



## **CITY OF ANNA AGENDA NOTICE – CITY COUNCIL WORKSHOP**

**August 23, 2011**

**6:30 p.m. – Anna City Hall Administration Building**

The City Council of the City of Anna will meet in Workshop Session at 6:30 p.m., August 23, 2011, at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), regarding the following items.

1. Call to Order.
2. Roll Call and Establishment of Quorum.
3. Discussion regarding TxDOT City Pride sign (Philip Sanders).
4. **CLOSED SESSION (EXCEPTIONS):** Under Tex. Gov't Code Chapter 551, the City Council may enter into closed session to discuss any items listed or referenced on this agenda under the following exceptions:
  - a. Consult with legal counsel regarding pending or contemplated litigation and/or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code (Tex. Gov't Code §551.071); *Powell v. City of Anna*, Cause No. 401-03815-2009 in the 401<sup>st</sup> District Court of Collin County, Texas; *William Austin Gant and Paul Eugene Gant v. City of Anna*, Cause No. 380-02370-2011 in the 380<sup>th</sup> District Court of Collin County, Texas; anticipated litigation involving street right of way over former CR 366; legal consultation regarding municipal and extraterritorial boundaries on eastern and western areas of City
  - b. Discuss or deliberate the purchase, exchange, lease, or value of real property (Tex. Gov't Code §551.072); property on S. Powell Parkway.
  - c. Deliberation Regarding Economic Development Negotiations: (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near

1. The Council may vote and/or act upon each of the items listed in this agenda.

2. The Council reserves the right to retire into executive session concerning any of the items listed on this agenda, whenever it is considered necessary and legally justified under the Open Meeting Act.

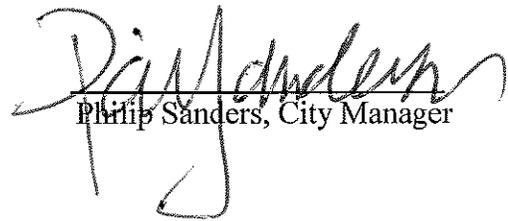
3. Persons with a disability who want to attend this meeting who may need assistance should contact the City Secretary at 972 924-3325 two working days prior to the meeting so that appropriate arrangements can be made.

the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) (Tex. Gov't Code §551.087); technology based businesses

The council further reserves the right to enter into executive session at any time throughout any duly noticed meeting under any applicable exception to the Open Meetings Act.

5. Discussion regarding any item on the City Council's August 23, 2011 Regular Meeting Agenda Notice, which was posted at the same date, time and place of this Workshop Agenda Notice.
6. Adjourn.

This is to certify that I, Philip Sanders, City Manager, posted this agenda at a place readily accessible to the public at the Anna City Hall and on the City Hall bulletin board at or before 5:00 p.m., August 19, 2011.

  
Philip Sanders, City Manager

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## **CITY OF ANNA AGENDA NOTICE – CITY COUNCIL REGULAR MEETING**

**August 23, 2011**

**7:30 p.m. – Anna City Hall Administration Building**

The City Council of the City of Anna will meet in Regular Session at 7:30 p.m., August 23, 2011, at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), to consider the following items.

*Welcome to the City Council Meeting. Please sign the Sign-In-Sheet as a record of attendance. If you wish to speak on an open-session agenda item please fill out the Opinion/Speaker Registration Form and turn it in to the City Secretary before the meeting starts.*

1. Call to Order.
2. Invocation and Pledge of Allegiance.
3. Citizen comments. *Citizens are allowed 3 minutes to speak. The Council is unable to respond to or discuss any issues that are brought up during this section that are not on the agenda, other than to make statements of specific factual information in response to a citizen's inquiry or to recite existing policy in response to the inquiry.*
4. Receive reports from Staff or the City Council about items of community interest. *Items of community interest include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen (but not including a change in status of a person's public office or public employment); a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.*

1. The Council may vote and/or act upon each of the items listed in this agenda.

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3. Persons with a disability who want to attend this meeting who may need assistance should contact the City Secretary at 972 924-3325 two working days prior to the meeting so that appropriate arrangements can be made.

5. Consent Items. *These items consist of non-controversial or "housekeeping" items required by law. Items may be considered individually by any Council member making such request prior to a motion and vote on the Consent Items.*
  - a. Approve City Council Minutes for Special Meeting August 2, 2011.
  - b. Approve City Council Minutes for Regular Meeting August 9, 2011.
6. Consider/Discuss/Action regarding electing a Mayor Pro Tem. (City Council)
7. Consider/Discuss/Action regarding electing a Deputy Mayor Pro Tem. (City Council)
8. Hold a public hearing regarding the proposed Annual Budget for the 2011-2012 fiscal year. (Clayton Fulton)
9. Consider/Discuss/Action regarding a Resolution receiving the final report of the Charter Review Commission and ordering publication of said report. (Philip Sanders)
- 10(a). Public Hearing: To consider public comment regarding an ordinance amending the City's comprehensive plan, zoning map, and zoning ordinance and changing the zoning of certain properties generally located west of Powell Parkway (State Highway 5) and generally known as State Farm Insurance and Affordable Self Storage. The City of Anna has initiated a zoning change on Lot 1 Block A of the Walnofer Addition from Single Family Estate (SF-E) to Restricted Commercial (C-1) and Lot 2 Block A within the Z. F. Lester Survey of the Walnofer Addition from Single Family Estate (SF-E) to Planned Development (PD) with C-1 uses. The property was recently annexed into the City and automatically placed in the temporary zoning category of "SF-E". This zoning request would change the status of the property from a legal non conforming status into conformity with the zoning ordinance. (Maurice Schwanke)
- 10(b). Consider/Discuss/Action regarding adopting an ordinance amending the City's comprehensive plan, zoning map, and zoning ordinance and changing the zoning of certain property generally located west of Powell Parkway (State Highway 5) and generally known as State Farm Insurance and Affordable Self Storage. The City of Anna has initiated a zoning change on Lot 1 Block A of the Walnofer Addition from Single Family Estate (SF-E) to Restricted Commercial (C-1) and Lot 2 Block A within the Z. F. Lester Survey of the Walnofer Addition from Single Family Estate (SF-E) to Planned

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Development (PD) with C-1 uses. The property was recently annexed into the City and automatically placed in the temporary zoning category of "SF-E". This zoning request would change the status of the property from a legal non conforming status into conformity with the zoning ordinance. (Maurice Schwanke)

11. Consider/Discuss/Action adopting an Ordinance regarding Moving, Relocation and Demolition of Structures. (Clark McCoy)
12. Consider/Discuss/Action regarding a Resolution authorizing the Anna Economic Development Corporation to: (1) pursue a project including the purchase/financing of the property located at 312 North Powell Parkway including costs of remodeling; and (2) refinance a loan related to EDC property located on CR 427. (Jessica Perkins)
13. Consider/Discuss/Action regarding a Resolution accepting a petition for annexation and establishing the dates, times, and places for public hearings for the annexation of property located south of CR 421 and east of the CR 418; 10.4 acres. (Maurice Schwanke)
14. Consider/Discuss/Action regarding a Resolution amending an Economic Development Agreement with Bloomfield Properties Inc. (Philip Sanders)
15. CLOSED SESSION (EXCEPTIONS): Under Tex. Gov't Code Chapter 551, the City Council may enter into closed session to discuss any items listed or referenced on this agenda under the following exceptions
  - a. Consult with legal counsel regarding pending or contemplated litigation and/or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code (Tex. Gov't Code §551.071); *Powell v. City of Anna*, Cause No. 401-03815-2009 in the 401st District Court of Collin County, Texas; *William Austin Gant and Paul Eugene Gant v. City of Anna*, Cause No. 380-02370-2011 in the 380th District Court of Collin County, Texas; anticipated litigation involving street right of way over former CR 366; legal consultation regarding municipal and extraterritorial boundaries on eastern and western areas of City
  - b. Discuss or deliberate the purchase, exchange, lease, or value of real property (Tex. Gov't Code §551.072); property on S. Powell Parkway.
  - c. Deliberation Regarding Economic Development Negotiations: (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the

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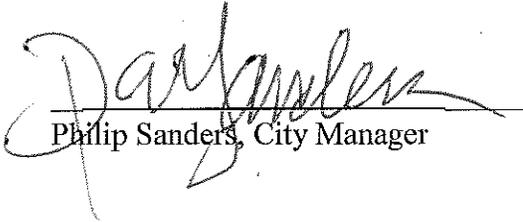
governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) (Tex. Gov't Code §551.087); technology based businesses

The council further reserves the right to enter into executive session at any time throughout any duly noticed meeting under any applicable exception to the Open Meetings Act.

16. Consider/Discuss/Action on any items listed on posted agenda for August 23, 2011 City of Anna Workshop Session or any closed session occurring during this Regular Meeting, as necessary.

17. Adjourn.

This is to certify that I, Philip Sanders, City Manager, posted this agenda at a place readily accessible to the public at the Anna City Hall and on the City Hall bulletin board at or before 5:00 p.m., August 19, 2011.

  
Philip Sanders, City Manager

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**MINUTES OF**  
**CITY OF ANNA AGENDA NOTICE – CITY COUNCIL SPECIAL**  
**BUDGET WORKSHOP MEETING**

**August 2, 2011      6:30 PM – Anna City Hall Administration Building**

The City Council of the City of Anna met in a Special Budget Workshop Session at 6:30 p.m., August 2, 2011, at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), regarding the following items.

**1. Call to Order**

Mayor Darren R. Driskell called the meeting to order at 6:39 p.m.

**2. Roll Call and Establishment of Quorum.**

A quorum was established. Mayor Darren R. Driskell and Council Members Kevin Anderson, John Geren and Becky Glover were present. Council Members Mike Crist, Keith Green and Marc Hendricks were absent.

**3. Workshop: The following items/issues will be discussed. No action will be taken on any item.**

**1. Discussion regarding 2011-2012 Budget.**

City Manager, Philip Sanders presented the 2011-2012 Budget to Council.

Council Member John Geren made the motion to enter closed session at 7:35 p.m. Mayor Darren R. Driskell seconded the motion. Motion passes.

AYE 4      NAY 0      ABSTAIN 0

**4. CLOSED SESSION (EXCEPTIONS): Under Tex. Gov't Code Chapter 551, the City Council may enter into closed session to discuss any items listed or referenced on this agenda under the following exceptions:**

**a. Personnel Matters: to deliberate the appointment of an Acting City Secretary, (Tex. Gov't Code §551.074);**

Mayor Darren R. Driskell returned to open session at 7:56 p.m.

**5. Consider/Discuss/Action regarding resolution appointing an Acting City Secretary.**

Council Member Becky Glover made the motion to appoint Clayton Fulton as Acting City Secretary. Council Member John Geren seconded the motion. Motion passes.

AYE 4      NAY 0      ABSTAIN 0

**6. Consider/Discuss/Action regarding an ordinance amending the City's personnel policy manual regarding City Council authority to grant exemptions from application of provisions of manual.**

City Manager, Philip Sanders presented this item to council. Mayor Darren R. Driskell made the motion to approve. Council Member Becky Glover seconded the motion. Motion passes.

