

SELLER: The Fainbarg Trust U/D/T dated April 19, 1982 and the Feuerstein Community Property Trust U/D/T dated April 13, 1982, each as to an undivided one-half interest

ACQUISITION: Permanent Street Easement

APN: 418-141-01

TITLE REPORT: O-SA-1194361

PROJECT: Harbor Boulevard/Gisler Avenue Improvement Project

**PURCHASE AND SETTLEMENT AGREEMENT AND ESCROW
INSTRUCTIONS**

This Purchase and Settlement Agreement and Escrow Instructions (the "Agreement") is entered into as of the ___ day _____, 2005 by and between the City of Costa Mesa, a California municipal corporation (the "City"), the Fainbarg Trust U/D/T dated April 19, 1982 and the Feuerstein Community Property Trust U/D/T dated April 13, 1982, (collectively, the "Seller"), and Chevron U.S.A. Inc., a Pennsylvania corporation (the "Chevron") with reference to the following facts:

RECITALS

- A. WHEREAS, Seller is the owner of that certain property located at 3190 Harbor Boulevard in Costa Mesa, California (the "Harbor Property"); and
- B. WHEREAS, Chevron is the current lessee of the Harbor Property, on which it owns and operates a gasoline service station and mini market;
- C. WHEREAS, under threat of eminent domain, City desires to purchase a permanent easement interest in a portion of the Harbor Property as more particularly described and depicted in Exhibit 2A and Exhibit 2B, both attached hereto (the "Permanent Easement Area") in order to construct certain street and other improvements for the Harbor/Gisler Project (the "Project"); and
- D. WHEREAS, the execution and completion of the Project requires that City obtain a right of entry onto a portion of the Harbor Property that is not a part of the Permanent Easement Area as more particularly described and depicted in Exhibit 1A and Exhibit 1B, both attached hereto (the "Temporary Easement Area"); and
- E. WHEREAS, under threat of condemnation of the Permanent and Temporary Easement Areas by City, Seller agrees to sell to City a permanent easement interest in the Permanent Easement Area and a temporary construction easement for the Temporary Easement Area.

NOW, THEREFORE, in consideration of the foregoing statement of purpose and the promises and covenants contained herein, City, Seller and Chevron agree as follows:

1. Agreement. The parties hereto have herein set forth the whole of their agreement with respect to the subject matter hereof. The performance of this Agreement constitutes the entire consideration for said document and shall relieve City of all further obligations or claims on this account, but not liability claims related to construction or on account of the location, grade or construction of the Project based upon the current approved plans and this Agreement.

2. Purchase and Sale. City agrees to purchase from Seller and Seller agrees to sell to City, for the consideration hereinafter stated, a permanent easement interest in the Permanent Easement Area (the "Permanent Easement") and a temporary construction easement for the Temporary Easement Area (the "Temporary Construction Easement"). The terms of the Temporary Construction Easement are set forth in Paragraph 7.

3. Purchase Obligation of City. In full consideration for the Permanent Easement and the Temporary Construction Easement and in compliance with the terms of this Agreement pertaining to the Project, City shall:

- (a) Pay a purchase price of Ninety Thousand Three Hundred Dollars (\$90,300.00) (the "Purchase Price"). Payment shall be made by deposit in the escrow account established pursuant to Paragraph 4 below.
- (b) Pay all recording and other fees incurred by reason of this Agreement and, if City desires to obtain insurance, the premium charged therefor. The fees to be paid by City shall include fees for recording all instruments provided for herein, all subordination fees and forwarding fees of any lender having a lien (i.e., a deed of trust or mortgage) on the Permanent Easement Area and all fees and charges of the escrow agent provided for in Paragraph 4 below.
- (c) Implement the Project according to the approved plans and its obligation to mitigate severance damages in this Agreement and exhibits contained herein. Project Implementation shall be accomplished with no material deviations from the approved plans and no material deviations concerning the City's obligation to mitigate severance damages in this Agreement and exhibits contained herein.

4. Escrow Provisions. City and Seller shall open an escrow account to consummate the sale of the Permanent Easement (the "Escrow"). Chevron shall not be a party to the Escrow. This Agreement shall also constitute escrow instructions to the escrow agent, Robert Benevente of First American Title Company (the "Escrow Agent"), to establish a purchase and sale escrow with respect to the Permanent Easement. The Escrow shall be upon the following terms:

- (a) The Escrow shall be opened by the delivery to the Escrow Agent of a fully executed copy of this Agreement. City and Seller shall make such deposit within five (5) business days after execution of this Agreement.
- (b) City shall deliver to the Escrow Agent, within fifteen (15) days after opening escrow, the Purchase Price. Within the same time period, Seller shall deliver to

the Escrow Agent an executed grant deed for the Permanent Easement in favor of City (the "Grant Deed").

