

AN ORDINANCE      2011-06-23-0592

**APPROVING AND AUTHORIZING THE EXECUTION OF A TAX ABATEMENT AGREEMENT WITH CHEVRON U.S.A., INC. TO EXEMPT 50% OF AD VALOREM TAXES FOR A PERIOD OF EIGHT (8) YEARS ON REAL AND PERSONAL PROPERTY IMPROVEMENTS OF APPROXIMATELY \$120 MILLION IN THE STREAM REINVESTMENT ZONE.**

\* \* \* \* \*

**WHEREAS**, Chevron U.S.A., Inc. (hereinafter referred to as “Chevron”), has identified a site located at 5200 Rogers Road, in the City of San Antonio, more particularly described in ATTACHMENT I, where it intends to construct, operate and maintain a consolidated North American data center (the “Project”); and

**WHEREAS**, the Project will consist of \$120,000,000.00 in real and personal property improvements; and

**WHEREAS**, the City Council finds that the proposed Project furthers the objectives of the International and Economic Development Department and the City of San Antonio in promoting the development of local business interests, investment and job creation; and

**WHEREAS**, the City Council also finds that authorizing and approving the proposed Tax Abatement Agreement is a reasonable incentive to help induce Chevron to locate its data operations center in San Antonio; and

**WHEREAS**, the City Council also finds that it is in the best interest of the City to approve a Tax Abatement Agreement with Chevron to induce the desired and beneficial economic development in the area; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Council approves and authorizes the execution of a Tax Abatement Agreement with Chevron U.S.A., Inc. granting a fifty-percent (50%), eight (8) year abatement of ad valorem taxes on real and personal property improvements made by Chevron in an estimated amount of at least \$120,000,000.00 in the Stream Reinvestment Zone. A copy of the Agreement, in substantially final form, is attached hereto and incorporated herein as Attachment I.

**SECTION 2.** The City Manager or a designated representative is authorized to execute the Agreement as approved in Section 1. The final Agreement shall be filed with this ordinance upon its execution.

**SECTION 3.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 216000000000 and General Ledger 4401815.

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

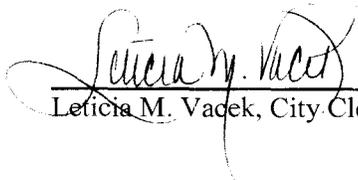
**SECTION 5.** This ordinance shall be effective on and after the tenth (10<sup>th</sup>) day after passage.

PASSED AND APPROVED this 23<sup>rd</sup> day of JUNE 2011.



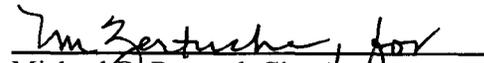
M A Y O R  
Julián Castro

**ATTEST:**



\_\_\_\_\_  
Leticia M. Vadek, City Clerk

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Michael D. Bernard, City Attorney



Request for  
**COUNCIL**  
 ACTION

City of San Antonio



## Agenda Voting Results - 53B

<b>Name:</b>	6A, 6B, 6C, 7, 8, 9, 10, 11, 12, 13, 14A, 14B, 15, 18, 19, 20, 21, 22, 24, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 27, 28, 29, 30A, 30B, 31, 32, 33A, 35, 36, 37, 38A, 38B, 38C, 38D, 38E, 38F, 38G, 38H, 38I, 38J, 38K, 38L, 38M, 38N, 38O, 38P, 38Q, 38R, 38S, 38T, 40, 41, 43, 44, 45, 46, 47, 49A, 49B, 49C, 49D, 50, 51, 52, 53A, 53B, 54, 55, 56A, 56B, 57						
<b>Date:</b>	06/23/2011						
<b>Time:</b>	09:57:52 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an 8-year, 50% Tax Abatement Agreement with Chevron U.S.A. Inc.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				x
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				



3. **PROPERTY**

A. CHEVRON has a fee-simple interest in real property located at 5200 Rogers Road, San Antonio, Texas 78251 (the "Property"), legally described in Exhibit A, attached hereto and incorporated herein. The Property is located within a qualifying Reinvestment Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312.

B. CHEVRON is contemplating owning, holding an interest in or otherwise controlling the Property in order to conduct a large-scale computer data center or the business activities of a Related Organization, Successor or Contractor (as such terms are defined in Article 5, Paragraph I) so long as such business activities include the business activities of a computer data center or similar activity (all of such activities hereinafter collectively referred to as the "Business Activities").

