

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2017-03-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, DECLARING THE MEASURE REGARDING THE REAUTHORIZATION OF THE LOCAL SALES AND USE TAX IN THE CITY OF LAVON AT THE RATE OF ONE QUARTER OF ONE PERCENT (0.25%) AS MOOT AND ORDERING THE PROPOSITION REMOVED FROM THE BALLOT FOR THE SPECIAL ELECTION TO BE HELD ON MAY 6, 2017; PROVIDING FOR THE REMAINING PROPOSITIONS TO BE RENUMBERED ON THE BALLOT; PROVIDING A SEVERABILITY CLAUSE, FOR PUBLICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lavon, Texas (“City”) is a Type A general-law municipality of the State of Texas; and

**WHEREAS**, Chapter 327 of the Texas Tax Code authorizes the City to adopt a local sales and use tax to provide revenue for maintenance and repair of municipal streets if the tax is authorized by the majority of qualified voters and if the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions does not exceed two percent (2.0%); and

**WHEREAS**, on May 11, 2013, the qualified voters of the City of Lavon approved a local sales and use tax of one quarter of one percent (0.25%), the then allowed maximum amount, to provide revenue for maintenance and repair of municipal streets; and

**WHEREAS**, Chapter 327 of the Texas Tax Code provides that unless the imposition of the sales and use tax authorized by this chapter is reauthorized, the tax expires on the fourth anniversary of the date the tax took effect; and

**WHEREAS**, on May 7, 2016, the qualified voters of the City approved the reauthorization of the one quarter of one percent (0.25%) to provide revenue for maintenance and repair of municipal streets for an additional four years; and

**WHEREAS**, on February 7, 2017, the City Council adopted Ordinance No. 2017-02-01 calling a special election to submit to the qualified voters ballot propositions that would seek to 1) reauthorize the one quarter of one percent (0.25%) tax approved in 2013, and 2) increase the sales and use tax to raise revenue for maintenance and repair of municipal streets from one quarter of one percent (0.25%) to one half of one percent (0.50%); and

**WHEREAS**, the Texas Comptroller of Public Accounts (the “Texas Comptroller”) has notified the City by a letter dated March 14, 2017, attached herein as **Exhibit “A”**, that results of the May 7, 2016 reauthorization election to continue the additional one quarter of one percent (0.25%) sales and use tax for Municipal Street Maintenance has been accepted by the Texas Comptroller and will be effective within the City on October 1, 2017; and

**WHEREAS**, the City is authorized by section 2.081 of the Texas Election Code to declare a measure moot and remove the measure from the ballot; and

**WHEREAS**, section 551.045 of the Texas Government Code allows a supplemental notice of a subject to be added as an item to the agenda for a meeting for which notice has been posted in accordance with Subchapter C of Chapter 551 of the Texas Government Code, if such notice is posted for at least two hours before the meeting and such necessity is due to a reasonably unforeseeable situation requiring immediate City Council action, which is based, in part, on communications from and by Collin County and the Texas Comptroller's Office regarding the proposition related to the reauthorization of the street and maintenance tax and the deadline to prepare the final ballot; and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by sections 551.043 and 551.045 of the Texas Government Code.

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

**SECTION 1.** The findings set forth above are true and correct and are incorporated into this Ordinance as if fully set forth herein; and adopted as the legislative findings of this body.

**SECTION 2.** The City finds that the ballot proposition pertaining to the reauthorization of the local sales and use tax in the City of Lavon at the rate of one quarter of one percent (0.25%) to continue providing revenue for maintenance and repair of municipal streets is declared moot and shall be removed from the ballot as the action to be authorized by the voters may not be taken, regardless of the outcome of the election. The moot proposition is substantially worded as follows:

**PROPOSITION NO. 1**

The reauthorization of the local sales and use tax in the City of Lavon at the rate of one quarter of one percent (0.25%) to continue providing revenue for maintenance and repair of municipal streets. The tax expires on the fourth anniversary of the date of this election unless the imposition of the tax is reauthorized.

**SECTION 3.** The special election for the remaining measures shall be held in accordance with, and shall be governed by, the election laws of the State of Texas. The remaining propositions shall be renumbered as needed. The Mayor, City Secretary or City Council shall perform each act as is required to be performed, in connection with the holding and consummation of such election, and to give effect to the intent of this Ordinance, Ordinance Nos. 2017-02-01 and 2017-02-02, and the City's election contract with the County.

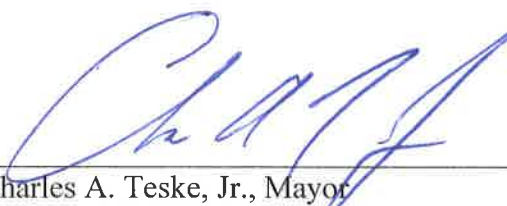
**SECTION 4.** The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5.** The City Secretary is hereby authorized to give a Notice of the Election by posting a notice of election in both English and Spanish at Lavon City Hall located at 120 School Road, Lavon, Texas, on the bulletin board not later than twenty-one (21) days prior to the date upon which the Election is to be held, and by publication of said notice at least once in the official newspaper of the City, being a newspaper of general circulation within the Town, the date of said publication to be not less than ten (10) days nor more than thirty (30) days prior to the date set for the Election. Upon publication of the election notice, the City Secretary shall secure a publisher's affidavit.

**SECTION 6.** It is hereby officially found and determined that all notice required by law has been given and notice of this Ordinance was posted and the Ordinance passed in accordance with the Open Meeting Act.

**SECTION 7.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 21<sup>th</sup> day of March 2017.

  
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Charles A. Teske, Jr., Mayor

**ATTEST:**

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



EXHIBIT "A"

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



March 14, 2017

Ms. Kim Dobbs  
City Secretary  
City of Lavon  
PO Box 340  
Lavon, TX 75166-0340

Dear Ms. Dobbs:

We have received the results of Lavon's May 7, 2016 reauthorization election to continue the additional 1/4% city sales and use tax for Municipal Street Maintenance as permitted under Chapter 327 of the Texas Tax Code.

This additional 1/4% local sales and use tax will become effective within the City of Lavon on October 1, 2017.

Also, we have noted that the municipal street maintenance tax will **expire four years after it begins to levy taxes for street maintenance purposes if the city does not hold a tax reauthorization election.**

If you have any questions or need more information, please call me toll free at 1-800-531-5441, extension 5-9974. My email address is [William.Collard@cpa.texas.gov](mailto:William.Collard@cpa.texas.gov)

Sincerely,

A handwritten signature in cursive script, appearing to read "William Collard".

William Collard  
Tax Allocation Section  
Revenue Accounting Division

RECEIVED  
MAR 20 2017  
CITY OF LAVON