- (c) Promptly upon receipt by the Escrow Agent of the last of the Grant Deed and the Purchase Price, the Escrow Agent shall record the Grant Deed and charge the cost of recording and any documentary transfer tax to City. City and Seller shall use their best efforts to effect a closing within 20 days of signature.
- (d) Seller shall clear title to the Permanent Easement Area so that, upon close of Escrow, City shall hold title to the Permanent Easement Area free and clear of all liens, encumbrances, easements, leases (recorded and unrecorded) and taxes, except:
 - (i) Covenants, conditions, restrictions and reservations of record; and
 - (ii) Easements or rights of way over the Permanent Easement Area for public utility or public street purposes.
 - (iii) Subordinated matters pursuant to (e) below.
- (e) To effect title to the Permanent Easement Area in the condition required by subparagraph (d) above, Seller shall, as promptly as practical following opening of the Escrow and prior to recordation of the Grant Deed, deliver to the Escrow Agent the following:
 - (i) Documentary evidence indicating that no real property taxes against the Permanent Easement Area are delinquent or past due at the time of transfer.
 - (ii) With respect to each deed of trust or mortgage upon the Permanent Easement Area, Seller shall review, execute and deliver an acceptable form of executed subordination or release in recordable form releasing the Permanent Easement Area from such deed of trust or mortgage, if any.
 - (iii) With respect to each lease affecting the Permanent Easement Area, Seller shall deliver an executed amendment or other instrument in recordable form deleting the Permanent Easement Area from such lease. The costs of recording and creating such instrument shall be charged to City.

Each item delivered to the Escrow Agent pursuant to clauses (i), (ii) and (iii) of this subparagraph shall be promptly recorded by the Escrow Agent and the fee for such recording or creating such document (and any subordination or forwarding fee associated therewith) shall be charged to City's account.

- (f) The Escrow Agent shall record the Grant Deed and release to Seller the full Purchase Price. The date of such recordation and release shall be the close of

Escrow. Also at close of and through Escrow, City shall make any additional deposit required to reimburse the Escrow Agent and Seller for all costs advanced by them or either of them and to be paid by City pursuant to Paragraph 3 above. The Escrow Agent shall deliver to Seller and City concurrently with delivery to Seller of the Purchase Price a detailed statement setting forth the Escrow Agent's fees and charges and all other fees and costs paid by the Escrow Agent in effecting the instructions set forth in this Paragraph 4.

- (g) City and Seller shall also, if requested by the Escrow Agent, execute and deliver the Escrow Agent's standard form general provisions, which shall, to the extent not inconsistent herewith, be a part of the instructions of City and Seller to the Escrow Agent.

5. Full Compensation. Except as otherwise provided herein, it is understood and agreed by and between City and Seller that included in the Purchase Price, in addition to the items specified in Paragraph 3 hereinabove, is payment in full to compensate Seller for any and all damages, of whatever type or kind, to the Permanent and Temporary Easement Areas by reason of the sale of the Permanent Easement, the Temporary Construction Easement and the construction by City of the Project in the manner herein proposed. The purchase price set forth herein is based upon the acquisition of the real property interests set forth herein and for the Project presently contemplated by the City. To the extent that the City takes or seeks to acquire additional rights, area or improvements from the remainder of Seller's real property not conveyed pursuant to this Agreement the City agrees that it has no right to claim an estoppel by deed as a result of the grant deed given by Seller of this Agreement. In addition, if the Remaining Area (as defined in Paragraph 7b below) suffers physical damage from the Project that is not reasonably anticipated in the current plans or called for in the City's Approved Construction Contract for the Project, the City agrees that it has no right to claim an estoppel by deed as a result of the grant deed given by Seller under this Agreement. The City also agrees that the just compensation and other terms of this Agreement contemplate only the Permanent Easement Area and Temporary Easement Area and its other obligations under this Agreement.

6. Property taxes. In accordance with Code of Civil Procedure section 1268.410, as between City and Seller, City shall be liable for any ad valorem taxes, penalties, and costs upon the property acquired under this Agreement prorated from and including the earliest of the date City takes title to or possession thereof. If the acquisition of the property under this Agreement will not make the property exempt property as defined in Section 5081 of the Revenue and Taxation Code, City shall be deemed to be the assessee for the purposes of collection of any ad valorem taxes, penalties, and costs on the property acquired under this Agreement.

7. Attorney's and Appraiser's Fees. City, Seller and Chevron shall each bear their respective attorney's and appraiser's fees in this matter, except as set forth herein.

8. Terms of Temporary Construction Easement. The only physical use of the Harbor Property for the Project will be on the Permanent Easement Area and the Temporary Easement Area. As set forth in Paragraph 2 above, for valuable consideration, the receipt of which is hereby acknowledged, Seller and Chevron hereby grant and convey to City a

nonexclusive Temporary Construction Easement for purposes of construction of the Project, but not limited to, customary and reasonable construction staging purposes, in, on, under, across and through all of the Temporary Easement Area. The duration of the Temporary Construction Easement shall not exceed the duration of the Project or 90 consecutive days, whichever is less. The commencement date of the Temporary Construction Easement shall be 7 days after written notice to Seller and Chevron. In connection therewith, Seller, City and Chevron agree as follows:

