

Submitted by: Chair of the Assembly at the
Request of the Mayor

Prepared by: Port of Anchorage
For reading: September 13, 2011

CLERK'S OFFICE

APPROVED

Date: 9-27-11

**ANCHORAGE, ALASKA
AR NO. 2011-242**

**A RESOLUTION OF THE ANCHORAGE ASSEMBLY AUTHORIZING THE
GRANT OF A NON-EXCLUSIVE SUBSURFACE PETROLEUM PIPELINE
ALLEY EASEMENT TO CHEVRON U.S.A. AT THE PORT OF ANCHORAGE.**

WHEREAS, CHEVRON U.S.A., Inc. has requested the Municipality of Anchorage through its department, the Port of Anchorage, memorialize the subsurface Petroleum Pipeline Alley Easement located at the Port of Anchorage; and,

WHEREAS, Chevron has enjoyed the use of the Pipeline Alley for many years under a mutual agreement but without a recorded easement; and

WHEREAS, Anchorage Municipal Charter § 10.02(8) provides that any action authorizing a conveyance of an interest in lands of the municipality shall be by ordinance, but does not include easements which the Assembly finds to be without substantial value to the municipality; and

WHEREAS, the aforementioned mutual agreement, subsurface use, and non-exclusive condition limit the scope and value of the proposed easement; and

WHEREAS, The Anchorage Port Director recommends approval of the Pipeline Alley Easement Agreement; now, therefore,

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The Anchorage Assembly finds the municipal interest in the easement described herein is without substantial value to the Municipality.

Section 2. The Municipality of Anchorage, Port of Anchorage is authorized to memorialize and convey the non-exclusive subsurface Petroleum Pipeline Alley Easement as summarized in the Assembly Memorandum submitted concurrently herewith.

Section 3. This resolution shall take effect immediately upon passage and approval.

1 PASSED AND APPROVED by the Anchorage Assembly this 27th day of
2 September, 2011.
3

4 
5 _____
6 Chair

7 ATTEST:

8
9
10 
11 _____
Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 484-2011

Meeting Date: September 13, 2011

1 **FROM: MAYOR**

2
3 **SUBJECT: A RESOLUTION OF THE ANCHORAGE ASSEMBLY**
4 **AUTHORIZING THE GRANT OF A NON-EXCLUSIVE**
5 **SUBSURFACE PETROLEUM PIPELINE ALLEY EASEMENT TO**
6 **CHEVRON U.S.A. AT THE PORT OF ANCHORAGE.**
7

8 CHEVRON U.S.A., Inc. has requested the Municipality of Anchorage through its
9 department, the Port of Anchorage, memorialize the non-exclusive subsurface
10 Petroleum Pipeline Alley Easement located in Tract G of that certain Plat 2004-10
11 in the Anchorage Recording District (formerly known as Lot 12 B of that certain
12 Plat 81-320 in the Anchorage Recording District) commencing at the south-east
13 corner of the former Lot 12-B and running along the eastern boundary of former
14 Lot 12B and terminating at the Port of Anchorage Petroleum Valve Yard.
15

16 Chevron has enjoyed the use of the Pipeline Alley for many years under a mutual
17 agreement but without a formal conveyance or recorded easement. The
18 Anchorage Port Director recommends approval of the Chevron request and
19 intends to memorialize other mutually agreed upon uses to comply with current
20 approved Municipal business practices. A copy of the proposed Pipeline Alley
21 Easement Agreement is attached as Exhibit I.
22

23 **THE ADMINISTRATION RECOMMENDS APPROVAL OF A RESOLUTION OF**
24 **THE ANCHORAGE ASSEMBLY AUTHORIZING THE GRANT OF A NON-**
25 **EXCLUSIVE SUBSURFACE PETROLEUM PIPELINE ALLEY EASEMENT TO**
26 **CHEVRON U.S.A. AT THE PORT OF ANCHORAGE.**
27

28 Prepared & approved by: William J. Sheffield, Port of Anchorage
29 Concur: Lucinda Mahoney, CFO
30 Concur: Dennis A. Wheeler, Municipal Attorney
31 Concur: George J. Vakalis, Municipal Manager
32 Respectfully submitted: Daniel A. Sullivan, Mayor

After Recording, Return to:
Chevron U.S.A. Inc.
1400 Smith Street, Suite 7110
Houston, Texas 77002
Attn: Jeanne G. Suminski, Esq.

PIPELINE ALLEY EASEMENT AGREEMENT

THIS PIPELINE ALLEY EASEMENT AGREEMENT (this "Agreement") is made and entered into by and between THE MUNICIPALITY OF ANCHORAGE, a municipal corporation organized under the laws of the State of Alaska, by and through its Port of Anchorage, having an office at 2000 Anchorage Port Road, Anchorage, Alaska 99501 ("MOA") and CHEVRON U.S.A. INC., a Pennsylvania corporation, having an office at 1400 Smith Street, Suite 7110, Houston, Texas 77002, Attn: Jeanne G. Suminski, Esq. or Law Department ("User"). The Effective Date shall be the date of approval by MOA's Municipal Assembly.

WITNESSETH

WHEREAS, MOA is the owner of property located in Anchorage, Alaska, more particularly described as Tract G of that certain Plat 2004-10 in the Anchorage Recording District (f/k/a, among other things, Lot 12 B of that certain Plat 81-320, aforesaid records) and shown on Exhibit A attached hereto and by this reference, incorporated herein ("MOA's Property"); and

WHEREAS, MOA has agreed to grant for the benefit of User a Pipeline Easement (as defined below) in the petroleum pipeline alley easement located on MOA's Property.