AYE 4      NAY 0      ABSTAIN 0

**7. Consider/Discuss/ Action regarding a resolution granting exemption from the City's personnel policy manual regarding City Council authority to grant exemptions from application of provisions of manual.**

Mayor Darren R. Driskell made the motion to approve. Council Member Kevin Anderson seconded the motion. Motion passes.

AYE 4      NAY 0      ABSTAIN 0

**8. Adjourn.**

Council Member Kevin Anderson made the motion to adjourn at 7:58 p.m. Council Member Becky Glover seconded the motion. Motion passes.

AYE 4      NAY 0      ABSTAIN 0

ATTEST:

APPROVED:

\_\_\_\_\_  
Clayton Fulton, Acting City Secretary

\_\_\_\_\_  
Darren R. Driskell, Mayor

## MINUTES OF

### CITY OF ANNA AGENDA NOTICE – CITY COUNCIL WORKSHOP

August 9, 2011

6:30 p.m. – Anna City Hall Administration Building

The City Council of the City of Anna met in Workshop Session at 6:30 p.m., August 9, 2011, at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), regarding the following items.

**1. Call to Order**

Mayor Darren R. Driskell called the meeting to order at 6:30 p.m.

**2. Roll Call and Establishment of Quorum.**

A quorum was established. Mayor Darren R. Driskell and Council Members Kevin Anderson, John Geren, Marc Hendricks and Becky Glover were present. Council Members Mike Crist and Keith Green were absent.

**3. Discussion regarding the proposed FY 2012 Budget.**

Mayor Darren R. Driskell skipped this item and noted that item would be discussed after closed session.

Council Member Marc Hendricks made the motion to enter closed session at 6:32 p.m. Council Member John Geren seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

Chief Newton presented a presentation regarding options on “Medical Director”.

**4. CLOSED SESSION (EXCEPTIONS): Under Tex. Gov’t Code Chapter 551, the City Council may enter into closed session to discuss any items listed or referenced on this agenda under the following exceptions:**

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Mayor Darren Driskell returned to open session at 7:10 p.m. and went to item number three (3).

- 5. Discussion regarding any item on the City Council's August 9, 2011 Regular Meeting Agenda Notice, which was posted at the same date, time and place of this Workshop Agenda Notice.**

None

- 6. Adjourn.**

Council Member Kevin Anderson made the motion to adjourn at 7:25 p.m. Council Member John Geren seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

ATTEST:

APPROVED:

\_\_\_\_\_  
Clayton Fulton, Acting City Secretary

\_\_\_\_\_  
Darren Driskell, Mayor

**MINUTES OF**  
**CITY OF ANNA AGENDA NOTICE – CITY COUNCIL REGULAR MEETING**

August 9, 2011

7:30 p.m. – Anna City Hall Administration Building

The City Council of the City of Anna met in Regular Session at 7:30 p.m., August 9, 2011, at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), to consider the following items.

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**1. Call to Order.**

Mayor Darren R. Driskell called the meeting to order at 7:30 p.m.

**2. Invocation and Pledge of Allegiance.**

Mayor Darren R. Driskell gave the invocation.

**3. Citizen comments. *Citizens are allowed 3 minutes to speak. The Council is unable to respond to or discuss any issues that are brought up during this section that are not on the agenda, other than to make statements of specific factual information in response to a citizen's inquiry or to recite existing policy in response to the inquiry.***

None

**4. Receive reports from Staff or the City Council about items of community interest. *Items of community interest include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen (but not including a change in status of a person's public office or public employment); a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.***

Chief Danny Newton informed regarding the upcoming "Memorial Service" at Slayter Creek Park on September 11, 2011.

Terry Tombaugh introduced himself as the new representative at Atmos Energy.

5. **Consent Items. *These items consist of non-controversial or "housekeeping" items required by law. Items may be considered individually by any Council member making such request prior to a motion and vote on the Consent Items.***
  - a. **Review Anna EDC minutes for the regular meeting from March 3, 2011 and June 2, 2011 and the special meeting from June 30, 2011**
  - b. **Review Anna CDC minutes for the regular meeting of March 3, 2011 and June 2, 2011 and the special meeting from June 30, 2011.**
  - c. **Review P&Z minutes for the regular meeting of June 6, 2011.**
  - d. **Review Parks Board minutes for the regular meetings of Jan 18<sup>th</sup>, February 17<sup>th</sup>, March 21<sup>st</sup>, April 25<sup>th</sup>, and June 20<sup>th</sup>, 2011.**
  - e. **Approve City Council Minutes for Special Meeting July 5 2011.**
  - f. **Approve City Council Minutes for Regular Meeting July 12, 2011.**
  - g. **Approve City Council Minutes for Regular Meeting July 26, 2011.**

Council Member John Geren made the motion to approve the consent items. Council Member Marc Hendricks seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

6. **Consider/Discuss/Action regarding a Proposed Tax Rate for 2011-2012 Fiscal Year.**

Clayton Fulton, Director of Finance, presented this item to Council. Council Member John Geren the motion to approve. Council Member Becky Glover seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

7. **Consider/Discuss/Action regarding authorizing the City Manager to sign a letter of engagement to perform the financial audit of the City of Anna, Texas for the fiscal year ending September 30, 2011.**

Clayton Fulton, Director of Finance, presented this item to Council. Council Member Becky Glover made the motion to approve. Council Member John Geren seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

8. **Consider/Discuss/Action approving a Resolution regarding the execution of an Interlocal Agreement with North Central Texas Council of Governments for the NLC Service Line Warranty Program.**

City Manager, Philip Sanders presented this item to Council. Council Member Becky Glover made the motion to approve. Council Member Marc Hendricks seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**9. Consider/Discuss/Action approving a Resolution regarding the approval of a license agreement related to North Central Texas Council of Governments for the NLC Service Line Warranty Program.**

City Manager, Philip Sanders presented this item to Council. Council Member Marc Hendricks made the motion to approve. Council Member John Geren seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**10. Consider/Discuss/Action adopting an Ordinance regarding Approving a Negotiated Resolution between the ATMOS 'Steering Committee' and the ATMOS Energy Corp., MID-TEX Division regarding the Company's Fourth Annual Rate Review Mechanism Filing in all Cities Exercising Original Jurisdiction. (Philip Sanders)**

City Manager, Philip Sanders presented this item to Council. Council Member John Geren made the motion to approve. Council Member Marc Hendricks seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**11. Consider/Discuss/Action regarding a Resolution approving the amendments to the Anna EDC bylaws.**

Jessica Perkins presented this item to Council. Mayor Darren R. Driskell made the motion to approve. Council Member Becky seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**12. Consider/Discuss/Action regarding a Resolution approving the amendments to the Anna CDC bylaws.**

Jessica Perkins presented this item to Council. Mayor Darren R. Driskell made the motion to approve. Council Member Becky Glover seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**13. Consider/Discuss/Action adopting a Resolution regarding a subscription to Web QA an online shop local marketing program.**

City Manager, Philip Sanders presented this item to Council. Mayor Driskell made the motion to approve. Council Member Kevin Anderson seconded the motion. Motion passes.

AYE 5      NAY 0      ABSTAIN 0

**14. CLOSED SESSION (EXCEPTIONS): Under Tex. Gov't Code Chapter 551, the City Council may enter into closed session to discuss any items listed or referenced on this agenda under the following exceptions**

- a. **Consult with legal counsel regarding pending or contemplated litigation and/or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code (Tex. Gov't Code §551.071); *Powell v. City of Anna*, Cause No. 401-03815-2009 in the 401st District Court of Collin County, Texas; legal consultation regarding municipal and extraterritorial boundaries on eastern and western areas of City.**

**The council further reserves the right to enter into executive session at any time throughout any duly noticed meeting under any applicable exception to the Open Meetings Act.**

Council did not go into closed session.

**15. Consider/Discuss/Action on any items listed on posted agenda for August 9, 2011 City of Anna Workshop Session or any closed session occurring during this Regular Meeting, as necessary.**

No action was taken.

**16. Adjourn.**

Mayor Darren R. Driskell made the motion to adjourn. Council Member Kevin Anderson seconded the motion. Motion passes. Meeting adjourned at 7:55 p.m.

AYE 5      NAY 0      ABSTAIN 0

ATTEST:

APPROVED:

\_\_\_\_\_  
Clayton Fulton, Acting City Secretary

\_\_\_\_\_  
Darren R. Driskell, Mayor



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Philip Sanders

Account Code #: \_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

Exhibits:  Yes  No

**AGENDA SUBJECT:** Consider/Discuss/Action regarding electing a Mayor Pro Tem and Deputy Mayor Pro-Tem.

**SUMMARY:** It has been suggested that due to scheduling and availability concerns, the Council may want to elect new members to serve as Mayor Pro Tem and Deputy Mayor Pro Tem. Councilman Crist currently services as Mayor Pro Tem, and Councilman Green serves and Deputy Mayor Pro Tem.



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Clayton Fulton

Account Code #: N/A

Date Prepared: 8/17/2011

Budgeted Amount: N/A

Exhibits:  Yes  No

**AGENDA SUBJECT:** Public Hearing: Hear Public Comment on the proposed budget for Fiscal Year 2011-2012

**SUMMARY:** The City Charter requires that a public hearing be conducted prior to the adoption of the ensuing fiscal year budget. All required notices of the hearing have been published and posted in accordance with the Charter. The Council is scheduled to adopt the budget during the September 6 Council meeting.



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Philip Sanders

Account Code #: \_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

Exhibits:  Yes  No

**AGENDA SUBJECT:** Consider/Discuss/Action regarding a Resolution receiving the final report of the Charter Review Commission and ordering publication of said report.

**SUMMARY:** In accordance with the City of Anna, Texas Home-Rule Charter, the Charter Review Commission has completed its responsibility to review the Charter and has filed the attached report which contains its findings and recommendations. The attached Resolution acknowledges receipt of the report and orders the publication of the report summary as required in the Charter.

The Council must review the report and may (at its discretion) order any amendments suggested be submitted to the voters. The Council may call for an election to be held in November or May. If an election is to be called for November of 2011, the Council must call the election prior to September 7. The City Council will meet on September 6 to adopt the annual budget and to take any action necessary to call for a November 2011 election of it so chooses.

**RECOMMENDATION:** With the exception of recommendations i. and v., the Commission's recommendations would not have a substantive effect on governmental operations.

Recommendation i. calls for the terms of all city council seats to be evenly staggered with two council seats elected every year and the Mayor elected every third year.

Recommendation v. would allow persons who are not city residents but that live in the city's extra-territorial jurisdiction to serve on city boards and commissions provided that the majority of members of each board are city residents. Below is a summary of the eligibility requirements for boards and commissions in our comparison cities.

**Celina** – P&Z and Board of Adjustment members must be city residents. Parks and other Boards may be city residents or reside in the ETJ.