- (a) Seller and Chevron authorize City and its contractors and agents (the "Permittees") to enter upon the Temporary Easement Area for the duration of the Temporary Construction Easement, for the purposes of, construction of the Project and all matters necessary and incidental to the foregoing (the "Work"). The Work shall also include any and all mitigation of severance damage items set forth in Paragraph 8.
- (b) Usage of the Temporary Construction Easement shall be exercised in such manner as shall interfere as little as practicable (other than in the Temporary Easement Area) with the usage of the portion of the Harbor Property that is not a part of either the Permanent Easement Area or the Temporary Easement Area (the "Remaining Area") by Seller and Chevron. Without limiting the generality of the foregoing:
 - (i) The City agrees that it has delivered to Seller and Chevron plans or drawings depicting the Work. In addition, Permittees shall not park or locate their vehicles or equipment on any portions of the Harbor Property other than the Temporary Easement Area.
 - (ii) If any utility relocation included in the Work shall require interruption of utility service to the Remaining Area, City shall (a) schedule such Work to minimize such interruption and to cause such interruption to occur outside of normal business hours for the Remaining Area (8 a.m. to 9 p.m., Monday through Saturday); (b) notify Seller and Chevron in writing at least ten (10) days in advance of any such proposed utility interruption and the date(s) and duration thereof; and (c) promptly restore such service upon completion of that portion of the Work requiring such interruption.
- (c) City shall defend, indemnify and hold both Seller and Chevron, and their partners, officers, employees, agents and tenants harmless from all claims, demands and liabilities, including attorney's fees and costs of defense, for (i) death or injury to persons or damage to property arising directly or indirectly in connection with use by Permittees of the Temporary Construction Easement and performance of the Work; and (ii) failure of any Permittee to comply with subparagraph (g) below. Payment shall not be a condition precedent to recovery upon the foregoing or any other indemnification provision herein. In addition, all persons who enter upon the Temporary Easement Area to conduct any Work do so at their

own risk and shall be subject to the control and direction of City rather than Seller and/or Chevron.

- (d) Without limiting the applicability of subparagraph (c), City shall require that all contractors entering the Temporary Easement Area provide worker's compensation insurance as well as employer's liability insurance and comprehensive general liability insurance, including premises/operations, products/completed operations, blanket contractual, personal injury, broad form property damage, explosion, and underground damage and owned and non-owned automobile liability coverage. The worker's compensation insurance shall be in such amount not less than \$1,000,000, the employer's liability insurance shall be in such amount as is required by applicable law and the comprehensive general liability insurance shall have a liability limit of not less than \$1,000,000 combined single limit for bodily injury and property damage.
- (e) As to Seller and Chevron, City shall be primarily responsible for all damage done by the Permittees to the Temporary Easement Area and the improvements thereon. Permittees shall also be responsible for all damage done. Upon completion of the Work, City shall, at its cost, repair and replace all improvements on the Temporary Easement Area damaged or destroyed by Permittees in the course of the Work to substantially the same condition as existed prior to the commencement of the Work. The decision to repair or replace is Seller's or Chevron's. Such repair and replacement shall include repair or replacement of damaged or destroyed driveways and sidewalks and replanting of damaged or destroyed grass, ground cover and shrubs.
- (f) As to Seller and Chevron, City shall be solely responsible for all costs of the Work and the repair and restoration provided for in subparagraph (e) above. City's Permittees shall also be responsible to Seller, Chevron and City. City will not permit to be enforced against the Harbor Property, or any portion thereof, any lien or claim arising out of the Work or any damage caused thereby and shall pay or cause to be paid all such liens or claims before any action is brought to enforce the same against the Harbor Property. City shall indemnify, defend and hold both Seller and Chevron free and harmless from all liability for any such liens and claims and all reasonable attorney's fees and costs of defense incurred by Seller and/or Chevron in connection therewith.
- (g) If any governmental permits or approvals are required in connection with the Work, City shall require the Permittees to obtain the same before commencing the Work and to comply with such permits and approvals in performing the Work. City shall also require all Permittees, while in the Temporary Easement Area, to comply with all applicable laws and governmental regulations. Without limiting the foregoing, where reasonably necessary, City shall require Permittees to erect and maintain safety barricades in good condition during performance of the Work and shall require mitigation of dust and periodic removal of debris resulting from the Work as necessary to maintain a clean condition.

- (h) Without limiting any other rights of Seller or Chevron herein, if City shall fail within fifteen (15) days after written request from Seller or Chevron to pay any lien or claim for which City is responsible or to indemnify and defend Seller and/or Chevron against any liability for which indemnification is required under this Agreement, Seller or Chevron may pay such lien, claim or liability and all costs incurred by Seller and/or Chevron in making such payment or in settling or paying any judgment with respect to any action thereon (plus costs and attorney's fees incurred by Seller and/or Chevron) shall be paid by City to Seller and/or Chevron within ten (10) days after written demand therefor. Any such reimbursement shall also bear interest to the maximum contract rate permitted by the applicable usury law from date of payment by Seller and/or Chevron to date of reimbursement.
- (i) As set forth above, the term of the Temporary Construction Easement shall be for the duration of the Project or 90 days, whichever is less. Moreover, and notwithstanding anything to the contrary set forth in this Paragraph 8, City shall, at all times during the performance of the Work, keep access open to the Harbor Property. The particular access areas that are open may change from time to time as the Work progresses.

