

File No. 240082

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: March 7, 2024

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU - FY2022-2024 - Clean
- MOU - FY2022-2024 - Redline
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Draft Tolling Agreement
- Committee Report Request 022924
- _____
- _____
- _____
- _____
- _____

Prepared by: Monique Crayton

Date: March 1, 2024

Prepared by: _____

Date: _____

Prepared by: _____

Date: _____

1 [Tolling Agreement - Retroactive - Chevron U.S.A. Holdings Inc. and Chevron U.S.A. Inc. -
2 Kern County Real Property Dispute]

3 **Resolution retroactively approving a Tolling Agreement to extend the statute of**
4 **limitations for the City, Chevron U.S.A. Holdings Inc., and Chevron U.S.A. Inc. to bring**
5 **potential litigation against one another regarding the condition of the City’s property,**
6 **and which party has responsibility to plug and abandon oil wells and to remediate**
7 **potential contamination of the City’s property located in Kern County, California that**
8 **was previously leased by Chevron U.S.A. Holdings Inc., and Chevron U.S.A. Inc., to**
9 **allow for possible resolution of the matter without litigation, to extend the statute of**
10 **limitations from November 30, 2023, through May 31, 2024; and to authorize the City**
11 **Attorney to enter into extensions or modifications to the Tolling Agreement that do not**
12 **materially increase the obligations or liabilities to the City and are necessary to**
13 **effectuate the purposes of the Tolling Agreement or this Resolution.**

14
15 WHEREAS, The City and County of San Francisco (the “City”) owns approximately 800
16 acres of real property located in Section 21 and the Northeast Quarter of Section 28,
17 Township 28 South, Range 28 East in Kern County, California (the “Property”); and

18 WHEREAS, Chevron U.S.A. Holdings Inc., and Chevron U.S.A. Inc. (collectively,
19 “Chevron”) previously leased the Property from the City pursuant to an Oil and Gas Lease
20 dated March 5, 1963, as amended by a May 24, 1994 Amendment to Oil and Gas Lease
21 (collectively, the “Lease”); and

22 WHEREAS, A dispute has arisen between the City and Chevron regarding the
23 condition of the Property, who the responsible party is for the condition of the Property, to
24 plug, abandon, re-abandon, close, seal, decommission, make safe and/or remove wells at the
25

1 Property in accordance with all applicable laws and regulations, and who has responsibility for
2 any contamination at the Property (the “Dispute”); and

3 WHEREAS, The City and Chevron desire to resolve their differences without resorting
4 to litigation, but the City does not wish to lose any rights it has or may have against Chevron
5 relating to the Dispute because of the further passage of time; and

6 WHEREAS, To give the parties time to resolve the Dispute without potentially
7 unnecessary litigation, the City and Chevron have agreed that the limitations period for any
8 potential litigation related to the Dispute shall be extended under the terms set forth in the
9 Tolling Agreement on file with the Clerk of the Board of Supervisors in File No. 240082; now,
10 therefore, be it

11 RESOLVED, That the Board of Supervisors authorizes the City to agree that the
12 statute of limitations for the City or Chevron to file an action against the other party with
13 respect to the Dispute shall be extended from November 30, 2023, to and including May 31,
14 2024, under the terms set forth in the Tolling Agreement; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the City Attorney to
16 enter into additional tolling agreements on substantially similar terms with other entities that
17 may bear responsibility in the Dispute, and that the City Attorney determines are in the City’s
18 best interest; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the City Attorney to
20 enter into any extensions or modifications of the Tolling Agreement and such other tolling
21 agreements in connection with the Dispute that the City Attorney determines, in consultation
22 with the Director of Property, are in the City’s best interest, do not materially decrease the
23 City’s benefits or materially increase the City’s liabilities or obligations in connection with the
24 Dispute, and are necessary and advisable to effectuate the purpose and intent of this
25 Resolution.

TOLLING AGREEMENT

This Tolling Agreement (“**Agreement**”) is made and entered into by and between the City and County of San Francisco (“**City**”) and Chevron Corporation, on behalf of itself and its subsidiaries, including Chevron U.S.A. Inc. (“**Chevron**”) to be effective as of November 30, 2023 (“**Effective Date**”). Hereafter, the City and Chevron are individually referred to as a “**Party**” and collectively referred to as the “**Parties**.”

Recitals

A. The City owns approximately 800 acres of real property in Section 21 and the Northeast Quarter of Section 28, Township 28 South, Range 28 East in Kern County, California having Assessor’s Parcel Numbers 093-120-30, 093-120-32, 093-210-18 and 093-210-19 (“**Property**”).

B. Chevron previously leased the Property from the City pursuant to an Oil and Gas Lease dated March 5, 1963 as amended by a May 24, 1994 Amendment to Oil and Gas Lease (“**Lease**”).