**Prosper** – P&Z and EDC members must be city residents. Board of Adjustment members must be city residents or reside in the ETJ. Parks Board must be city residents expect that no more than two members may reside in the ETJ or own a business located in the city.

**Princeton** – Members of all boards must be city residents

**Melissa** – P&Z members must be city residents (proposed Charter). Members of the Board of Adjustment, EDC, and CDC must be city residents per existing city policy.

**Fairview** – Members of all boards must be city residents

**Royse City** – P&Z members must be city residents

**Little Elm** – Charter requires P&Z and Board of Adjustment members to be town residents. Adopted policies require members of all other boards and commissions to be town residents.

**Forney** – Members of all boards mentioned by statute (P&Z, Board of Adjustment, EDC, CDC) must be city residents.

**Van Alstyne** – varies by board (waiting for more detail from the city)

It is our belief that residency status will have significant influence how people who serve on boards and commissions view the issues they are asked to act on. Staff recommends preserving charter language that retains to the extent possible the privilege of serving on city boards and commissions to residents of the city. At the very least city residency should be required for all members of the Planning and Zoning Commission and Board of Adjustment whose decisions have a direct effect on other city residents.

**CITY OF ANNA, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF ANNA, TEXAS RECEIVING THE FINAL REPORT OF THE CHARTER REVIEW COMMISSION AND ORDERING PUBLICATION OF SAID REPORT**

**WHEREAS**, In accordance with the City of Anna, Texas Home-Rule Charter (the "Charter"), the Charter Review Commission (the "Commission") hereby reports to the City Council of the City of Anna, Texas (the "City Council") that it has fully discharged its duties as set forth in Section 11.07 of the Charter and hereby reports the Commission's findings and recommendations to the City Council; and

**WHEREAS**, the Commission, an advisory body, assembled periodically in meetings that were duly noticed and open to the public and has developed a series of recommended amendments to the Charter, as set forth in this report; and

**WHEREAS**, the members of the Commission have duly authorized the Commission's Chairman to provide this report to the City Council;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS THAT:**

**Section 1. Recitals Incorporated**

The recitals set forth above are incorporated herein for all purposes as if set forth in full.

**Section 2. Receipt of Report and Order of Publication**

The City of Anna City Council hereby receives the Commission's report, attached hereto as EXHIBIT 1, incorporated herein for all purposes and orders the publication of said report summary as required in the Charter.

**PASSED AND APPROVED** by the City Council of the City of Anna, Texas on this 23<sup>rd</sup> day of August, 2011.

APPROVED:

ATTEST:

\_\_\_\_\_  
Darren R. Driskell, Mayor

\_\_\_\_\_  
City Secretary

# CITY OF ANNA CHARTER REVIEW COMMISSION

## MEMORANDUM REPORT

TO: Hon. Mayor Darren Driskell and City of Anna City Council Members

FROM: Ty Chapman, Chairman, Anna Charter Review Commission

DATE: August 15, 2011

RE: (1) Report on Findings; and (2) Comprehensive Summary for Publication

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### 1. REPORT ON FINDINGS:

#### a. Introduction

In accordance with the City of Anna, Texas Home-Rule Charter (the "Charter"), the Charter Review Commission (the "Commission") hereby reports to the City Council of the City of Anna, Texas (the "City Council") that it has fully discharged its duties as set forth in Section 11.07 of the Charter and hereby reports the Commission's findings and recommendations to the City Council. The Commission, an advisory body, assembled periodically in meetings that were duly noticed and open to the public and has developed a series of recommended amendments to the Charter, as set forth in this report. The members of the Commission have duly authorized the Commission's Chairman to provide this report to the City Council.

#### b. List of Charter Provisions Recommended for Amendment

- i. **Section 3.01(b)** – Staggering of City Council Elections
- ii. **Section 3.05(d)** – Filling of City Council Vacancies
- iii. **Section 3.06(10)** – Design of Structures; Abatement of Dangerous Structures
- iv. **Section 6.09(b)** – Vacancies Created by Recall Election
- v. **Section 8.01(b)** – Appointments to Boards and Commissions
- vi. **Section 9.01(c)** – Meetings of Planning & Zoning Commission
- vii. **Section 12.09** – Disaster Clause

#### c. Description of Amendments

- i. **Section 3.01(b) – Staggering of City Council Elections.** Currently, City Council elections occur in three-year staggered cycles. In year one, the Mayor and three Council places are elected. In year two, the other three Council members are elected. In the final year of the election cycle there are no elections. This presents the potential that as many as four positions on the Council could change in the first year of the cycle. The Commission is concerned that such a large turnover could lead to instability in policy and general direction of the City. The Commission recommends that the Charter be amended so that there is a regular election every year, which would reduce the

number of potential turnover from a maximum of four positions to a maximum of three positions in the first year of the election cycle and a maximum of two positions in the second and third years of the election cycle. Instituting such staggering would require some Council members to serve an additional year on current terms or require some new elections for shortened terms before all City Council members would eventually serve three-year terms. The Commission has no recommendation as to which positions should be lengthened or shortened to achieve the staggering.

- ii. **Section 3.05(d) – Filling of City Council Vacancies.** Section 3.05(d) includes a sentence that relates to the appointment of vacancies on the Council by the remaining Council members. This sentence appears to be a remnant from the original adoption of the Charter in 2005, when Council member terms of office were only two years. When the Charter was amended to increase Council member terms to three years, this sentence should have been removed as the Texas Constitution requires all vacancies to be filled by an election, rather than by appointment. While the inclusion of the sentence is legally inconsequential, it could cause confusion. The Commission recommends that the Charter be amended to remove the referenced sentence.
- iii. **Section 3.06(10) – Design of Structures; Abatement of Dangerous Structures.** This provision currently requires the Council to adopt rules requiring fire proof structures and uses outmoded and redundant language, for example, referencing both “buildings and structures.” The Commission recommends that the language be streamlined and that “fireproof buildings” be amended to read “fire-resistant structures.”
- iv. **Section 6.09(b) – Vacancies Created by Recall Election.** Similar to the issue raised with regard to Section 3.05(d), there is a fragment in this provision, namely, “by the City Council” that should be removed to clarify the fact that vacancies on the City Council must be filled by elections, not appointments.
- v. **Section 8.01(b) – Appointments to Boards and Commissions.** The Commission recommends that the Charter be amended to allow persons that are qualified to vote in statewide and county elections and who reside in the City’s extraterritorial jurisdiction be permitted to serve on Boards and Commissions appointed by the Council, including without limitation the Planning & Zoning Commission, the Board of Adjustments, the City’s development corporations, the Parks Board, etc. The recommended amendment would restrict the numbers of appointments of such persons so that a majority of the appointees of each such board or commission resides within the City’s corporate limits.
- vi. **Section 9.01(c) – Meetings of Planning & Zoning Commission.** The Charter currently requires the Planning & Zoning Commission to elect from its members a Chairman, a Vice Chairman, and Secretary in July of each year. The Commission recommends that this provision be amended so that said officer positions may be elected during the subsequent meeting of the Planning & Zoning Commission that follows the month of July if there is no July meeting.

- vii. **Section 12.09 – Disaster Clause.** The Disaster Clause currently provides that if there are multiple deaths or injuries to City Council members so as to prevent a legal quorum, a temporary commission may be appointed to act and call a special election. The Commission recommends that in addition to this clause being triggered by deaths and injuries, it also include as a trigger absence of members caused by or in the wake of a disaster.

**d. Proposed Text of Amendments**

**i. Section 3.01(b) – Staggering of City Council Elections.<sup>1</sup>**

- (b) Terms of the Council Members are staggered ~~so that every third year there will be no regular election of Council Members. The~~ and the staggering of terms will be initiated as follows:

(1) in the May ~~2009~~ 2012 election, voters will elect Council Members for Places ~~4, 3~~ and 5, and the Mayor, each for three-year terms;

(2) The Council Member serving a three-year term for Place 1 that would have expired in May 2012 shall continue to serve in said Place until the May 2013 election;

~~(3)~~(2) in the May ~~2010-2013~~ election, voters will elect ~~a~~ Council Members for Places 1 and 2, 4, and 6, each for three-year terms;

(4) Council Members serving three-year terms for Places 4 and 6 that would have normally expired in May 2012 shall continue to serve in said Places until the May 2014 election;

(5) in the May 2014 election, voters will elect Council Members for Places 4 and 6, each for three-year terms; and

~~(6)~~(3) all subsequent regular City Council and Mayoral elections will be for three-year terms.

**ii. Section 3.05(d) – Filling of City Council Vacancies.**

- (d) If for any reason a single vacancy or multiple vacancies exist on the City Council, the vacancy must be filled by majority vote of the qualified voters at a special election called for such purpose within 120 days after such vacancy occurs as required by Article XI, Section 11, of the Texas Constitution. ~~The appointee must meet the qualifications referenced in Section 3.02 of this Charter.~~ The person elected to fill the vacancy serves until the next regular municipal election for that Place on the

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<sup>1</sup> Again, the Commission takes no position on which Council member positions or places are lengthened or reduced. The proposed text of the amendment is intended only by way of an example showing one manner in which to implement the proposed staggering of terms, and the Commission fully anticipates that the City Council will make any appropriate adjustments as it deems desirable.

City Council. If the position of Mayor becomes vacant, then the City Council must— as soon as is practicable after a Mayor is elected to fill the vacancy—elect the positions of Mayor Pro-Tem and Deputy Mayor Pro-Tem.

**iii. Section 3.06(10) – Design of Structures; Abatement of Dangerous Structures.**

(10) provide for the establishment and designation of fire limits and prescribe the kind and character of ~~buildings or structures~~ or improvements to be erected; provide for the erection of fire-resistant structures ~~fireproof buildings~~ within certain limits; and provide for the abatement ~~condemnation~~ of dangerous ~~structures of buildings~~ or dilapidated ~~structures buildings or buildings~~ calculated to increase the fire hazard, and the manner of their removal or destruction;

**iv. Section 6.09(b) – Vacancies Created by Recall Election.**

(b) If a majority of the votes cast at such election are "Yes" votes—that is, vote in favor of recalling the person named on the ballot—the officer is, regardless of any technical defects in the recall petition, deemed removed from office and the vacancy must be filled ~~by the City Council~~ as provided in this Charter.

**v. Section 8.01(b) – Appointments to Boards and Commissions.**

(b) Individuals who are qualified to vote in Texas elections and who reside ~~voters in the City or in the City's extraterritorial jurisdiction~~ may be appointed by the City Council to serve on one or more boards, commissions or committees. The City Council must make such appointments in a manner that results in the membership of each board, commission or committee being composed of at least a majority of individuals residing within the City. Such appointees serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Appointees must be removed and replaced when necessary to ensure that the membership of each board, commission or committee is composed of at least a majority of individuals residing within the City. Except as otherwise provided in this Charter, members of any such board, commission or committee serve without compensation but may be reimbursed for actual expenses as approved by the City Council.