9. Mitigation of Severance Damage. It is understood and agreed by and between the parties hereto that in addition to the compensation shown in Paragraph 3(a) hereinabove, the City, its contractors or assigns, shall perform the following general construction contract items at the time of the installation of the Project:

- (a) Reestablish integrity of irrigation system
- (b) Reconstruct a raised planter at the Harbor Property
- (c) Relocate business sign
- (d) Relocate street light
- (e) Replace landscaping
- (f) Replace AC and PCC pavement
- (g) Reorient utilities to new grade

In this regard, City and Chevron, on March 18, 2004, by letter, agreed as to the details of City's construction activities concerning the Project. This letter is attached as Exhibit 3 to this Agreement. Also, prior to the execution of this Agreement, City and Chevron agreed to a site plan regarding the Temporary Easement Area and the Remaining Area after the City has completed the Project (the "Site Plan"). A copy of this Site Plan is attached hereto as Exhibit 4.

10. Warranty. Seller is providing no warranty and making no representations concerning hazardous materials on the Harbor Property.

11. Chevron's Waiver of Claims as to Seller. Chevron acknowledges that all compensation that it may receive, if any, under this Agreement, shall come from City and not

Seller. Chevron is not entitled to any of Seller's compensation set forth herein. Chevron agrees to waive and release Seller from any and all claims under the existing lease between Seller and Chevron, relating to City's acquisition of the Permanent Easement, the Temporary Construction Easement and the Work discussed herein. In addition, Chevron confirms the existing lease between itself and Seller.

12. Acceptance by City. It is understood and agreed between the parties hereto that the completion of this transaction, and the Escrow created hereby, is contingent upon the specific acceptance and approval of the City. The execution of these documents and the delivery of the same to the Escrow Agent constitute said acceptance and approval.

13. Miscellaneous.

- (a) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute a single instrument.
- (b) All notices pursuant to this Agreement shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, to the parties at their respective addresses indicated below their respective signatures. Notices personally delivered shall be effective upon delivery. Notices mailed as provided herein and sent postage prepaid shall be effective upon the date of delivery or refusal indicated on the return receipt. Any of the parties may change its address for notices hereunder by notice to the other in the manner provided in this subparagraph.
- (c) Each of the parties acknowledges and agrees that it has bargained for the specific considerations to be received by it hereunder and that money damages would be an inadequate remedy for the breach of this Agreement by the other party. Accordingly, each of the parties shall have the right to seek specific performance of this Agreement and to seek injunctive relief to prevent the breach or continued breach of this Agreement by the other party. In addition to the remedies of specific performance and injunctive relief, damages may be sought. All remedies shall be cumulative as opposed to exclusive.
- (d) The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns, and successors of the parties hereto. This Agreement contains the entire agreement between the parties and neither party relies upon any warranty or representation not contained in this Agreement.

14. Escrow Agent Not To Be Concerned. The provisions of Paragraphs 5, 6, 7, 8 and 9 of this Agreement constitute agreements between City, Seller, and Chevron, with which the Escrow Agent need not be concerned.

15. Other Matters. The covenants contained in Paragraphs 5, 7, 8 and 9 shall survive the delivery of the Grant Deed and the closing of the Escrow. Without limiting the generality of the foregoing, City and Seller contemplate that all of the Work will be undertaken after the close of the Escrow. Notwithstanding delivery of the Grant Deed and close of the Escrow, Paragraphs 8 and 9 shall apply to all such work irrespective of the dates of performance of the same.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Settlement Agreement and Escrow Instructions as of the date and year first written above.

FAINBARG TRUST
U/D/T DATED APRIL 19, 1982

FEUERSTEIN COMMUNITY PROPERTY TRUST
U/D/T DATED APRIL 13, 1982

By: Allan Fainburg, Trustee By: Arnold D. Feuerstein, Trustee
Allan Fainburg, Trustee Arnold D. Feuerstein, Trustee

ADDRESS:

129 W. Wilson Street 508 W. 30th Street
Suite 100 Newport Beach, CA 92663
Costa Mesa, CA 92627

APPROVED AS TO FORM:

Michael H. Leifer, Esq.
Michael H. Leifer, Esq.

CITY OF COSTA MESA

ATTEST:

By: _____
Mayor of the City of Costa Mesa

By: _____
City Clerk of the City of Costa Mesa

ADDRESS:

77 Fair Drive
Costa Mesa, CA 92626
Attn: David Sorge

APPROVED AS TO FORM:

Linda Nguyen, DCA

APPROVED AS TO CONTENT:

David Sorge

City Attorney

Project Manager

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

By: Thomas O. Wath

Title: ASSISTANT SECRETARY

ADDRESS:

145 South State College Blvd.

Brea, California 92821

APPROVED AS TO FORM

Robert A. Wulffraat
Robert A. Wulffraat, Esq.

EXHIBIT 1

EXHIBIT "A"