C. In the event CHEVRON elects to conduct the Business Activities on the Property, it will be necessary for CHEVRON to make certain real property improvements (the "Real Property Improvements") and certain personal property infrastructure improvements (the "Personal Property Improvements;" the Real Property Improvements and Personal Property Improvements are sometimes herein together called the "Infrastructure Improvements") within the Property in order to be able to perform the Business Activities therein. The actual cost of such Infrastructure Improvements is not currently known as the design and pricing of such Infrastructure Improvements have not been completed; however it is anticipated that the cost of such Infrastructure Improvements may range from approximately ONE HUNDRED TWENTY, MILLION DOLLARS (\$120,000,000) to approximately TWO HUNDRED MILLION DOLLARS (\$200,000,000.00). If CHEVRON elects to perform the Business Activities, it is anticipated that the expenditures for the Infrastructure Improvements will be incurred over an approximately ten (10) year period. No Infrastructure Improvements shall be placed on the Property sooner than the Effective Date of this Agreement.

D. In the event CHEVRON elects to install the Infrastructure Improvements at the Property and to commence the Business Activities therein, CHEVRON shall establish separate tax accounts with the Bexar Appraisal District for the Real Property Improvements, which will be opened in the name of CHEVRON, and the Personal Property Improvements, which will be opened in the name of CHEVRON's division, Chevron Information Technology Company and provide these tax account numbers and the related entity information to the CITY.

4. **CHEVRON'S REPRESENTATIONS**

A. CHEVRON represents that it has no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City's Economic Development Department, or any other City officer or employee. CHEVRON further represents that it shall not knowingly sell, lease or otherwise convey an interest of any type of kind to a member of

the San Antonio City Council, the Zoning Commission, the Planning Commission, the City's Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. CHEVRON represents that there is no litigation pending against CHEVRON for any violations under the Occupational Safety and Health Act ("OSHA") in Bexar County.

5. **CHEVRON'S OBLIGATIONS TO TAKE ADVANTAGE OF TAX ABATEMENT**

In the event CHEVRON elects to perform the Business Activities at the Property, then in order for CHEVRON to take advantage of the tax abatement offered by the City CHEVRON will be required to fulfill all of the obligations set forth within this Article 5.

A. In addition to all other obligations and/or duties imposed on CHEVRON by any other incentive agreements it has entered into with the State of Texas, Bexar County and/or the City of San Antonio, if any, CHEVRON will be required to:

1) own, hold an interest in or otherwise control the Real Property Improvements and Personal Property Improvements that are the subject of this Agreement; and

2) invest, or cause to be invested, approximately ONE HUNDRED TWENTY MILLION DOLLARS (\$120,000,000) in Real and Personal Property Improvements by December 31, 2018, and will likely invest a cumulative total of TWO HUNDRED MILLION DOLLARS (\$200,000,000.00) in Real and Personal Property Improvements by December 31, 2023; and

(3) use the Property for the Business Activities; and

(4) engage the services of not less than seventeen (17) Full-time Equivalent Workers (as defined in Article 5 Section D) at the Property, either as employees or as contractors, no later than December 31, 2017; and from and after such date maintain this aggregate minimum staffing level ("Minimum Staffing Level") for the duration of the term of the Agreement; and

(5) comply with all other applicable terms of this Agreement.

B. CHEVRON will be required to covenant and agree to pay one hundred percent (100%) of its new employees performing the Business Activities at the Property the City's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines, which is ten dollars and seventy-five cents (\$10.75) per hour. Commencing on the first anniversary of the date on which the Infrastructure Improvement have been completed, seventy percent (70%) of all new and existing employees working at the Property must earn at least thirteen dollars and seventy-six cents (\$13.76) per hour. In the event CHEVRON utilizes contractors in furtherance of

the Minimum Staffing Level, it shall require that such contractors be paid wages not less than wages set forth in this Article 5, Section B.

C. For the purposes of this Agreement, a “Full-Time Equivalent Worker” shall constitute the performance by one or more individuals in the aggregate amount of two thousand eighty (2,080) straight-time paid hours in a fiscal year.

D. CHEVRON will covenant and agree that it shall offer all of its non-temporary employees performing Business Activities at the Property substantially similar employee benefits as those employee benefits offered to similarly situated employees of CHEVRON.

