		<b>\$0.00</b>
<b>TOTAL LOST LEVY</b>		<b>\$20,074.53</b>



**KENNETH L. MAUN**  
**TAX ASSESSOR COLLECTOR**  
**COLLIN COUNTY**  
**2300 Bloomdale Road, Suite 2366**  
**P.O. Box 8006**  
**McKinney, TX 75070-8006**  
**(972) 547-5020**  
Fax: (214) 491-4808  
Email: [kmaun@collincountytexas.gov](mailto:kmaun@collincountytexas.gov)

October 7, 2016

Chuck Teske, Mayor  
City of Lavon  
P.O. Box 340  
Lavon, TX 75166

Dear Mayor Teske,

Attached is the 2016 Tax Roll Summary for City of Lavon.

Submission of the 2016 Tax Roll to your governing body for approval, in accordance with *Texas Property Tax Code*, Section 26.09, will constitute the 2016 Tax Roll for City of Lavon.

Please provide my office a copy of your ordinance approving the Tax Roll at your earliest convenience. While this is a formality in the Texas Property Tax Code, we do want to fulfill the requirements of the law and do appreciate your cooperation.

If you have any questions, please contact me.

Sincerely,

Kenneth L. Maun  
Tax Assessor Collector

Enclosure

cc: Kim Dobbs

**RECEIVED**  
**OCT 17 2016**  
**CITY OF LAVON**



# CITY OF LAVON CITY COUNCIL Agenda Brief

**MEETING: November 1, 2016**

**ITEM: 6**

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**Item:**

Mayoral Proclamation – Historical Marker Unveiling

**Background:**

On November 12, 2016, the City of Lavon will unveil a Texas Historical Marker to celebrate the City's rich history that has culminated in a special public space serving the community as City Hall.

The public is encouraged to attend and celebrate the unveiling of the Texas Historical Marker on November 12, 2016 at 10:30 a.m. at 120 School Road, Lavon, Texas.

**Attachments:** Proclamation

October 28, 2016



## **MAYORAL PROCLAMATION**

### **City of Lavon, Texas**

**“Celebrating Lavon’s History – November 12, 2016”**

**WHEREAS**, the Texas Historical Commission has recognized the Lavon School, constructed in 1938 and now serving as the City Hall, with an Official Texas Historical Marker; and

**WHEREAS**, many long-time Lavon residents attended school in the building at 120 School Road and provide an important link to our history; and

**WHEREAS**, according to Mark Wolfe, executive director of the Texas Historical Commission, “The Official Texas Historical Marker program helps bring attention to community treasures and the importance of their preservation,” and

**WHEREAS**, the preservation and transformation of the historic school building into the City Hall is the result of the commitment and dedicated efforts of many volunteers who donated their time, energy and money so that the residents of Lavon are able to enjoy a City Hall where they can conduct city business and hold community gatherings.

**NOW, THEREFORE**, be it proclaimed that the City of Lavon will honor our heritage with the unveiling of the City of Lavon’s Texas Historical Marker and the residents of Lavon are invited and encouraged to attend and join in the celebration at City Hall on Saturday, November 12, 2016 at 10:30 a.m.

**IN WITNESS WHEREOF**, I have hereunto set my hand and have caused the Seal of the City of Lavon, Texas, to be affixed this 1<sup>st</sup> day of November, 2016.

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Charles A. Teske, Jr., Mayor



**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: November 1, 2016**

**ITEM: 7-A**

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**Item:**

Discussion and action regarding Resolution No. 2016-11-01 authorizing the Mayor to execute a Professional Services Agreement with Birkhoff, Hendricks & Carter, L.L.P. for engineering design services relating to the City of Lavon Stormwater Management Program.

**Background:**

The City of Lavon has a Stormwater Management Program (SWMP) which has been approved by the Texas Commission on Environmental Quality (TCEQ). The SWMP includes elements to meet the requirements of the Small Municipal Storm Sewer System (MS4) general permit required by the federal government.

In order to remain compliant with the permit, it is appropriate for the City to modify the timeframe for implementation of the plan. The staff interviewed a number of engineering firms and, based on their qualifications and familiarity of the project, selected Birkhoff, Hendricks & Carter, L.L.P. to move forward in the process.

**Financial:**

Funds are available for the professional services contract in the Outsourcing, MS4 Permit Execution & Administration account.