CITY OF COSTA MESA
PUBLIC SERVICES DEPARTMENT

LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT

APN: 418-141-01
ADDRESS 3190 HARBOR BLVD.
DEED NO. 3517

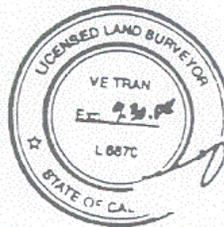
IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA,
BEING A PORTION OF PARCEL 1 AS SHOWN ON A MAP FILED IN BOOK 6, PAGE 4 OF
PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,
DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 1, SAID POINT BEING
THE TRUE POINT OF BEGINNING (TPOB); THENCE N 01°09'10" W, ALONG THE
WESTERLY LINE OF SAID LOT, A DISTANCE OF 2.78 FEET; THENCE N 14°19'24" E, A
DISTANCE OF 29.73 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE
WESTERLY, HAVING A RADIUS OF 57.00 FEET; THENCE NORTHERLY ALONG THE
ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°28'34" A DISTANCE OF
15.40 FEET TO THE POINT OF INTERSECTION WITH A LINE PARALLEL WITH AND
10.00 FEET EASTERLY OF, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF
SAID PARCEL 1; THENCE N 01°09'10" W, ALONG SAID PARALLEL LINE, A DISTANCE
OF 24.91 FEET; THENCE N 44°07'52" E, A DISTANCE OF 25.78 FEET TO THE POINT OF
INTERSECTION WITH THE NORTHERLY LINE OF SAID PARCEL 1; THENCE N 89°28'35"
E, ALONG SAID NORTHERLY LINE, A DISTANCE OF 11.25 FEET; THENCE S 44°07'52"
W, A DISTANCE OF 30.35 FEET TO THE POINT OF INTERSECTION WITH A LINE
PARALLEL WITH AND 18.00 FEET EASTERLY OF, MEASURED AT RIGHT ANGLES
FROM THE WEST LINE OF SAID PARCEL 1; THENCE S 01°09'10" E, ALONG SAID
PARALLEL LINE, A DISTANCE OF 128.41 FEET TO THE POINT OF INTERSECTION
WITH THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE S 89°28'34" W, ALONG
SAID SOUTHERLY LINE, A DISTANCE OF 18.00 FEET TO THE TRUE POINT OF
BEGINNING.

CONTAINING 1,476 SQUARE FEET, MORE OR LESS.

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART
HEREOF.

This document consisting of two sheets, Exhibits "A" and "B" was prepared by me or under my
supervision.



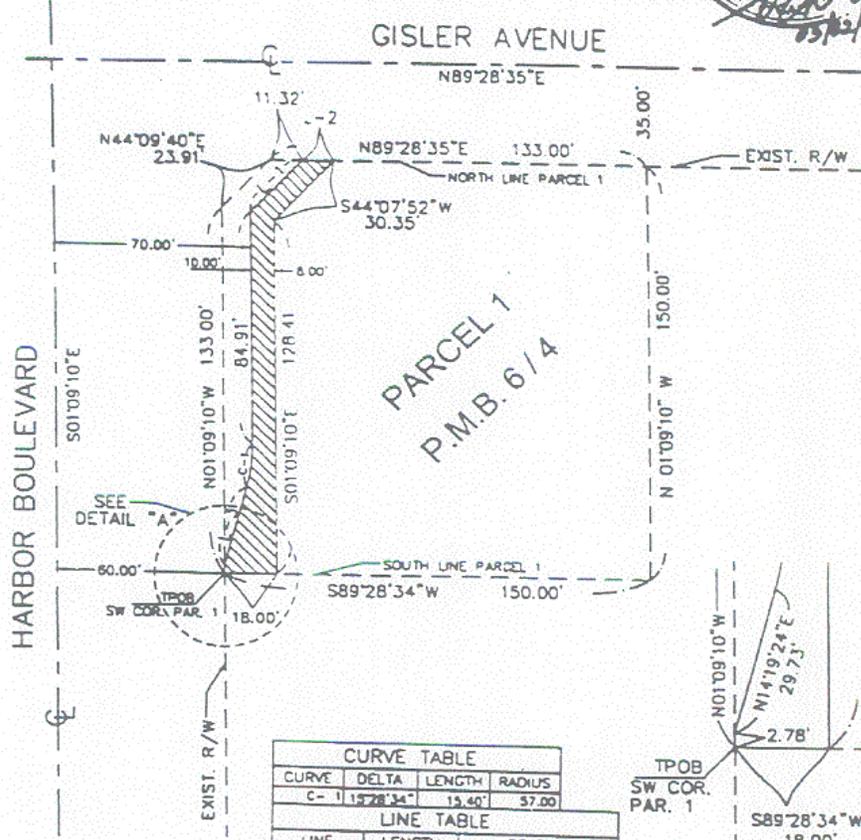
DEED NO. 3517

EXHIBIT "B"

SKETCH TO ACCOMPANY LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT



- TEMPORARY CONSTRUCTION EASEMENT AREA



CURVE TABLE			
CURVE	DELTA	LENGTH	RADIUS
C-1	15°28'34"	13.40'	37.00'

LINE TABLE		
LINE	LENGTH	BEARING
L-1	29.73'	N14°19'24"E
L-2	11.25'	N89°28'35"E
L-3	29.73'	N14°19'24"E

CITY OF COSTA MESA

PLAT

A.P.N.: 418-141-01
ADDRESS: 3190 HARBOR BLVD.