E. CHEVRON will covenant and agree that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees.

F. CHEVRON will covenant and agree that it shall conduct its Business Activities (as defined in Article 3, Paragraph A) at the Property in accordance with all applicable federal, state and local laws.

G. Any construction CHEVRON will perform or cause to be performed at the Property shall be in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

I. Except as provided herein, CHEVRON will covenant and agree that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of CHEVRON or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of CHEVRON, or any component thereof (hereinafter “Related Organization”) may occupy and use the Property for such Related Organization’s normal business activities, so long as such business activities are those of a computer data center or comparable to the Business Activities of CHEVRON at the Property. To be eligible for the tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, CHEVRON covenants and agrees during the term of this Agreement not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved ordinance.

J. CHEVRON will covenant and agree that it shall maintain the Property and any constructed improvements in good repair and condition during the Term of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of CHEVRON excepted.

Compliance with the maintenance obligations imposed herein shall be presumed if CHEVRON follows its normal and customary maintenance procedures and schedules.

K. CHEVRON will covenant and agree that, upon five business days prior notice received by it from the CITY, CHEVRON shall allow designated representatives of the CITY access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. This inspection is independent of CITY'S police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to CHEVRON's books and records will be limited to information needed to verify that CHEVRON is and has been conducting Business Activities, and to verify the number of full-time employees at the Facility; provided, however, that the CITY shall not have the ability to obtain copies of CHEVRON's records or remove any information or documents from CHEVRON's files. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require CHEVRON to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of CHEVRON. CITY representatives may be accompanied by CHEVRON representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or the Facility; and (b) comply with CHEVRON's reasonable security requirements.

L. During the Term of this Agreement, CHEVRON will covenant and agree to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax phase-in and for appraisal purposes.

M. CHEVRON will covenant and agree to provide the CITY's Director of International and Economic Development Department or designated representative with a semi-annual certification from an officer of CHEVRON attesting to the number of full-time jobs maintained at the Property, as well as wages paid, by CHEVRON at the Property. CHEVRON shall also submit this information to the CITY upon request, as deemed necessary at the sole discretion of the CITY, during the term of this Agreement. The information provided shall be on the forms set forth in, or substantially similar to the forms set forth in, Exhibit "C" (attached hereto and incorporated herein), as amended.

N. Reserved.

O. CHEVRON will covenant and agree to notify CITY in writing at least 30 days prior to any sale, transfer or sub-lease of the Property during the Term. CITY shall not unreasonably withhold approval of any requests for Assignment of this Agreement by CHEVRON under Article 11 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph O may render CHEVRON subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

P. CHEVRON will covenant and agree to notify CITY in writing at least 30 days prior to Relocating or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph P may render CHEVRON subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

Q. If, during this Agreement CHEVRON fails to create and retain at least the minimum number of full-time jobs required under Article 5, Paragraph A (5) of this Agreement, or CHEVRON fails to pay at least the minimum wages required under Article 5, Paragraph B of this Agreement for a period of two (2) or more consecutive months, then the termination and recapture provisions of Article 7 of this Agreement shall apply against CHEVRON.

R. If, during this Agreement, CHEVRON allows its ad valorem taxes due on the land, real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest.

## 6. TAX ABATEMENT

A. In the event CHEVRON elects to perform the Business Activities at the Property and otherwise performs all obligations set forth in Article 6, the City shall give CHEVRON a tax abatement period (the "Abatement Term") for the Real Property Improvements and Personal Property Improvements with a duration of eight (8) years commencing on the earlier to occur of (a) substantial completion of the Infrastructure Improvements and commencement of Business Activities or (b) January 1, 2014. The base year for calculating the value of the Real Property Improvements and the Personal Property Improvements existing and located upon the Property prior to the effective date of this Agreement shall be January 1, 2011. The "Base Year Value" of the personal property not covered by this Agreement shall be its assessed value (determined by the Bexar Appraisal District), as of the Base Year. This Agreement only provides for the abatement of taxes on the Infrastructure Improvements brought onto the site after the execution of this Agreement.

B. At the commencement of the Abatement Term, CHEVRON shall own, have an interest in or otherwise control the Property and shall be conducting its Business Activities on a daily basis and continuously throughout the Term.