**vi. Section 9.01(c) – Meetings of Planning & Zoning Commission.**

(c) No member may serve on the Commission for more than three completed consecutive terms, exclusive of any unexpired term to which the member may have been appointed to fill due to a vacancy on the Commission. Any vacancy occurring during the unexpired term of a member may be filled by the City Council for the remainder of the unexpired term. In July of each year, or during the Commission's next meeting after July if the Commission does not meet in July, the Commission must elect from its members a Chairman, Vice Chairman, and Secretary to serve for one year beginning in that month. Members of the Commission may be removed, without cause, by an affirmative vote of a majority of the full membership of the City Council.

**vii. Section 12.09 – Disaster Clause.**

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple disaster-related absences, deaths or injuries, the surviving persons of the City Council, or highest surviving City official if no elected official remains, must within 24 hours of such disaster, request the highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Collin County to appoint a commission to act during the emergency and call a City election within 15 days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.

**2. COMPREHENSIVE SUMMARY FOR PUBLICATION**

The Comprehensive Summary of the Commission's recommended amendments is as set forth in Section 1.c. i.-vii of this report.

**3. CONCLUSION**

The Commission would like to thank the City Council for the opportunity to provide support in the process of the City's review of the Charter and believes that this report contains beneficial advice for the City Council's consideration.

Respectfully Submitted,

Ty Chapman, Chairman  
Charter Review Commission



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Maurice. Schwanke

Account Code #: N/A

Date Prepared: 08/16/11

Budgeted Amount: N/A

Exhibits:  Yes  No

**AGENDA SUBJECT:** (a) Public Hearing

To consider public comment regarding an ordinance amending the City's comprehensive plan, zoning map and zoning ordinance and changing the zoning of certain properties generally located west of Powell Parkway (State Highway 5) and generally known as State Farm Insurance and Affordable Self Storage. The City of Anna has initiated a zoning change on Lot 1 Block A of the Walnofer Addition from Single Family Estate (SF-E) to Restricted Commercial (C-1) and Lot 2 Block A within the Z. F. Lester Survey of the Walnofer Addition from Single Family Estate (SF-E) to Planned Development (PD) with C-1 uses with mini storage units. The property was recently annexed into the City and automatically placed in the temporary zoning category of "SF-E". This zoning request would change the status of the property from a legal non conforming status into conformity with the zoning ordinance.

(b) Consider/Discuss/Action regarding adopting an ordinance amending the City's comprehensive plan, zoning map and zoning ordinance and changing the zoning of certain properties generally located west of Powell Parkway (State Highway 5) and generally known as State Farm Insurance and Affordable Self Storage. The City of Anna has initiated a zoning change on Lot 1 Block A of the Walnofer Addition from Single Family Estate (SF-E) to Restricted Commercial (C-1) and Lot 2 Block A within the Z. F. Lester Survey of the Walnofer Addition from Single Family Estate (SF-E) to Planned Development (PD) with C-1 uses with mini storage. The property was recently annexed into the City and automatically placed in the temporary zoning category of "SF-E". This zoning request would change the status of the property from a legal non conforming status into conformity with the zoning ordinance.

The property proposed for rezoning is owned and operated by Rod Walnofer. Prior to annexation by the City Mr. Walnofer was working through Collin County for all of his improvements except for platting issues which fall within the jurisdiction of Anna. Mr. Walnofer's project has one more building to complete before his project is finished. This building is located towards the back of his project. In order for Mr. Walnofer to obtain a building permit to build the remaining building the appropriate zoning must be in place to accommodate the use. Currently, the front of the project along North Powell Parkway is an insurance office with a mini storage facility in the rear. Normally, if built within the City a concrete fire lane would be required for the entire project. However the fire lanes that are in place were constructed under the County's prevue. Since the fire lanes are in place we are recommending that they be allowed to be used without retrofitting in this instance. In conversation with our Fire Marshall this arrangement will be sufficient. The staff is recommending approval of this request

Item No. \_\_\_\_\_  
City Secretary's use only

**PLANNING AND ZONING ACTION:** The Planning and Zoning Commission recommended approval of the proposed ordinance at their meeting on August 1, 2011 meeting. The vote was unanimous.

**RECOMMENDED ACTION:** Approval of Ordinance

Please publish the attached in the legal section of the newspaper at the earliest possible date. Please send tear sheet, publisher's affidavit, and bill to the City of Anna.

**CITY OF ANNA  
PUBLIC HEARINGS ON ZONING CHANGES**

A public hearing will be conducted by the City Council of the City of Anna on Tuesday, August 23, 2011 at 7:30 p.m. at the Community Room of the Anna City Hall Administration Building located at 111 North Powell Pkwy (Hwy 5) Anna, Texas, to hear public comment regarding amendments to the City's Comprehensive Plan, the City's zoning map, and the City's Zoning Ordinance. The public hearing will respectively concern the City Council's consideration of an ordinance described as follows:

**AN ORDINANCE OF THE CITY OF ANNA, TEXAS AMENDING THE CITY'S COMPREHENSIVE PLAN, ZONING MAP, AND ZONING ORDINANCE AND CHANGING THE ZONING OF CERTAIN PROPERTY AS DESCRIBED HEREIN; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY CLAUSE NOT TO EXCEED \$2,000 OR THE HIGHEST PENALTY AMOUNT ALLOWED BY LAW, WHICHEVER IS LESS; AND, PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.** The City of Anna has initiated a zoning change on properties generally located west of Powell Parkway (State Highway Number 5) and generally known as State Farm Insurance and Affordable Self Storage from Single Family Estate (SF-E) to Restricted Commercial (C-1) and to Planned Development Zoning (PD) with Restricted Commercial (C-1) uses. The property was recently annexed into the City and automatically placed in the temporary zoning category of "SF-E. This zoning request would change the status of the property from a legal non conforming status into conformity with the zoning ordinance.

Copies of the rezoning request, including a map of the property generally described above, are available for review during regular office hours at the office of the City Secretary, Anna City Hall, and 111 N. Powell Parkway, Anna, Texas. Written comments on the zoning requests/changes are welcomed and will be accepted until the time of the public hearings and may be presented at the hearings. Speakers at the hearings will be heard according to their order on a listing to be established for such purpose by the City Secretary.

CITY OF ANNA, TEXAS

ORDINANCE NO. \_\_\_\_\_

**Affordable Storage/Walnofer Insurance Zoning  
“C-1” & “Planned Development” (“PD”)  
3115 and 3119 North Powell Parkway**

**AN ORDINANCE OF THE CITY OF ANNA, TEXAS AMENDING THE CITY’S COMPREHENSIVE PLAN, ZONING MAP, AND ZONING ORDINANCE AND CHANGING THE ZONING OF CERTAIN PROPERTIES AS DESCRIBED HEREIN; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY CLAUSE NOT TO EXCEED \$2,000 OR THE HIGHEST PENALTY AMOUNT ALLOWED BY LAW, WHICHEVER IS LESS; AND, PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the owner of the property described in Exhibit A attached hereto has requested a certain zoning for said property; and

**WHEREAS**, this property was annexed into the City of Anna on December 14, 2010 by Ordinance Number 525-2010; and

**WHEREAS**, the Planning and Zoning Commission of the City of Anna and the City Council of the City of Anna have given the requisite notices by publication and otherwise and have held the public hearings as required by law and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof, the City Council of the City of Anna has concluded that the Zoning Ordinance of the City of Anna should be amended as follows:

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

**Section 1.** The Comprehensive Zoning Ordinance of the City of Anna, Texas, is amended by changing the zoning on the land described in Exhibit A as Lot 1 Block A of the Walnofer Addition from “SF-E” to “C-1” (Tract 1) and Lot 2 Block A within the Z. F. Lester Survey of the Walnofer Addition from “SF-E” to “PD” with “C-1” uses(Tract 2). The Planned Development shall include the following elements:

**Permitted Uses**

The permitted uses on tract two will be the same as those permitted in the Restricted Commercial (C-1) district including the following:

- a) Mini-Storage with no outside storage other than the storage of operable vehicles, recreational vehicles, utility trailers, and boats.
- b) The existing driveway system and style will be allowed to be extended into the remainder of the project.

**Section 2.** All provisions of the City of Anna Zoning Ordinance not in conflict with the provisions of this ordinance shall pertain to the property described herein.

**Section 3.** The official Zoning Map of the City of Anna shall be corrected to reflect the change in zoning described herein.

**Section 4.** All ordinances of the City of Anna in conflict with the provisions of this ordinance are repealed to the extent of that conflict.

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such case provides.

**PASSED** by the City Council of the City of Anna, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTESTED:

APPROVED:

\_\_\_\_\_  
City Secretary, Natha Wilkison

\_\_\_\_\_  
Mayor, Darren Driskell

**EXHIBIT A**  
**Legal Description**

**Tract 1**  
"SF-E" to "C-1"

Being all of Lot 1 Block A of the Walnofer Addition to the City of Anna as recorded on November 25<sup>th</sup> of 2003 in the Collin County Clerks Plat Records, Document Number 2003-0231435 and containing approximately 0.8635 acres of land more or less.

**Tract 2**  
"SF-E" to "PD" with "C-1" uses

Being Lot 2 Block A save and except that portion of the lot within the J.C. Burge Survey Abstract Number 106, of the Walnofer Addition to the City of Anna as recorded on November 25<sup>th</sup> of 2003 in the Collin County Clerks Plat Records, Document Number 2003-0231435 and containing approximately 5.94 acres of land more or less.



373

5

**SITE**

FOYELL PARKWAY (S-14-9)

BRYANT PARK ROAD

BUTLER

THOUSAND OAKS DRIVE

ASHLEY LANE

WILKES CT.

OHARA

MAGNOLIA ST.

BONNIE CT.

SCARLET VIEW

OLIVIA LN.