DATE: 03-01-04 DRAWN BY: SS SCALE: NOT TO SCALE COMPILED FROM EXISTING RECORDS

EXHIBIT 2

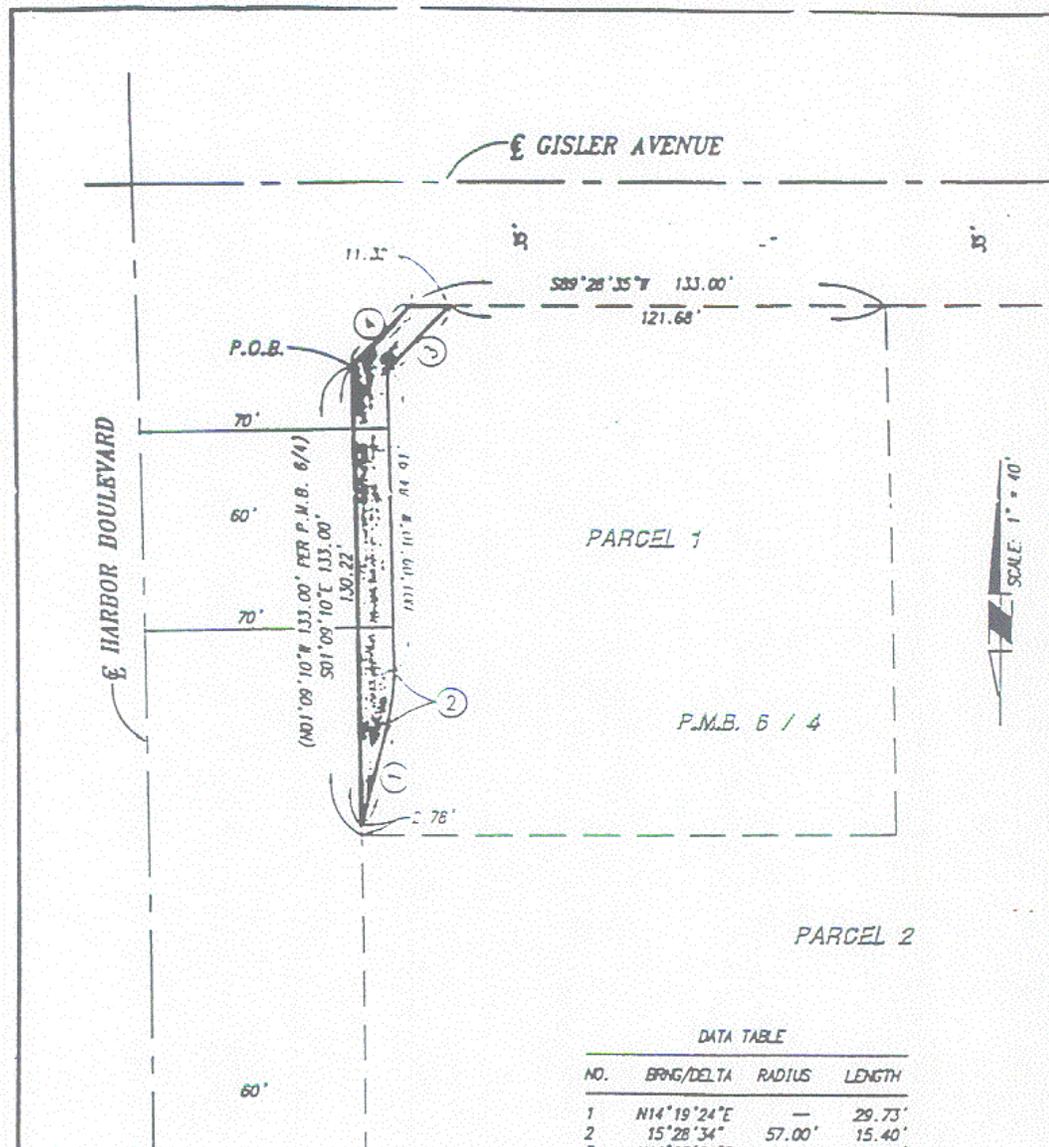
City of Costa Mesa

EXHIBIT "A"

LEGAL DESCRIPTION
(3190 Harbor Blvd)
AP NO 416-141-01

That certain parcel of land situated in the City of Costa Mesa, County of Orange State of California, being that portion of Parcel 1 as shown on a map thereof filed in Book 6, Page 4 of Parcel Maps in the Office of the County Recorder of said County described as follows:

BEGINNING at the Northerly terminus of that certain course shown as being "North 01°09'10" West 133.00 feet" in the Westerly line of said Parcel 1 on said map; thence along said Westerly line South 01°09'10" East a distance of 130.22 feet; thence, North 14°19'24" East a distance of 29.73 feet to the beginning of a tangent curve concave Westerly having a radius of 57.00 feet; thence, Northerly along said curve through a central angle of 15°28'34" an arc distance of 15.40 feet to a tangent intersection with a line parallel with and 70.00 feet Easterly, as measured at right angles to the centerline of Harbor Boulevard as shown on said parcel map; thence, North 44°07'52" East a distance of 25.78 feet to the Northerly line of said Parcel 1; thence along said Northerly line, South 89°28'35" West a distance of 11.32 feet to an angle point therein; thence, along the Northwesterly line of said parcel South 44°09'40" West a distance of 23.91 feet to the **POINT OF BEGINNING**.