**Attachments:** Resolution  
Agreement

October 28, 2016

**CITY OF LAVON, TEXAS**  
**RESOLUTION NO. 2016-11-01**

Professional Service Agreement – MS4

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS AUTHORIZING THE AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BIRKHOFF, HENDRICKS & CARTER, L.L.P. FOR ENGINEERING DESIGN SERVICES RELATING TO THE CITY OF LAVON STORMWATER MANAGEMENT PROGRAM, AND PROVIDING AN EFFECTIVE DATE.**

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAVON TEXAS:**

**SECTION 1.** That the City Council does hereby authorize the Mayor to execute a professional services agreement, being attached hereto and labeled “Exhibit A”, with Birkhoff, Hendricks & Carter, L.L.P. for engineering design services relating to the City of Lavon Stormwater Management Program not to exceed \$17,935 without prior authorization from the City; and

**SECTION 2.** That this resolution shall take effect from and after the date of its passage.

**DULY PASSED AND APPROVED THIS THE 1<sup>st</sup> DAY OF NOVEMBER, 2016.**

\_\_\_\_\_  
Charles A. Teske, Jr., Mayor

**ATTEST:** \_\_\_\_\_  
Kim Dobbs  
City Administrator | City Secretary



**CITY OF LAVON, TEXAS**  
**RESOLUTION NO. 2016-11-01**

**EXHIBIT A**  
**PROFESSIONAL SERVICES AGREEMENT**

# PROFESSIONAL ENGINEERING SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into by and between the **City of Lavon, Texas**, hereinafter referred to as "City", and **Birkhoff, Hendricks & Carter, L.L.P.**, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

## WITNESSETH:

**WHEREAS**, the City desires to engage the services of the Engineer to complete engineering design and provide additional services for the *City of Lavon Stormwater Management Program* hereinafter referred to as the "Project"; and

**WHEREAS**, the Engineer desires to render such engineering design services for the City under the terms and conditions provided herein.

## NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

### I. Employment of the Engineer

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project; Engineer agrees to perform such services in accordance with the terms and condition of this Agreement.

### II. Scope of Services

The parties agree that Engineer shall perform such services as expressly set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications, in the form of written changes may be authorized from time to time by the City. Engineer shall have no further obligations or responsibilities for the project except as agreed to in writing. Engineer's services and work product are intended for the sole use and benefit of Client and are non-intended to create any third party rights or benefits, or for any use by any other entity or person for any other purpose.

Engineer shall perform his or her professional engineering services with the professional skill and care ordinarily provided by competent engineers practicing in North Central Texas and under the same or

similar circumstances and professional license. Professional services shall be performed as expeditiously as is prudent, considering the ordinary professional skill and care of a competent engineer.

### **III. Schedule of Work**

The Engineer agrees to commence services immediately upon execution of this Agreement, and to proceed diligently with said service, except for delays beyond the reasonable control of Engineer, to completion, as described in the Completion Schedule attached hereto as Exhibit "B" and thereby made a part of this Agreement.

### **IV. Compensation and Method of Payment**

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto as Exhibit "C" and thereby made a part of this Agreement. Engineer further agrees that it will prepare and present such monthly progress reports and itemized statements as are described in said Exhibit "C". City agrees to pay invoices upon receipt. Statement for services shall include a line for previous payments, contract amount, and amount due current invoice.

### **V. Information To Be Provided By The City**

The City agrees to furnish, prior to commencement of work, all information requested by Engineer that is available to the City.

### **VI. Insurance**

Engineer agrees to procure and maintain for the duration of the contract Professional Liability Insurance (\$2,000,000), Worker's Compensation, General Liability and Automobile Insurance.

### **VII. Assignment and Subletting**

The Engineer agrees that neither this Agreement nor the services to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

## **VIII. Contract Termination**

The parties agree that City or the Engineer shall have the right to terminate this Agreement without cause upon thirty (30) days written notice to the other. In the event of such termination without cause, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all services completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

## **IX. Ownership of Documents**

Original drawings, specifications and reports are the property of the Engineer; however, the Project is the property of the City. City shall be furnished with such reproductions of drawings, specifications and reports. Upon completion of the services or any earlier termination of this Agreement under Article VII, Engineer will revise drawings to reflect changes made during construction as reported by the City and contractor, and will furnish the City with one set of construction record drawings in accordance with terms provided in Exhibit "A" – Engineering Services.

All deliverables shall be furnished, as an additional service, at any other time requested by the City when such deliverables are available in the Engineer's record keeping system.

## **X. Complete Contract**

This Agreement, including the exhibits hereto numbered "A" through "C" constitutes the entire agreement by and between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous written or oral understanding. This agreement may only be amended, supplemented, modified or canceled by a duly executed written agreement.