ASHLEY LANE

PLANTATION DRIVE

MITCHELL LANE

MELANIE DRIVE

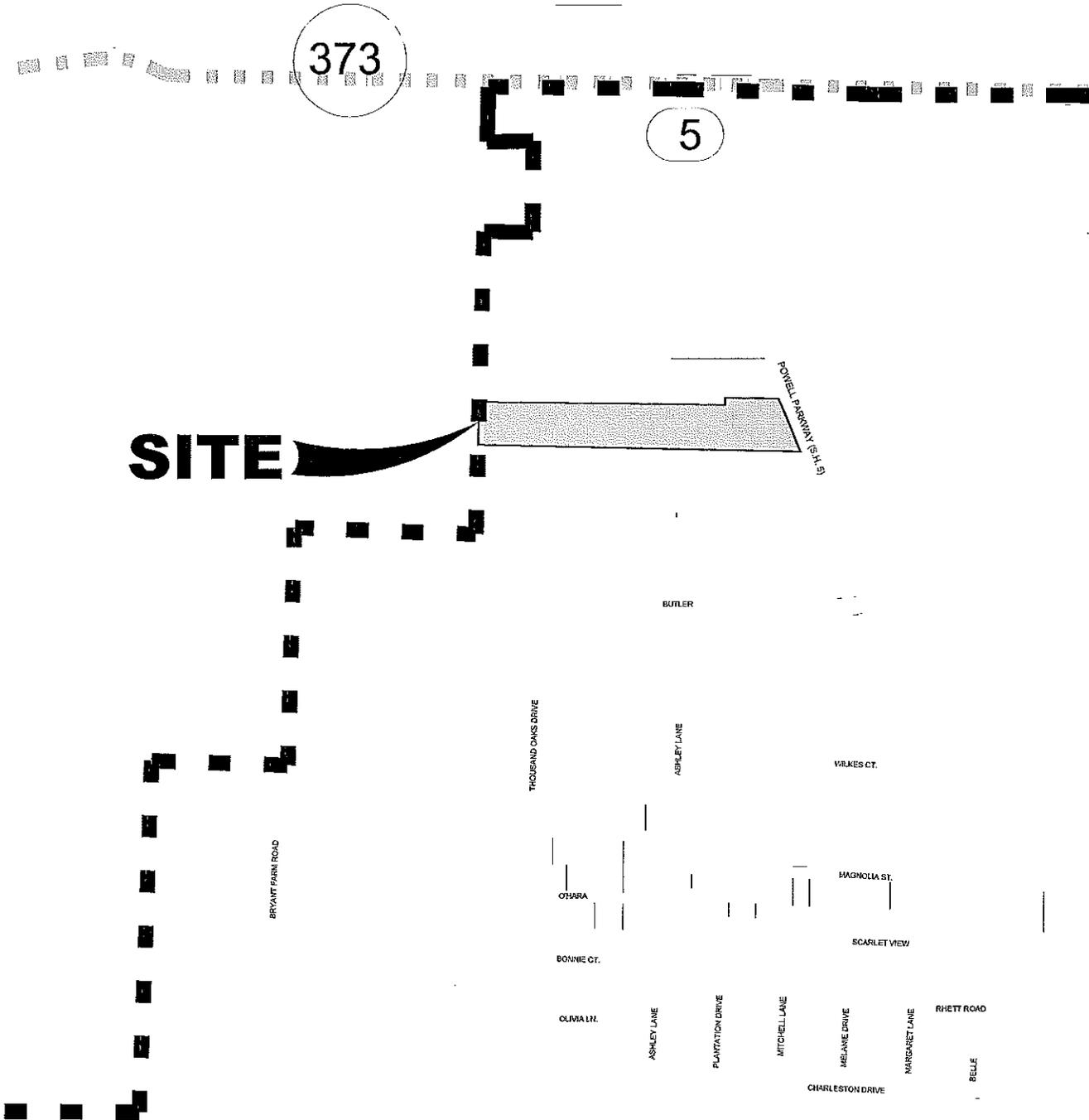
MARGARET LANE

RHETT ROAD

BELLE

CHARLESTON DRIVE

COUNTY RD. 371





**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Clark McCoy

Account Code #: \_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

Exhibits:  Yes       No

**AGENDA SUBJECT:**

Consider/Discuss/Action adopting an Ordinance regarding Moving, Relocation and Demolition of Structures. (Clark McCoy)

**SUMMARY:**

City Staff has determined that in addition to the requirements already set forth in The Anna City Code of Ordinances and the City-adopted 2006 International Building Code, which require permits for moving, alteration, relocation and demolition of structures, additional regulations should be adopted to ensure that when structures are moved or demolished the public's health and safety is sufficiently protected. For example, the proposed ordinance provides more detailed application procedures, additional detail with respect to asbestos reporting requirements, recovery of costs by the City when appropriate, and the amendment of definitions for clarity and reduction of redundant terms. The proposed ordinance also provides for a more streamlined procedure for issuance of building permits, requiring approval of the Building Official and City Manager. The proposed ordinance does not change the permit fees for demolition and does not change the amount of the penalty for violating the ordinance.

**RECOMMENDED ACTION:**

Approval of the proposed ordinance.

CITY OF ANNA, TEXAS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ANNA, TEXAS, AMENDING THE ANNA CITY CODE OF ORDINANCES PART II (GENERAL PROVISIONS), ARTICLE 8 (BUILDING REGULATIONS), SECTION 4 (MOVING OF BUILDINGS INTO THE CITY); ESTABLISHING ADDITIONAL REGULATIONS RELATED TO MOVING, RELOCATION AND DEMOLITION OF STRUCTURES; AMENDING THE ANNA CITY CODE OF ORDINANCES PART IV (SCHEDULE OF FEES), ARTICLE 2 (BUILDING PERMIT FEES), SECTION 4.04 (DEMOLITION PERMIT FEE); PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; PROVIDING FOR A PENALTY FOR VIOLATION NOT TO EXCEED \$2,000; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City of Anna, Texas City Council ("City Council") has previously adopted ordinances, rules and regulations requiring permits for and otherwise governing moving, relocating and demolition of Structures that are codified in Part II, Article 8, Sections 3 and 4 of The Anna City Code of Ordinances ("Anna Code") and Part IV, Article 2, Section 4.04 of the Anna Code; and

WHEREAS, the City Council has investigated and determined that it would be beneficial and advantageous to provide for additional requirements and procedures related to moving, relocating and demolition of structures within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS, THAT:

**Section 1. Recitals Incorporated.**

The above-referenced recitals are incorporated herein as if set forth in full for all purposes.

**Section 2. Amendments to Code**

2.01 In accordance with Part II, Article 1, Section 9 of the Anna Code, the City Council hereby amends Part II, Article 8, Section 4 (Moving of Buildings Into Cities) of the Anna Code, as follows:

**Section 4. Demolition and Moving of Structures ~~Buildings into the City~~**

**4.01 Application and Definitions**

(a) This section applies to any property owner who seeks to move a Structure onto a lot or tract of land in the City limits, relocate a Structure away from a lot or tract of land in the City limits, or demolish a Structure

in the City limits.

(b) The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

Applicant shall mean a person in the process of applying for a permit under this section.

*Building Official* shall mean a Person authorized by the City Manager to perform the duties prescribed in this section.

City shall mean the City of Anna, Texas.

Facility shall mean any institutional, commercial, public, industrial or residential structure installation or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive disposal site. Any structure, installation or building that was previously subject to 40 CFR Part 61, Subpart M is not excluded, regardless of its current use or function.

*Permittee* shall mean a Person to whom a permit to move, ~~or~~ relocate, or demolish any old ~~or used~~ house, building or Structure, or portion thereof, within the corporate limits of the City has been issued.

*Person* shall mean any individual, corporation or other legal entity.

*Structure* shall mean any buildings, Facility and or dwelling houses of every any nature ~~and or~~ design and it is the intent to give the broadest interpretation to the meaning of the term.

#### **4.02 Investigation of Application by Building Official**

(a) An Applicant shall: (1) submit an application on a City-approved application form; (2) include with the application all documents and information required for permit approval under this section or by the Building Official; and (3) pay any fee(s) and cost(s) required under this section or the City's Schedule of Fees.

(b) Upon filing of an application for a permit to move or relocate a Structure, the Building Official shall investigate the application by and

shall inspecting the house, building or Structure to be moved from or relocated upon the lot or tract of land, and shall further inspect the lot or tract of land upon which the house, building or Structure is to be located or relocated from. He shall then advise the City Council as to determine whether the house, building or Structure, if allowed to be moved or relocated as proposed onto the designated lot or tract of land, would or would not meet all of the requirements of the building Code set forth or adopted by reference in this Code and in other applicable ordinances or regulations of the City. The Applicant shall be responsible to pay in advance any costs incurred by the City related to any necessary travel required to make any such inspection if the inspection requires travel outside of Collin County, Texas.

- (c) Upon filing of an application for a permit to demolish a Structure, the Building Official shall investigate the application and shall inspect the Structure to be demolished if it is safe to do so. He shall then determine whether the demolition of the Structure would or would not meet all of the applicable requirements set forth or adopted by reference in this Code and in other applicable ordinances or regulations of the City. If, in the judgment of the Building Official, inspection of the Structure would be unreasonably dangerous, the Applicant shall be responsible to pay in advance any costs associated with making the Structure reasonably safe for inspection.

#### **4.03 Building Permits Required**

Prior to the issuance of any permit required under this section for the moving, relocation or demolition of any Structure to be located on any lot or parcel of ground in the City, the owner of the property on which the Structure is to be located shall obtain a building permit in compliance with this section and any additional permits required under the building code(s), and, subdivision ordinance, or zoning ordinance of the City. A building Structure or part of any building Structure shall not be moved through or across any sidewalk, street, alley or highway within the City's corporate limits or extraterritorial jurisdiction without first obtaining a building permit from the Building Official. The Building Official, as a condition precedent to the issuance of such any permit granted under this section, shall may require a bond to be executed by the Person desiring such removal permit, with issued by a corporate surety licensed to issue surety bonds in the State of Texas to his satisfaction in an amount reasonably calculated to cover the costs of damage or injury to persons or property arising from activities undertaken in connection with the permit.

#### **4.04 Issuance of Permit**

- (a) Moving or Relocation Permit. After receiving the application and report of the Building Official, the City Council shall set a date for a public

hearing on the application. After such public hearing, the City Council shall either ~~After determining whether a moving or relocation permit under this section should be issued, the Building Official shall, subject to the approval of the City Manager, grant the application or deny the application request,~~ taking into consideration the location and size of the lot upon which the house, building or Structure is to be located, the size, condition and ~~Structure design~~ of the house, building or Structure to be moved or relocated, the population density of the area, the location and use of the ~~Structure building, the uses and proximity of other Structures~~ and land in the area, and the condition that the premises is proposed to be left. No request shall be granted if the City Council ~~Building Official~~ shall find that:

- (1) the house, building or Structure to be moved does not meet all the requirements of all applicable ordinances of the City;
- (2) the lot or tract of land with the house, building or Structure thereon would not meet all of the requirements or the applicable ordinances of the City;
- (3) the house, building or Structure to be moved has deteriorated more than 50% of its original value by virtue of fire or by virtue of age or normal wear and tear or other elements;
- (4) the moving of such house, building or Structure upon or from the lot or tract of land would cause injury to Persons or property or damage to the streets or other public improvements or that the applicant Applicant cannot provide evidence of adequate public liability insurance;
- (5) the applicant Applicant cannot ensure that he has the financial resources to bring the ~~building Structure~~ up to City standards within 90 days after completion of the move; ~~or~~
- (6) the applicant Applicant cannot ensure that the grounds from which a ~~building Structure~~ is removed will be completely cleared, leveled, and cleaned within 90 days after permit is issued; ~~or~~
- (7) the applicant Applicant has failed to pay all required fees under Part IV, Article 2, Section 4.04 of the Anna Code (Schedule of Fees) or other costs required under this section.