DATA TABLE

NO.	BRNG/DELTA	RADIUS	LENGTH
1	N14°19'24"E	—	29.73'
2	S15°28'34"W	57.00'	15.40'
3	N44°07'52"E	—	25.78'
4	S44°09'40"W	—	23.91'

EXHIBIT 'B'
 SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION FOR
 HARBOR BOULEVARD
 RIGHT-OF-WAY DEDICATION
 (SE CORNER HARBOR & GISLER)
 CONTAINING: 1312 SQUARE FEET

SHEET 1 OF 1 SHE.
 PLANNING • DESIGN • CONSTRUCTION
RBF
 CONSULTING
 REVISED OCTOBER 31, 2001
 SEPTEMBER 10, 2001
 1478 ALTON PARK
 FOLSOM, CALIFORNIA 95688-7
 916.472.2826 • FAX 916.472.8770 • WWW.RBF.CA
 J.N. 10-1011

EXHIBIT 3



CITY OF COSTA MESA

CALIFORNIA 92626-1200

P O BOX 1200

FROM THE OFFICE OF THE TRANSPORTATION SERVICES MANAGER

March 18, 2004

Perry Curtis
Staubach Company
5650 North Riverside Drive, Suite 101
Fort Worth, Texas 76137

Subject: Harbor Boulevard/Gisler Avenue Intersection Improvement Project

Dear Mr. Curtis:

This letter confirms and documents our discussions relative to roadway improvements proposed in proximity to your service station located at 3190 Harbor Boulevard (Station 9-4660) at the intersection of Gisler Avenue. The project as discussed is initiated to reduce congestion and enhance traffic circulation at this heavily traveled intersection.

Pursuant to the letter dated February 6, 2004 from Jackie McGinnis with the Chevron Products Company, the City has developed the project to conform with Chevron's recommended site plan (Exhibit A, attached) and modifications that Chevron has deemed acceptable. The modifications include removal of the landscape planter along Harbor Boulevard, the addition of a new planter at the corner of Harbor Boulevard and Gisler Avenue, the relocation of the yard lights and business ID pole signs, and new curb between the sidewalk and pump island drive isle. All direct and associated costs for these improvements to your property shall be borne by the City.

The intersection improvement project is scheduled for construction in the spring of 2005, with work extending over a three month period. A construction easement (Exhibit B, attached) will cover the general three month construction duration to allow the City to access a defined limited area of your property to build the improvements. The contractor however will be held to more specific construction constraints, as follows:

- 1) Prior to performing any work on the Chevron property, the City and City's contractor shall notify the designated Chevron representative and shall carefully coordinate the project prior to performing any work.
- 2) The construction of planter curb, landscape and irrigation, and relocation of the business sign shall be by the City and shall meet Chevron's satisfaction.
- 3) No disruption of ongoing service to any of the pump islands or the Chevron retail building shall be permitted at any time. Full access to all sides of all pump islands shall be maintained at all times.

- 4) Work shall be limited to closure of only one (1) the three existing driveways to the service station at any one time. (1 driveway exists on Harbor & 2 on Gisler)
- 5) The closure of any driveway shall be limited to no longer than 5 days.
- 6) The City shall place terms in the construction contract for the contractor to maintain 1/2 of any one driveway open at all times.
- 7) Construction of the proposed 8 inch high curb separation wall between the public sidewalk along Harbor Boulevard and the pump island drive isle shall be limited to a three (3) day period.
- 8) All work by the contractor required within the Chevron site to construct the driveway and wall shall be limited exclusively within the designated construction easement area established by the Construction Easement, Exhibit B.
- 9) Entry for construction work will be restricted to daylight hours by employees of the City and/or firms acting as our agents.
- 10) No disruption or impact to adjacent on-site parking shall occur at any time.
- 11) The contractor shall be restricted from utilizing the Chevron site for storage of equipment and upon completion of any individual work task, all construction equipment shall be immediately removed off the premises.
- 12) During construction work, the City and Contractor shall maintain the Chevron site easement area and adjacent work area in a clean and orderly condition. Upon completion of construction, the Chevron site shall be left in a condition equal or better than currently exists, and shall be developed to the satisfaction of the Chevron Representative.
- 13) The City and contractor shall agree to indemnify and hold harmless the Chevron Products Company, the Staubach Company and the underlying property owners against all claims for damage or liability arising from entry onto the Chevron property.

The preceding terms shall be included within the right-of-way purchase agreement and the construction specifications. Thank you for your cooperation and assistance in developing these much needed public transportation improvements. Please contact me at (714) 754-5185 should you wish to discuss this in further detail.

Sincerely,



David Sorge
Project Manager

Cc: Jackie McGinnis, Chevron Products Company
Peter Naghavi, Transportation Services Manager

EXHIBIT 4

Chevron Products Company
Sales-West
145 E. State College Boulevard
Suite 400
Irvine, CA 92621
Tel (714) 671-3295
Fax (714) 671-1434
jackie.mcginnis@chevrontexaco.com

Jackie McGinnis
Property Specialist

ChevronTexaco

February 6, 2004

David Sorge
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626-1200

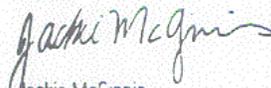
RE: Chevron Service Station 9-4660
3190 Harbor Blvd @ Gisler Ave
Costa Mesa, California

Dear Dave:

In regards to the City of Costa Mesa's Harbor Blvd/ Gisler Avenue Improvement project, I have attached a Chevron approved site plan. The site plan identifies the modifications to the site that Chevron deems acceptable. These modifications include the removal of the landscape planter along Harbor Blvd., the addition of a new planter at the corner, relocated yard lights and ID pole signs.

As per our phone conversation, your contact for the remainder of the project will be Mr. Perry Curtis with the Staubach Company. Perry can be reached at (817) 230-2645. If needed please feel free to contact me at (714) 671-3295.