NOW, THEREFORE, in consideration of the above, Ten Dollars (\$10) in hand paid, and other good and valuable considerations, the receipt and sufficient of which are hereby acknowledged by each party hereto, the parties hereby agree as follows:

1. Pipeline Alley Easement. MOA hereby grants, bargains, sells and conveys to User, its successors and/or assigns, for the benefit of User, its successors and/or assigns, a non-exclusive, perpetual right and easement over, under and across a portion of MOA's Property identified as the POL Easement on Exhibit B (the "Pipeline Easement"), for the purposes of constructing, using, operating, accessing , replacing, repairing and maintaining pipelines for the flow, channeling, transporting and distribution of any and all refined petroleum products including, without limitation, any and all grades of gasoline, renewable fuels, diesel fuel no. 1, diesel fuel no. 2, jet fuel A, aviation gasoline, and kerosene ("User Pipeline(s)").

2. Use. User shall restrict its use of the Pipeline Easement for the purposes of constructing, using, operating, accessing, replacing, repairing and maintaining the User Pipeline(s) that are located in the Pipeline Easement for the flow, channeling, transporting and distribution of any and all refined petroleum products including, without limitation, any and all grades of gasoline, renewable fuels, diesel fuel no. 1, diesel fuel no. 2, jet fuel A, aviation gasoline, and kerosene.

User shall neither use nor allow another to use any part of the User Pipeline(s) for a purpose which is unlawful. User shall comply with, abide by and conform to all applicable laws, governmental orders, ordinances and rules and regulations, including any future amendments thereto, controlling or in any manner affecting User's use of the User Pipeline(s) that are located in the Pipeline Easement.

The Pipeline Easement granted in this Agreement shall create no ownership interest in the MOA Property, but only an easement interest for the purposes contained herein. User shall at all times be responsible to MOA for any damage or contamination of MOA Property or improvements arising from User's operation of its User Pipeline(s) that are located in the Pipeline Easement.

3. Petroleum User Pipeline Agreement. MOA and Port Valve Yard Users Group (including, without limitation, User) have previously entered into a Petroleum User Pipeline(s) Agreement, dated November 21, 1996, as amended (the "User Agreement"). The following sections of the User Agreement are hereby incorporated into this Agreement and shall be applicable with respect to this Agreement and User's use of the Pipeline Easement. For purposes of this Agreement, the parties acknowledge that the references to "User Pipeline" as set forth in the following sections of the User Agreement shall be deemed to mean "User Pipeline" as defined herein that are located in the Pipeline Easement.

Section 7 – Ownership Rights and Responsibilities

Section 9 – Loss or Damage

Section 11 – Indemnification

Section 12 – Nondiscrimination

Section 14 – Sale, Assignment, Lease of User Pipeline. Notwithstanding anything in Section 14 to the contrary, MOA by its execution of this Agreement acknowledges and consents to User's transfer of its interest in the Pipeline Easement granted herein to Crowley Petroleum Distribution, Inc., or its affiliates.

Section 15 – Material Breach

Section 16 – MOA's Contractual Remedies upon Material Breach

Section 17 – Taxes and Assessments

Section 18 – Encumbrances and Mortgages

Section 19 – Notice

4. Miscellaneous. The rights and obligations created herein shall run with title to MOA's Property and shall be binding upon MOA, its successors and/or assigns, and shall inure to the benefit of User, its successors and/or assigns. The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement or any portion(s) hereof shall not affect the remaining portion(s) hereof and this Agreement shall be construed as if such covenant, agreement, condition or provision had not been inserted herein. This Agreement may not be amended, waived or discharged, except by instrument in writing executed by both parties hereto, or their respective successors and/or assigns, as applicable. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

5. Assembly Approval. This Agreement shall be subject to approval by MOA's Municipal Assembly.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, MOA has executed this Agreement on the date and at the place shown below.

MOA:

MUNICIPALITY OF ANCHORAGE

By:

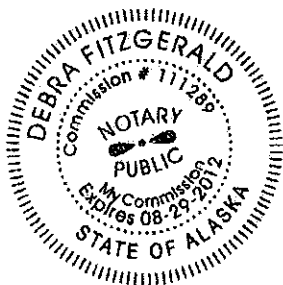
Name: George Vakalis
Title: Municipal Manager
Date Executed: 7/19/11
Place Executed: MOA

STATE OF Alaska §

§

Third Judicial District §

The foregoing instrument was acknowledged before me on July 19, 2011, by George Vakalis, Municipal Manager for the MUNICIPALITY OF ANCHORAGE, a municipal corporation organized under the laws of the State of Alaska, on behalf of said municipal corporation.



Debra Fitzgerald
Notary Public, State of Alaska
Printed Name of Notary: Debra Fitzgerald
My Commission Expires: 8/29/2012

IN WITNESS WHEREOF, User has executed this Agreement on the date and at the place shown below.

USER:

CHEVRON U.S.A. INC.

By: _____

Name: Jeanne G. Suminski

Title: Assistant Secretary

Date Executed:

Place Executed: Houston, Texas

ATTEST:

By: _____

Name: Donna J. Bailey

Title: Assistant Secretary

Date Executed:

Place Executed: Houston, Texas

STATE OF TEXAS §
 §

COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me on _____, 2011, by Jeanne G. Suminski, Assistant Secretary of CHEVRON U.S.A. INC., a Pennsylvania corporation, on behalf of said corporation.

Notary Public, State of Texas

Printed Name of Notary:

My Commission Expires: _____

Exhibit B