(b) Demolition Permit. After determining whether a demolition permit under this section should be issued, the Building Official shall, subject to the approval of the City Manager, grant the application or deny the application, taking into consideration the location and size of the lot upon which the Structure is to be located, the size, condition and

design of the Structure to be demolished, the population density of the area, the location and use of the Structure, uses and proximity of other Structures and land in the area, and the condition that the premises is proposed to be left. No request shall be granted if the Building Official shall find that:

- (1) the proposed demolition does not meet all the requirements of all applicable ordinances of the City;
- (2) the lot or tract of land after demolition would not meet all of the requirements or the applicable ordinances of the City;
- (3) the Applicant has failed to provide the Building Official with any asbestos-related survey, report or inspection records required under state or federal law (such documents being referenced under Part IV, Article 2, Section 4.04 of the Anna Code - Schedule of Fees as "submittal regarding asbestos");
- (4) the moving of such Structure upon or from the lot or tract of land would cause injury to Persons or property or damage to the streets or other public improvements or that the Applicant cannot provide evidence of adequate public liability insurance;
- (5) the Applicant cannot ensure that he has the financial resources to bring the building up to City standards within 90 days after completion of the move;
- (6) the Applicant cannot ensure that the grounds from which a building is removed will be completely cleared, leveled, and cleaned within 90 days after permit is issued; or
- (7) the Applicant has failed to pay all required fees under Part IV, Article 2, Section 4.04 of the Anna Code (Schedule of Fees) or other costs required under this section.

(b)(c) If the City Council-Building Official shall grant the request to move, relocate or demolish such house, building or the Structure, the City Council-Building Official, subject to approval by the City Manager, shall cause a written permit to be issued authorizing the moving, relocation or demolition of such house, building or the Structure upon or from the lot or tract of land under such conditions, requirements, or restrictions as the City Council-Building Official shall determine.

#### **4.05 Issuance of Certificate of Occupancy**

No Person shall occupy any such house, building or Structure permitted to be moved until the Building Official issues the Permittee a Certificate of

Occupancy. No Certificate of Occupancy shall be issued until the house, building or Structure complies with all conditions of the permit and all requirements of all applicable sections of the Code.

#### **4.06 Additional Regulations Related to Demolition**

- (a) A fee for each demolition permit shall be paid to the city in the amount which is established in the city schedule of fees.
- (b) All demolition work, including the removal of the foundation, must be completed within 60 days from the date of issuance of the demolition permit. Upon completion of the demolition work, the Permittee shall clean the premises of all debris, request an inspection of the premises, and then fill all excavations and grade the area with top soil or other material approved by the Building Official.
- (c) All water and sanitary sewer services shall be disconnected and sealed in accordance with the appropriate city ordinances and said disconnects shall be inspected and approved by the public works and utilities department.
- (d) A demolition permit may be revoked by the Building Official at any time upon a violation of the terms thereof, or upon a violation of any provision of this section or any other applicable ordinance of the city.
- (e) All demolition permits shall expire after 30 days from issuance. The building official may allow an extension of 30 days due to extenuating circumstances.
- (f) All demolitions shall be conducted in compliance with this section, other City ordinances and regulations, the Texas Asbestos Health Protection Act, as amended and all other applicable state and federal law. In the case of any conflict between any provisions or any such statutes, regulations, or other law, the strictest provision shall govern.

#### **4.064.07 Liability of City**

Neither the City nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of ~~orders~~ permits issued or work done in compliance with the terms of this section.

#### **4.074.08 Penalty**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding \$2,000, unless otherwise specifically set forth in this

Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

(Ord. No. 95-16, adopted 10/10/1995; Ord. No. \_\_\_\_\_, adopted \_\_\_\_\_)

**2.02** In accordance with Part II, Article 1, Section 9 of the Anna Code, the City Council hereby amends Part IV, Article 2, Section 4.04 (Demolition Permit Fee) of the Anna Code, as follows:

**4.04 Moving, Relocation, and Demolition Permit Fees**

|                       |      |
|-----------------------|------|
| Demotion Permit fee*  | \$50 |
| Moving Permit fee     | \$50 |
| Relocation Permit fee | \$50 |

*\*Must provide a letter-submittal regarding asbestos with application for permit. See Part II, Article 8, Section 4 of this Code for additional requirements.*

(Ord. No. \_\_\_\_\_, adopted \_\_\_\_\_)

**Section 3. Savings, Severability and Repealing Clauses.**

All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The City declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**Section 4. Publication of the Caption Hereof and Effective Date.**

This ordinance shall be in full force and effective from and after its passage and upon the posting and/or publication, if required by law, of its caption and the City Secretary is hereby directed to implement such posting and/or publication.

**PASSED** by the City Council of the City of Anna, Texas, this \_\_\_\_ day of \_\_\_\_\_, 2011.

ATTESTED:

APPROVED:

\_\_\_\_\_  
Acting City Secretary, Clayton Fulton

\_\_\_\_\_  
Mayor, Darren R. Driskell



## City of Anna City Council Agenda Staff Report

Council Meeting: August 23, 2011

Staff Contact: Jessica Perkins

Account Code #: n/a

Budgeted Amount: n/a

Exhibits:  Yes       No

**AGENDA SUBJECT:** Consider/Discuss/Action regarding a Resolution authorizing the Anna Economic Development Corporation to: (1) pursue a project including the purchase/financing of the property located at 312 North Powell Parkway including costs of remodeling; and (2) refinance a loan related to EDC property located on CR 427.  
(Jessica Perkins)

**SUMMARY:** The EDC has no lease space and the city has little to no spec space. The old post office located at 312 North Powell is an investment the EDC can use to attract new businesses to Anna by offering no rent or reduce rent lease space. The building is also in a great location and renovating the building will go a long way toward setting a precedent for the city's downtown revitalization.

Also, if advantageous, the EDC would like to refinance their existing loan on the EDC property into the note for the post office purchase and renovation.

**STAFF RECOMMENDATION:** Staff recommends you approve the resolution.

**CITY OF ANNA, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS, AUTHORIZING THE ANNA ECONOMIC DEVELOPMENT CORPORATION TO EXECUTE A CONTRACT FOR PURCHASE OF PROPERTY, FINANCING OF PROPERTY AND REMODELING COSTS, AND REFINANCING OF PROPERTY**

**WHEREAS**, the City Council of the City of Anna, Texas ("City Council") recognizes that the Anna Economic Development Corporation ("EDC") on August 16, 2011 passed a resolution authorizing the execution of one or more contracts on the EDC's behalf for the purchase property, financing of said property and remodeling costs, and refinancing of property already owned by the EDC, all subject to approval of by the City Council;

**WHEREAS**, the City Council recognizes that the EDC intends to purchase new property related to an eligible economic development project and remodel improvements thereon and to attempt to obtain more advantageous financing terms for property already owned by the EDC; and

**WHEREAS**, the City Council has determined that the purchase, remodeling, and refinancing are in the best interest of the economic development efforts of the City and will promote economic development in the City of Anna and the City Council desires to approve the EDC's proposed actions related to same; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS, THAT:**

**Section 1. Recitals incorporated.**

The recitals set forth above are incorporated herein for all purposes as if set forth in full.

**Section 2. Authority to expend funds.**

The City Council of the City of Anna, Texas hereby authorizes the actions to be taken and the expenditures to be made by the EDC in accordance with the terms described in the EDC Resolution No. \_\_\_\_\_, and further approves any and all early payments that the EDC as long as there is no penalty for early repayment.

PASSED by the City Council of the City of Anna, Texas, on this the 23rd day of August, 2011.

ATTEST:

APPROVED:

\_\_\_\_\_  
Clayton Fulton, Acting City Secretary

\_\_\_\_\_  
Mayor, Darren R. Driskell



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Philip Sanders

Account Code #: N/A

Date Prepared: 8/18/11

Budgeted Amount: N/A

Exhibits:  Yes  No

**AGENDA SUBJECT:** Consider/Discuss/Action regarding a Resolution accepting a petition for annexation and establishing the dates, times, and places for public hearings for the annexation of property located south of CR 421 and east of the CR 418; 10.4 acres.

**SUMMARY:** This tract being requested for annexation is within the City of Anna extraterritorial jurisdiction. This is a voluntary request with the owner being Oncor Electric Delivery Company. The tract is proposed as a future substation. The tract is adjacent to the Current City Limits.

Prior to the establishment of a use, the property needs to be annexed and zoned appropriately for the area and proposed use.

**PLANNING AND ZONING ACTION:** NA

**RECOMMENDED ACTION:** Approval of the resolution establishing a public hearing schedule.

CITY OF ANNA, TEXAS

RESOLUTION NO. \_\_\_\_\_

Oncor Electric Delivery Company – 10.4 acres  
(located south of CR 421 and east of the CR 418)

**A RESOLUTION ACCEPTING AN ANNEXATION PETITION AND ESTABLISHING THE DATES, TIMES, AND PLACES FOR PUBLIC HEARINGS FOR THE ANNEXATION OF PROPERTY**

**WHEREAS**, the City of Anna has received a petition for annexation from Oncor Electric Delivery Company, the owner or authorized representative of the owner of property described in Exhibit A; and

**WHEREAS**, said territory lies adjacent to and adjoins the present boundaries of the City of Anna, Texas; and

**WHEREAS**, the City of Anna desires to accept said petition and initiate annexation proceedings regarding the property described in Exhibit A; now therefore

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNA THAT**

**Section 1.**

The petition for annexation submitted to the City of Anna by Oncor Electric Delivery Company, the owner or authorized representative of the owner of property described in Exhibit A; is hereby accepted.

**Section 2.**

Public hearings regarding the proposed annexation are hereby scheduled as follows:

1<sup>st</sup> Public Hearing – September 13, 2011 at 7:30 p.m. at the Community Room, Anna City Hall Administrative Building, 111 N. Powell Pkwy, Anna, TX

2<sup>nd</sup> Public Hearing – September 27, 2011 at 7:30 p.m. at the Community Room, Anna City Hall Administrative Building, 111 N. Powell Pkwy, Anna, TX

**PASSED** by the following vote of all members of the City Council as present on this the 23<sup>rd</sup> day of August, 2011.

AYES \_\_\_\_\_  
NAYS \_\_\_\_\_  
ABSTENTIONS \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
Acting City Secretary

\_\_\_\_\_  
Mayor

**APPLICATION/PETITION FOR ANNEXATION**

Include with Application: Legal Description of Property with surveyor's stamp  
Map Showing location of property  
Application Fee: \$100



**To the Mayor and Governing Body of the City of Anna, Texas**

I (we), the undersigned, being owner(s) of property that is within the existing extraterritorial jurisdiction of the City of Anna, Texas, hereby petition your honorable body to extend the present city limits so as to include the territory more fully described in Exhibit A, attached hereto and incorporated herein for all intents and purposes. I (we) am (are) the owner(s) and/or legally represent the owner(s) of the property described in Exhibit A, on which less than three qualified voters reside.

(We) certify that this Petition is signed and acknowledged by each and every corporation and person owning the described land or having an interest in any part thereof.

The undersigned represent(s) that he (they) and all other owners desire to be annexed to and made part of the City of Anna, Texas, subject to all laws, rules, and regulations of said city.