C. A dispute has arisen between the City and Chevron regarding, *inter alia*, who is the responsible Party to plug, abandon, re-abandon, close, seal, decommission, make safe and/or remove wells at the Property, including without limitation, to undertake and complete the same in accordance with all applicable federal and state laws and regulations (individually and collectively, “**Well Closure**”), and responsibility for any Contamination at the Property. As used herein, the term “**Contamination**” includes, without limitation, any material or substance which is (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code (Hazardous Waste Control Law), (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code (Hazardous Substance Accounts Act), (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code (Underground Storage of Hazardous Substances), (v) crude oil, petroleum, gasoline, diesel fuel, any other petroleum hydrocarbons or fractions thereof, or any gasoline additive including but not limited to MTBE, (vi) asbestos, PCB, or urea formaldehyde foam insulation, (vii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Code of Regulations, (viii) defined as a “hazardous waste,” hazardous substance” or similar term under Section 1004 or other section of the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, (ix) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, (x) toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of California, or any political subdivision

thereof, or (xi) defined as a “Hazardous Material” under the Lease.

D. The Parties presently wish to see if they can resolve their differences without resorting to litigation, but the City does not wish to lose any rights it has or may have against Chevron regarding Well Closure, any Contamination at the Property, or any other dispute regarding the Lease and/or Property because of the further passage of time. Accordingly, for good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties have agreed to toll any applicable statutes of limitations and time limits that the Parties could assert against each other in the manner set forth below.

Terms & Conditions

1. The City and Chevron agree that all statutes of limitations and time limits applicable to any rights, claims, causes of action, counterclaims and defenses relating to, regarding, based upon or arising out of, either directly or indirectly, (a) Well Closure, (b) any Contamination at the Property, (c) the Lease, and/or (d) the Property (including but not limited to the surrender of the Property upon the expiration of the Lease, removal of wells and improvements, facilities, fixtures and equipment from the Property, and post-Lease term access to the Property) which either the City or Chevron could assert against each other as of the Effective Date shall be tolled for a period of six (6) months from the Effective Date (unless earlier written notice of termination of this Agreement is given as hereinafter provided in Section 2, in which case the tolling period shall cease upon the effective date of any such earlier termination of this Agreement) and this tolling period shall be excluded from all computations of any applicable period of limitations.

2. Either the City or Chevron may earlier terminate this Agreement by giving at least sixty (60) days advance written notice to the other Party in the manner provided for below in Section 3, specifying the effective date of such earlier termination.

3. Any notices required under this Agreement shall be in writing and shall be given by certified or registered mail, return receipt requested, or by overnight delivery with delivery confirmation, and addressed as follows (which address(es) for notice either Party may change by providing written notice of the new address(es) to the other Party via certified or registered mail, return receipt requested, or by overnight delivery with delivery confirmation):

If to City: City and County of San Francisco
San Francisco City Attorneys’ Office
1 Dr. Carlton B. Goodlett Pl., Room 234
San Francisco, CA 94102
Attn: Real Estate Team Leader

If to Chevron: Chevron U.S.A. Inc.
9525 Camino Media
Bakersfield, CA 93311
Attn: Legal

4. Each of the undersigned represents and warrants they are authorized to execute this Agreement on behalf of the Party for whom they execute this Agreement.

5. By entering into this Agreement, neither the City nor Chevron admits any responsibility or liability regarding, or for, any Well Closure, Contamination at the Property or any other dispute concerning the Lease and/or Property. Moreover, this Agreement shall not be construed as an admission of responsibility or liability regarding any such matter(s), nor offered as evidence of an admission of such responsibility or liability in any court or legal proceeding.

6. By entering into this Agreement, neither the City nor Chevron waives any rights, claims, causes of action, counterclaims or defenses except as expressly stated herein, and the City and Chevron agree that this Agreement shall not apply to and shall not revive any rights, claims, causes of action, counterclaims or defenses which were already barred by any applicable provision of law as of the Effective Date.

7. This Agreement may not be amended, altered or modified except by a writing signed by the Parties clearly indicating an intent to amend, alter or modify this Agreement.

8. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of laws that would direct application of the laws of another jurisdiction.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

City and County of San Francisco

Printed Name:
Title:

Date

Chevron Corporation

Printed Name:
Title:

Date

Member, Board of Supervisors
District 5



City and County of San Francisco

DEAN PRESTON

DATE: February 29, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Dean Preston, Chair, Government Audit and Oversight Committee

RE: Government Audit and Oversight Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee, I have deemed the following matter of an urgent nature and request it be considered by the full Board on Tuesday, March 12, 2024, as a Committee Report:

240082 [Tolling Agreement - Retroactive - Chevron U.S.A. Holdings Inc. and Chevron U.S.A. Inc. - Kern County Real Property Dispute]

This matter will be heard in the Government Audit and Oversight Committee at a regular meeting on Thursday, March 7, 2024 at 10:00 a.m.

A handwritten signature in blue ink that reads "Dean Preston".