Sincerely,



Jackie McGinnis
Property Specialist

Attachments

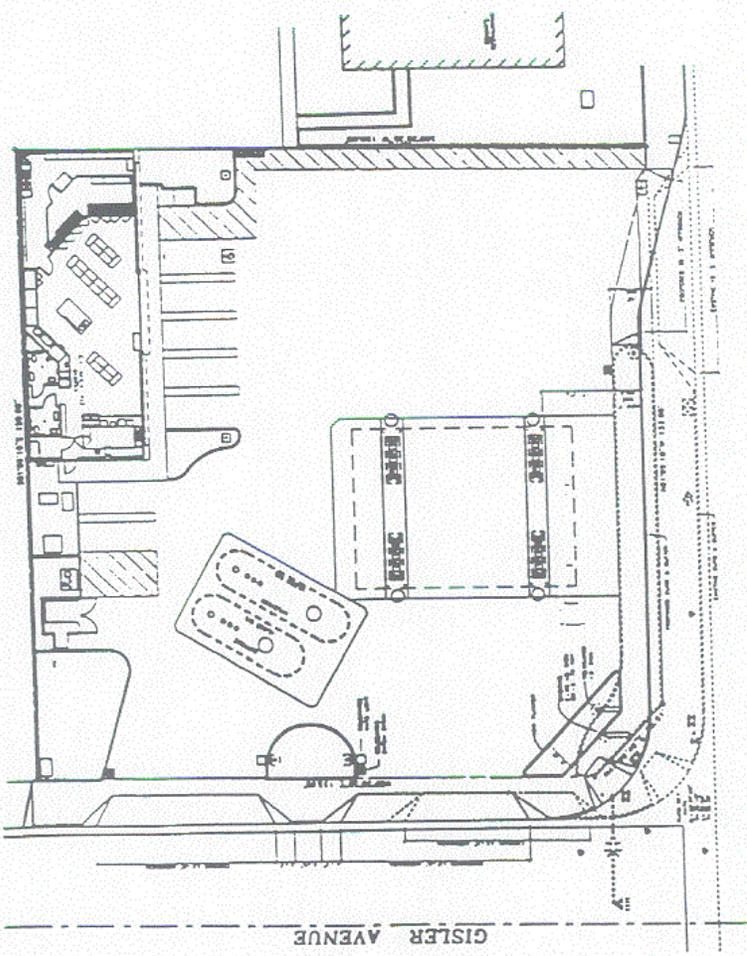
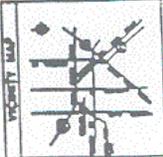
cc: Perry Curtis, Staubach Company (with attachment)

RECEIVED

FEB 09 2004

CHEVRON SERVICE





SITE PLAN

PROJECT: [REDACTED]
 OWNER: [REDACTED]
 ARCHITECT: [REDACTED]
 ENGINEER: [REDACTED]

NO.	DESCRIPTION	AREA (SQ. FT.)	PERCENT
1	[REDACTED]	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]	[REDACTED]
16	[REDACTED]	[REDACTED]	[REDACTED]
17	[REDACTED]	[REDACTED]	[REDACTED]
18	[REDACTED]	[REDACTED]	[REDACTED]
19	[REDACTED]	[REDACTED]	[REDACTED]
20	[REDACTED]	[REDACTED]	[REDACTED]
21	[REDACTED]	[REDACTED]	[REDACTED]
22	[REDACTED]	[REDACTED]	[REDACTED]
23	[REDACTED]	[REDACTED]	[REDACTED]
24	[REDACTED]	[REDACTED]	[REDACTED]
25	[REDACTED]	[REDACTED]	[REDACTED]
26	[REDACTED]	[REDACTED]	[REDACTED]
27	[REDACTED]	[REDACTED]	[REDACTED]
28	[REDACTED]	[REDACTED]	[REDACTED]
29	[REDACTED]	[REDACTED]	[REDACTED]
30	[REDACTED]	[REDACTED]	[REDACTED]
31	[REDACTED]	[REDACTED]	[REDACTED]
32	[REDACTED]	[REDACTED]	[REDACTED]
33	[REDACTED]	[REDACTED]	[REDACTED]
34	[REDACTED]	[REDACTED]	[REDACTED]
35	[REDACTED]	[REDACTED]	[REDACTED]
36	[REDACTED]	[REDACTED]	[REDACTED]
37	[REDACTED]	[REDACTED]	[REDACTED]
38	[REDACTED]	[REDACTED]	[REDACTED]
39	[REDACTED]	[REDACTED]	[REDACTED]
40	[REDACTED]	[REDACTED]	[REDACTED]
41	[REDACTED]	[REDACTED]	[REDACTED]
42	[REDACTED]	[REDACTED]	[REDACTED]
43	[REDACTED]	[REDACTED]	[REDACTED]
44	[REDACTED]	[REDACTED]	[REDACTED]
45	[REDACTED]	[REDACTED]	[REDACTED]
46	[REDACTED]	[REDACTED]	[REDACTED]
47	[REDACTED]	[REDACTED]	[REDACTED]
48	[REDACTED]	[REDACTED]	[REDACTED]
49	[REDACTED]	[REDACTED]	[REDACTED]
50	[REDACTED]	[REDACTED]	[REDACTED]

HARBOR BOULEVARD

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