## **XI. Mailing of Notices**

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

Ms. Kim Dobbs  
City Administrator | City Secretary  
City of Lavon  
120 School Road  
Lavon, Texas 75166

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Joseph T. Grajewski, P.E.  
Birkhoff, Hendricks & Carter, L.L.P.  
11910 Greenville Ave., Suite 600  
Dallas, Texas 75243  
Phone: (214) 361-7900

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

**XII. Contract Amendments**

This Agreement may be amended only by the mutual agreement of the parties expressed in writing.

**XIII. Effective Date**

This Agreement shall be effective from and after execution by both parties hereto, with originals in the hand of both parties.

**WITNESS OUR HANDS AND SEALS** on the date indicated below.

**CITY OF LAVON, TEXAS**  
*A Texas Type A General Law City*

**BIRKHOFF, HENDRICKS & CARTER, L.L.P.**  
*A Texas Limited Liability Partnership*  
*Texas Board of Professional Engineers Firm No. 526*  
*Texas Board of Professional Land Surveyors Firm No. 100318-00*

By: \_\_\_\_\_

By:  \_\_\_\_\_  
Joseph T. Grajewski, P.E., Partner

Date: \_\_\_\_\_

Date: 10/20/16

**ATTEST**

**ATTEST**

By: \_\_\_\_\_

By:  \_\_\_\_\_

# EXHIBIT “A”

## ENGINEERING SERVICES

### *CITY OF LAVON STORMWATER MANAGEMENT PROGRAM*

#### **Background:**

The City of Lavon has a Stormwater Management Program (SWMP) which has been approved by the Texas Commission on Environmental Quality (TCEQ). The SWMP includes twenty-one (21) Best Management Practices (BMP's) to meet the requirements of the Small Municipal Separate Storm Sewer System (MS4) general permit. The BMP's protect water quality from storm water runoff throughout the City. Each of the BMP's have a 5 year phased implementation program as described in Appendices A and C of the SWMP including measurable goals for each year. Annual reports must be submitted to the TCEQ confirming implementation of each of the BMP's.

#### **Engineering Services:**

A Notice of Change (NOC) will be prepared and submitted to the TCEQ which will modify the timeframe for implementation of each of the BMP's. This will include:

- A. Meet with City Staff to discuss the requirements and measurable goals for each BMP
- B. Complete revisions to the BMP implementation schedules in Appendices A and C.
- C. Prepare the NOC document for submittal to the TCEQ
- D. Respond to comments provided by the TCEQ and resubmit the NOC as requested.

Following approval of the NOC by the TCEQ, we will assist the City on an annual basis to prepare the Annual Reports for permit years 3 through 5 for submittal to the TCEQ. This will include:

- E. Meet with the City staff near the end of each permit year (for permit years 3 through 5) to discuss progress made towards each measurable goal and plans for the following year.
- F. Complete the annual report documentation based on feedback from the City and prepare the transmittal of the document to both the regional and state offices of the TCEQ.
- G. Meet with the City to discuss and prepare annual reports for potentially missing submittals from permit years 1 and 2.

**Exclusions:**

The intent of this scope of services is to include only the services specifically listed herein and none others. Services specifically excluded from this scope of services include, but are not necessarily limited to the following:

- A. Fees for permits
- B. Fiduciary Responsibility to the City
- C. Hydrologic or Hydraulic modeling
- D. Implementation of Best Management Practices (BMP's)

# **EXHIBIT “B”**

## **COMPLETION SCHEDULE**

### ***CITY OF LAVON STORMWATER MANAGEMENT PROGRAM***

The City of Lavon’s Stormwater Management Program is operated on a calendar year reporting cycle. The annual reports are due within 90 days of the end of each calendar year (no later than March 31).



**EXHIBIT “C”**  
**PAYMENT SCHEDULE**

***CITY OF LAVON STORMWATER MANAGEMENT PROGRAM***

**Basic Services:**

Payment for the Engineering Services described in Exhibit “A” shall be based on salary cost basis times a multiplier of 2.45, with expenses at actual invoice cost time 1.15. Automobile mileage will be invoiced at the maximum IRS limit per mile. On this basis, the maximum fee for all elements of Engineering Services shall not exceed \$17,935 without prior written authorization from the City.

Payments are to be made monthly based on the actual hourly expenditures for the Engineering Services.

The maximum overall fee established herein shall not be exceeded without written authorization from the City, based on an increased scope of services.