C. Provided that CHEVRON has invested a minimum of ONE HUNDRED TWENTY MILLION DOLLARS (\$120,000,000) in Real Property Improvements and Personal Property Improvements as described in Article 5, Paragraph A(2) of this Agreement by December 31, 2018, CHEVRON has hired and retained the number of employees specified in Article 5, Paragraph A (4) of this Agreement, CHEVRON pays at least the minimum wages required under Article 5, Paragraph B of this Agreement, CHEVRON uses the Property for its Business Activities, and CHEVRON is otherwise in compliance with the conditions of this Agreement, then FIFTY-PERCENT (50%) of the ad valorem taxes for the Real Property Improvements and Personal Property

Improvements above the Base Year Value, shall be abated for the Abatement Term of this Agreement. There shall be no abatement of taxes for the underlying land value, inventory or supplies.

D. CHEVRON acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by CHEVRON to the CITY attributable to the Property during the Abatement Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the base year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone.

E. CHEVRON shall have the right to protest appraisals of the Property, real or personal, or any portion thereof, over and above the Base Year Value as applicable.

F. The term of this Agreement (herein, the "Term") shall commence on the Effective Date and shall continue in full force and effect unless terminated pursuant to the provisions of Article 7 until the end of the fifth calendar year after termination of the Abatement Term

## 7. **DEFAULT/TERMINATION/RECAPTURE**

A. For purposes of this section, "Relocation" or "Relocate" shall mean CHEVRON, or a Related Organization which has taken the place of CHEVRON, transferring substantially all Business Activities to a location outside the Zone.

B. Should CHEVRON occupy and use the Property for its Business Activities and subsequently Relocate (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then CITY shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless CHEVRON presents credible evidence to clearly indicate a date of Relocation, CITY's determination shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies CHEVRON in writing of termination of this Agreement.

C. If CHEVRON occupies and uses the Property for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the site for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8, then the CITY shall have the right to terminate this Agreement. Said terminations shall be effective for the calendar year during which the Property was no longer used for the required purposes stated herein. Unless CHEVRON presents credible evidence to

clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies CHEVRON in writing of termination.

D. If CHEVRON, a Related Organization or City-approved assignee fails to hire and retain the Minimum Staffing Level at the Property as required in Article 5, Paragraph A above, calculated by the averaging of the two most current semi-annual Employee Wage Information for Tax Abatement Request Forms, or substantially similar form, (Exhibit "E") for such calendar year of noncompliance, then for each such calendar year of noncompliance, the tax abatement shall be reduced in the following tax year by the same percentage as the deficiency in the Minimum Staffing Level at the Property. For example, if CHEVRON hires and retains ninety percent (90%) of the Minimum Staffing Level at the Property in a given year, CHEVRON shall be entitled to ninety percent (90%) of the fifty-percent (50%) ad valorem personal property tax abatement for the Property for that following year. However, should CHEVRON fail to hire and retain at least fifty percent (50%) of the Minimum Staffing Level at the Property in a given year then, at the option of CITY, this failure may be grounds for termination of this Agreement. Said termination shall be effective for the calendar year during which the Minimum Staffing Level at the Property as stated herein has not been met as required.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies CHEVRON in writing of termination of this Agreement.

E. During the Term, CITY may declare a default if CHEVRON fails to comply with any of the terms of this Agreement. Should CITY determine CHEVRON is in default under any of the terms of this Agreement; CITY will notify CHEVRON in writing at the address below in Article 9. If said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then CITY shall have the right to terminate this Agreement. In the event that a default by CHEVRON cannot be cured within sixty (60) days after the date on which CHEVRON has received notice of such default, then the CITY shall not have the ability to terminate this agreement based on such default so long as CHEVRON has commenced to cure such default within the sixty (60) day cure period and the Parties agree that such cure is being diligently pursued to its completion. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right to recapture from CHEVRON all previously abated property taxes under this Agreement and said taxes shall be paid by CHEVRON within sixty (60) calendar days of receiving CITY'S written notification of recapture.

F. Other Remedies Available. CITY shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if CHEVRON defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which CHEVRON may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as CHEVRON, a Related Organization or its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities at the Property as provided hereinabove.