Jill L. Alvarez  
Signature  
JILL L. ALVAREZ  
Printed Name

1 JULY 2011  
Date

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

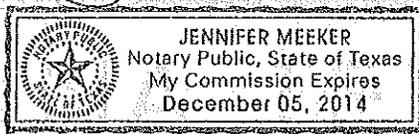
Name of Property and location. MELISSA SUBSTATION, CR 421, ANNA, TX 75409

STATE OF TEXAS  
COUNTY OF Tarrant

This instrument was acknowledged before me by Jill L. Alvarez,  
Attorney-in-Fact for Oncor Electric Delivery Company

On the 1<sup>st</sup> day of July, 2011.

Notary Public in and for the State of Texas Jennifer Meeker  
My Commission Expires: 12-5-2014



CITY OF ANNA, TEXAS

EXHIBIT "A"  
COUNTY ROAD 421 SUBSTATION  
ANNEXATION EXHIBIT

Being 10.36 acres of land in the David E.W. Babb Survey, Abstract No. 33, situated in the extra-territorial jurisdiction of the City of Anna, Collin County, Texas, and being a portion of all of that called 10.376 acre tract of land described in Warranty Deed to Texas Power & Light Company (hereinafter referred to as "TP&L tract") as recorded in Volume 1365, Page 810, of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds, as follows:

**BEGINNING** at a 1/2-inch found iron rod for the northernmost corner of that called 10.376 acre tract of land described in Warranty Deed to Texas Power & Light Company (hereinafter referred to as "TP&L tract") as recorded in Volume 1365, Page 810, of the Deed Records of Collin County, Texas, said point being on the west line of Lot 1 of Creekside Acres Phase I, as recorded in Cabinet M, Page 314, of the Map Records of Collin County, Texas (M.R.C.C.T.), and being a corner of the city limit line of the City of Anna, Collin County, Texas, as described in City of Anna Annexation Ordinance No. 255-2006;

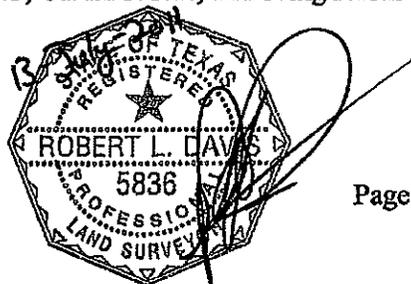
**THENCE** South 00 degrees 01 minute 27 seconds East, along the common line between said TP&L tract and said Creekside Acres Phase I, at a distance of 187.09 feet pass the southwest corner of said Lot 1 and the northernmost northwest corner of the Creekside Acres Phase II, as recorded in Cabinet N, Page 667, M.R.C.C.T., and continuing along the common line between said TP&L tract and the west line of said Creekside Acres Phase II, in all a total distance of 860.49 feet to a point for the southeast corner of said TP&L tract and a re-entrant ell corner of said Creekside Acres Phase II;

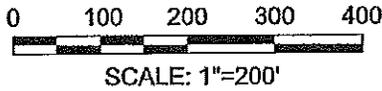
**THENCE** South 89 degrees 33 minutes 51 seconds West, continuing along said common line, at a distance of 640.29 pass the westernmost northwest corner of said Creekside Acres Phase II and the northeast corner of that tract of land described in deed to Billy M. Clay, as recorded in Document No. 97-148140, of the Official Public Records of Collin County, Texas, and continue along the common line between said TP&L and the north line of said Clay tract, in all a total distance of 1,048.85 feet to a 1/2-inch found iron rod for corner, and being a corner of said city limit line;

**THENCE** North 50 degrees 23 minutes 01 second East, departing said common line, and along the northwest line of said TP&L tract and said city limit line, a distance of 1,361.99 feet to the **POINT OF BEGINNING AND CONTAINING** 451,247 square feet or 10.36 acres of land, more or less.

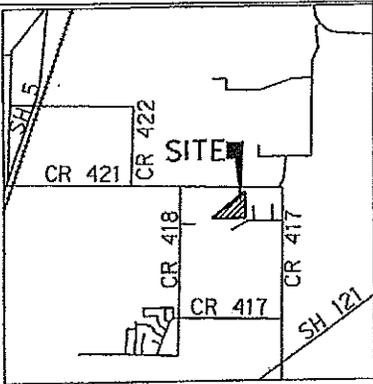
Basis of bearings is the Texas Coordinate System (NAD83), Texas North Central Zone (4202), and found monumentation along the southernmost west line of said JNC Partners, LLC, as recorded in Document No. 2004-0153643, O.P.R.C.C.T., and being North 00 degrees 01 minute 00 seconds West.

A plat accompanies this legal description.





COUNTY RD. 421



VICINITY MAP NTS



POINT OF BEGINNING

Creekside Acres Phase I Final Plat Cab. W, Pg. 314 M.R.C.C.T.

TXU Electric Co. Easement Right-of-Way Doc. No. 2001-0089616 O.P.R.C.C.T.

JNC PARTNERS, LLC DOC. NO. 2004-0153643 O.P.R.C.C.T.

DAVID E. W. BABB SURVEY ABSTRACT NO. 33

N50°23'01"E

1,361.99'

ANNA CITY LIMIT (ORD# 255-2006)

451,247 S.F. OR 10.36 AC.

Texas Power & Light Vol. 1365, Pg. 819 M.R.C.C.T.

187.09' S00°01'27"E

860.49'

S89°33'51"W

1,048.85'

1/2" FIR (C.M.)

38 Creekside Acres Phase II Final Plat Cab. W, Pg. 667 M.R.C.C.T.

MILL ROAD



LEGEND

- 1/2" FIR ONE HALF INCH FOUND IRON ROD
- C.M. CONTROL MONUMENT
- D.R.C.C.T. DEED RECORDS COLLIN COUNTY TEXAS
- M.R.C.C.T. MAP RECORDS COLLIN COUNTY TEXAS
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORD COLLIN COUNTY TEXAS

Basis of bearings is the Texas Coordinate System (NAD83), Texas North Central Zone (4202), and found monumentation along the southernmost west line of said JNC Partners, LLC, as recorded in Document No. 2004-0153643, O.P.R.C.C.T., and being North 00 degrees 01 minute 00 seconds West.

EXHIBIT "A"  
 COUNTY ROAD 421 SUBSTATION ANNEXATION EXHIBIT  
 OF  
 451,247 S.F. OR 10.36 AC.  
 FOR  
 ONCOR ELECTRIC DELIVERY COMPANY  
 SITUATED IN  
 DAVID E.W. BABB SURVEY, ABSTRACT NO. 33  
 CITY OF ANNA ETJ, COLLIN COUNTY, TEXAS



3801 PARKWOOD BLVD., SUITE 500 FRISCO, TEXAS 75034 (214) 618-4570  
 SCALE: 1"=200' AVO: 27665 DATE: 07/05/11 PAGE 2 OF 2

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A legal description accompanies this plat.



**City of Anna  
City Council Agenda  
Staff Report**

Council Meeting: August 23, 2011

Staff Contact: Philip Sanders

Account Code #: \_\_\_\_\_  
Budgeted Amount: \_\_\_\_\_

Exhibits:  Yes       No

**AGENDA SUBJECT:** Consider/Discuss/Action regarding a Resolution amending an Economic Development Agreement with Bloomfield Properties Inc.

**SUMMARY:** Bloomfield Homes is a regional volume home builder that purchased the remaining land in the West Crossing subdivision last year. Bloomfield Properties Inc. is the retail supplier of all building materials purchased by Bloomfield Homes in the construction of all of their single family home construction projects in the DFW area. In September of 2010, the City entered into an Economic Development Agreement with Bloomfield Properties Inc. whereby the City agreed to provide an economic development grant equal to ½ of the amount of sales tax the City receives from the sale of construction materials to Bloomfield Homes.

This past spring, new legislation was adopted by the Texas Legislature that appears to conflict with the intended purposes of the 2010 Agreement and that places achievement of those purposes at an unacceptable level of risk once the new legislation goes into effect on September 1, 2011. As a result, the City Staff and Bloomfield Properties have agreed that it is in the best interests of both parties, that the September 2010 Agreement be terminated as outlined in the attached Amendment.

**RECOMMENDATION:** Staff recommends approval of the attached Resolution and Amendment.

CITY OF ANNA, TEXAS

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF ANNA, TEXAS APPROVING AN AGREEMENT TERMINATING ECONOMIC DEVELOPMENT AGREEMENT WITH BLOOMFIELD PROPERTIES, INC.**

**WHEREAS**, the City of Anna, Texas (the "City") and Bloomfield Properties Inc. ("Grantee") mutually desire to terminate an Economic Development Agreement entered into on September 29, 2010 (the "Agreement"); and

**WHEREAS**, the City Council of the City of Anna, Texas finds that approval of the Agreement Terminating Economic Development Agreement (the "Termination Agreement") is in the best interest of the citizens of Anna;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS THAT:**

**Section 1. Recitals Incorporated**

The recitals set forth above are incorporated herein for all purposes as if set forth in full.

**Section 2. Approval of Termination Agreement**

The City of Anna City Council hereby approves the Termination Agreement, attached hereto as EXHIBIT 1, incorporated herein for all purposes and authorizes the City Manager to execute same on its behalf.

**PASSED AND APPROVED** by the City Council of the City of Anna, Texas on this 23<sup>rd</sup> day of August, 2011.

APPROVED:

ATTEST:

\_\_\_\_\_  
Darren R. Driskell, Mayor

\_\_\_\_\_  
City Secretary

**City of Anna,**

**County of Collin,**

**State of Texas.**

**Economic Development Agreement Amendment Terminating  
Agreement**

This Economic Development Agreement Amendment Terminating Agreement (this "Termination Agreement") is entered into by and between the City of Anna, Texas, (the "City"), a home rule municipal corporation of the State of Texas, and Bloomfield Properties, Inc., (the "Grantee"), for the purposes and consideration stated below.

**RECITALS**

Whereas, the City had previously established guidelines and criteria for economic incentive programs authorized by Texas law and approved by the City Council, including those authorized by Chapter 380 of the Texas Local Government Code, to promote state or local economic development and to stimulate business and commercial activity in the City; and

Whereas, the City and the Grantee (collectively, the "Parties") entered into such an incentive program governed by a certain Economic Development Agreement (the "2010 Agreement"), which was approved by the City of Anna City Council on September 28, 2010 and executed by the City and the Grantee on or about September 29, 2010, with an effective date of September 9, 2010; and

Whereas, new legislation was subsequently adopted by the Texas Legislature in the 2011 regular legislative session that appears to conflict with the Parties intended purposes in entering into the 2010 Agreement and that place achievement of those purposes at an unacceptable level of risk once the new legislation goes into effect on September 1, 2011; and

Whereas, the City and the Grantee wish to terminate the 2010 Agreement and their respective rights and obligations thereunder, with said termination of the 2010 Agreement to become effective October 31, 2011; and

Whereas, Section 16.1 of the 2010 Agreement requires that the termination of the 2010 Agreement must be by written instrument signed by the Grantee and the City;

Now, therefore, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1.