G. Calculation of Taxes Subject to Recapture. If CHEVRON fails to comply with any of the terms of Article 7 of this Agreement, then the City Council shall have the right to recapture from CHEVRON a percentage of the abated taxes for the Infrastructure Improvements based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
Before commencement of Abatement Term	0%
During the Abatement Term	100%
First year after termination of Abatement Term	100%
Second year after termination of Abatement Term	80%
Third year after termination of Abatement Term	60%
Fourth year after termination of Abatement Term	40%
Fifth year after termination of Abatement Term	20%

FORMULA: The recapture formula shall be:

$$\begin{array}{rcccl}
 & & \text{Applicable Percentage} & & \text{Amount to be} \\
 \text{Total Taxes Abated} & \times & & = & \\
 & & \text{from above Schedule} & & \text{Recaptured}
 \end{array}$$

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to CHEVRON.

8. **AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)**

For purposes of this section, "Force Majeure" is defined as an act of God or a natural disaster. It also includes explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of CHEVRON. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if CHEVRON is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon CHEVRON. To obtain release based upon this Article 8, CHEVRON must file a written request with the CITY'S Economic

Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. **NOTICE**

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO CHEVRON:

- (Whether personally delivered or mailed):

CHEVRON U.S.A Inc.  
c/o Chevron Business and Real Estate Services  
Attn: Brian J. Kelly  
145 S. State College Blvd., Suite 400  
Brea, CA 92822

TO CITY:

- If mailed:

International and Economic Development Department  
Attn: Director  
P.O. Box 839966  
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

International and Economic Development Department  
Attn: Director  
City Hall, 4th Floor  
Military Plaza  
San Antonio, Texas 78205

**10. CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number 2011-\_\_-\_\_-\_\_\_\_, dated \_\_\_\_\_, 2011.

**11. ASSIGNMENT**

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld), as reflected in a duly adopted ordinance. CHEVRON must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of CHEVRON, a subsidiary of CHEVRON, an affiliate entity of CHEVRON, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of CHEVRON. However, CHEVRON shall give CITY prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph P. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

**12. GENERAL PROVISIONS**

- A. None of the property improvements described in this Agreement are financed by tax increment bonds.
- B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.
- C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. CHEVRON acknowledges that City Council approval is required for any and all of these actions.

**13. SEVERABILITY**

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

**14. ESTOPPEL CERTIFICATE**

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as “Certificate”) from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be addressed to a subsequent purchaser or assignee of CHEVRON or other party designated by CHEVRON which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

**15. OWNER STANDING**

CHEVRON, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and CHEVRON shall be entitled to intervene in said litigation.

**16. APPLICABLE LAW**

This Agreement shall be construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the ZONE.

**17. CONFLICTS OF INTEREST.**

A. CITY warrants and undertakes that no council member, employee or agent of CITY will receive from or give to any director, employee or agent of CHEVRON any commission, fee, rebate, or any gift or entertainment of significant cost or value in connection with this Agreement except as expressly provided for in the Agreement. CITY shall promptly notify CHEVRON of any breach of this Section and any consideration received as a result of such breach shall be paid over or credited to CHEVRON, without prejudice to the right of CHEVRON to seek compensation or claim damages or any other rights that CHEVRON may have under applicable law.

B. CITY shall maintain and retain complete and accurate records of this transaction for the current calendar year plus the next preceding two (2) calendar years, to enable CHEVRON to exercise its rights under this Section. CHEVRON shall have the right, at its expense, upon reasonable prior written notice to CITY, to audit the records of CITY relevant to this Agreement during CITY’s normal business hours solely for the purpose of confirming CITY’s compliance with this Section, and for no other purpose. For purposes of this Section, “records” shall mean all records relevant to this Agreement and the intent of this Section.

18. **DUPLICATE ORIGINALS**

This Agreement shall be executed in two duplicate originals, with a duplicate original going to each party.

**EXECUTED** and **AGREED** to as of the Effective Date.

**CITY OF SAN ANTONIO,**  
a Texas Municipal Corporation

**CHEVRON U.S.A. INC.**  
a Pennsylvania corporation

\_\_\_\_\_  
Sheryl L. Sculley  
CITY MANAGER

\_\_\_\_\_  
Name  
Title

ATTEST:

\_\_\_\_\_  
Leticia Vacek  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bernard  
CITY ATTORNEY

EXHIBIT A: PROPERTY DESCRIPTION

EXHIBIT B: EMPLOYEE BENEFITS

EMPLOYMENT C: NUMBER OF JOBS AND WAGE INFORMATION FORM