RECITALS ADOPTED AND INCORPORATED

The findings, assertions, and agreements stated in the foregoing recitals are adopted by the Parties to this Termination Agreement and incorporated herein as if set forth in full for all purposes.

SECTION 2.

DEFINITIONS

- 2.A “Grantee” shall mean Bloomfield Properties, Inc., and all companies or entities under common control, controlled by or controlling Bloomfield Properties, Inc. For purposes of this Termination Agreement, the term “control” shall mean the ownership of fifty percent (50%) or more of the Grantee as determined by vote or value.
- 2.B “Program” shall mean the economic incentive program established by the City pursuant to Chapter 380 of the Texas Local Government Code.
- 2.C “Program Grant” shall mean the amounts paid by the City in accordance with Section 4 of the 2010 Agreement.
- 2.D “Project” shall mean Grantee’s location of a place of business for sales and use tax situs purposes as defined in Texas Tax Code §321.002(a)(3), as amended, within the City that complies with all applicable City regulations including the City’s zoning ordinance, building codes, and other development regulations.
- 2.E “Project’s Sales Tax Revenue” shall mean the one percent municipal sales and use tax authorized by Chapter 321 of the Municipal Sales and Use Tax Act, paid by the Grantee and received by the City and this definition excludes: (1) any additional sales tax that is paid by the Grantee to be received by the City’s development corporation(s); and (2) any sales tax in excess of said one percent that the City may at any time become authorized to collect.
- 2.F “Termination Date” shall mean the 31<sup>st</sup> of October, 2011 at midnight.

SECTION 3.

EFFECTIVE DATE AND TERMINATION DATE

This Termination Agreement shall become effective as of the date of execution by both the City and the Grantee. The termination of the 2010 Agreement shall be effective as of the Termination Date as defined in Section 2.F of this Termination Agreement. Until the Termination Date, the 2010 Agreement is to remain in full force and effect, and portions of the 2010 Agreement shall survive beyond the Termination Date to the extent expressly set forth in this Termination Agreement.

SECTION 4.

TERMINATION/SURVIVAL PROVISIONS RELATED TO PROGRAM GRANTS  
UNDER THE 2010 AGREEMENT

The final month for which the City will be obligated to make a monthly Program Grant payment to Grantee is October 2011.

SECTION 5.

TERMINATION/SURVIVAL PROVISIONS RELATED TO DOCUMENTATION  
OBLIGATIONS UNDER THE 2010 AGREEMENT

- 5.A Under Section 5.1 of the 2010 Agreement, within 30 days of the close of each calendar month for which a Program Grant is due (such month being referenced in this subsection 5.A as the “Applicable Month”), the Grantee is obligated to submit to the City a written schedule (the “Schedule”) and to provide associated documentation detailing for the Applicable Month the Grantee’s total taxable sales and the Project’s Sales Tax Revenue and any subsequent adjustments thereto. The final month for which the Grantee will be obligated to submit to the City a Schedule and the associated documentation described in Section 5.1 of the 2010 Agreement is October 2011.
- 5.B The Grantee’s obligations under Sections 5.2 and 5.3 of the 2010 agreement as pertaining to each month during the term of the 2010 Agreement up to and including October 31, 2011 shall survive the termination of the 2010 Agreement and shall be an ongoing duty of Grantee.
- 5.C The City shall have the right to audit and make copies of the Grantee’s books, records, documents and other evidence related to each month during the term of the 2010 Agreement up to and including October 31, 2011 insofar as such books, records, documents and other evidence relates to Grantee’s sales tax revenue, collection or payment during said months and the City’s right to audit and make copies in this regard shall survive the termination of the 2010 Agreement.

SECTION 6.

TERMINATION/SURVIVAL PROVISIONS RELATED TO PROGRAM GRANT  
PAYMENT DUE DATE AND RELATED PROVISIONS UNDER THE 2010  
AGREEMENT

- 6.A The City shall pay the amount of each Program Grant to Grantee within 30 days of the date that the City receives from the State Comptroller the Project’s Sales Tax Revenues for the corresponding month for each month during the term of the 2010 Agreement up to and including October 2011. This obligation shall survive the termination of the 2010 Agreement, but only as to said months.

- 6.B Sections 6.2, 6.3, 6.4 and 6.5 of the 2010 Agreement shall survive the termination of the 2010 Agreement, but only as such provisions pertain to each month during the term of the 2010 Agreement up to and including October 2011.

SECTION 7.

TERMINATION/SURVIVAL PROVISIONS RELATED TO OTHER OBLIGATIONS OF THE GRANTEE UNDER THE 2010 AGREEMENT

- 7.A The rights and obligations set forth under Section 7.1 of the 2010 Agreement shall terminate on the Termination Date, except that the Grantee agrees at all times to comply with the requirements outlined in the private letter ruling from the Comptroller of Public Accounts as such ruling applies to each month during the term of the 2010 Agreement up to and including October 2011.
- 7.B The Grantee agrees to permit the City, its agents or designees, to review the Texas sales and use tax records of the Grantee to the extent such records are related to each month during the term of the 2010 Agreement up to and including October 2011. Said review(s) shall take place within normal business hours and at a mutually agreed location.
- 7.C The Grantee's obligation to ensure that the Project does not result in any additional vehicular traffic on streets in a neighborhood or subdivision where the Project is located that would not otherwise occur as a result of construction activity taking place in that neighborhood or subdivision survives the Termination Date.
- 7.D All rights and obligations of the Parties set forth in Sections 7.3, 7.4, 7.5, 7.6, and 7.8 shall terminate as of the Termination Date.

SECTION 8.

TERMINATION/SURVIVAL PROVISIONS RELATED TO DEFAULT AND TERMINATION UNDER THE 2010 AGREEMENT

- 8.A Notwithstanding the default and termination provisions set forth in Section 8 of the 2010 Agreement, the termination of the 2010 Agreement shall be governed exclusively by this Termination Agreement.
- 8.B To the extent any default of the 2010 Agreement relates to the respective rights or obligations of the Parties as pertains to each month during the term of the 2010 Agreement up to and including October 2011, the default provisions under Section 8 of the 2010 Agreement shall continue to govern any such default.

SECTION 9.

TERMINATION/SURVIVAL PROVISIONS RELATED TO MUTUAL ASSISTANCE

- 9.A The City and the Grantee shall do all things necessary or appropriate to carry out the terms and provisions of this Termination Agreement, and to aid and assist each other in carrying out such terms and provisions.
- 9.B The Grantee hereby consents to and agrees to cooperate in any request by the City to obtain copies of its Texas sales and use tax returns from the State that contain information required to measure or calculate the Program Grant as referenced within the Waiver of Confidentiality, Exhibit A, as such returns relate to any month during the term of the 2010 Agreement up to and including October 2011. The City and the Grantee shall further undertake all reasonable steps to assert detrimental reliance on the private letter ruling referenced in Section 7.1 of the 2010 Agreement in the event that the State Comptroller or other authority attempts to invalidate or modify this Project or any other provision of the 2010 Agreement or this Termination Agreement.

#### SECTION 10.

#### REPRESENTATIONS AND WARRANTIES

- 10.A The City represents and warrants that:
- (a) The City is a municipal corporation duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Texas;
  - (b) The City has approved this Termination Agreement by Resolution at a public meeting properly noticed under the provisions of the Texas Open Meetings laws; and
  - (c) The City knows of no litigation, proceedings, initiative, referendum, investigation, or the threat of any of the same, contesting the powers of the City or its officials with respect to this Termination Agreement that has not been disclosed in writing to the Grantee.
- 10.B The Grantee represents and warrants that:
- (a) Bloomfield Properties, Inc. has the power and authority to own its properties; and
  - (b) This Termination Agreement has been duly authorized, executed and delivered by Bloomfield Properties, Inc.; and Bloomfield Properties, Inc. has all the requisite corporate power and authority to execute, deliver, and perform this Termination Agreement; and this Termination Agreement constitutes a valid and binding obligation of Bloomfield Properties, Inc., as Grantee, and all companies or entities under common control, controlled, or controlling Bloomfield Properties, Inc., and is enforceable in accordance with its terms and conditions; and

- (c) The Grantee knows of no litigation, proceedings, initiative, referendum, investigation, or the threat of any of the same, contesting the powers of the City or its officials with respect to this Termination Agreement that has not been disclosed in writing to the City.

SECTION 11.

TERMINATION/SURVIVAL PROVISIONS RELATED TO  
INDEMNITY/LIMITATION ON LIABILITY UNDER THE 2010 AGREEMENT

Section 11.1 of the 2010 Agreement survives the Termination Date.

SECTION 12.

SEVERABILITY

- 12.A Should any provision of this Termination Agreement be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Termination Agreement.
- 12.B In lieu of each and any invalid provision, there shall be added to this Termination Agreement a new provision containing as similar terms as may be possible and yet be valid, legal and enforceable.

SECTION 13.

INTERPRETATION AND FAIR CONSTRUCTION OF THE CONTRACT

- 13.A This Termination Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Termination Agreement is uncertain or ambiguous, the language in all parts of this Termination Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly construed for or against either Party.
- 13.B Section or other headings contained in this Termination Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Termination Agreement.

SECTION 14.

DISPUTE RESOLUTION AND VENUE

- 14.A This Termination Agreement is made, and shall be construed and interpreted under the laws of the State of Texas, and exclusive jurisdiction and venue for any legal action shall lie in Collin County, Texas. The City and the Grantee agree that all claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Termination Agreement or the 2010 Agreement, including but not limited to breach of either

agreement, shall be referred to mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding; provided, however, there shall be no requirement to mediate after a party provides written notice to the other party of its request to mediate and a mediation is not scheduled within 30 days after the mailing of such notice.

#### SECTION 15

#### ENTIRE AGREEMENT

This Termination Agreement contains the entire agreement between the parties with respect to the Termination of the 2010 Agreement and the survival of certain provisions as set forth in this Termination Agreement.

#### SECTION 16

#### AMENDMENT

This Termination Agreement may only be amended, altered, or revoked by written instrument signed by the Grantee and the City.

#### SECTION 17

#### NOTICE

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing.

GRANTEE:

Bloomfield Properties, Inc.  
Don Dykstra, President  
1050 E Hwy 114, Suite 210  
Southlake, TX 76092

CITY:

City of Anna  
Philip Sanders, City Manager  
111 N. Powell Pkwy, P.O. Box 776,  
Anna, Texas 75409-0776

SECTION 18

COUNTERPARTS

This Termination Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

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SECTION 19

BINDING AGREEMENT

The terms and conditions of this Termination Agreement are binding upon the successors and permitted assigns of the parties hereto. This Termination Agreement may not be assigned without the express written consent of Grantor, which approval shall not be unreasonably withheld or delayed.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF ANNA, TEXAS:

\_\_\_\_\_  
Philip Sanders, City Manager

ATTEST:

\_\_\_\_\_  
City Secretary

GRANTEE:

\_\_\_\_\_  
(President)

ATTEST:

\_\_\_\_\_  
(Officer)