

**CITY OF EL PASO, TEXAS  
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** ENVIRONMENTAL SERVICES

**AGENDA DATE:** March 17, 2020

**CONTACT PERSON:** ELLEN A. SMYTH, P.E., DIRECTOR, ESD  
212-6060

KARL RIMKUS, OPERATIONS MANAGER, ESD  
212-6053

**DISTRICT (S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 8: Nurture and Promote a Healthy, Sustainable Community

**SUBGOAL:** Goal 8.5: Improve air quality throughout El Paso

**SUBJECT:**

That the City Manager be authorized to sign a Memorandum of Agreement between the Texas Commission on Environmental Quality and the City of El Paso to implement rules for controlling air pollution from motor vehicles, delegating enforcement to the City for motor vehicle idling limitations under 30 Texas Administrative Code Chapter 114, Subchapter J.

**BACKGROUND / DISCUSSION:**

Council approval of this resolution will allow the City Manager to enter into a Memorandum of Agreement (MOA) with the Texas Commission on Environmental Quality (TCEQ) per 30 Texas Administrative Code 114.511. The MOA will delegate authority from TCEQ to the City to enforce certain vehicle idling limitations for vehicles with GVW greater than 14,000 lbs. Certain exemptions apply, including vehicles that are idling due to traffic congestion, idling of emergency and law enforcement vehicles, and commercial vehicles with passengers that require heating or cooling.

Enforcement of these TCEQ air rules would be conducted by the Air Quality Program of Environmental Services, in keeping with its long-standing contractual relationship for air quality enforcement in El Paso.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

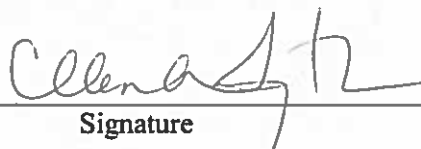
**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

Ellen Smyth, P.E.



2-24-2020

Name

Signature

Date

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Memorandum of Agreement between the Texas Commission on Environmental Quality and the City of El Paso to implement rules for controlling air pollution from motor vehicles, delegating enforcement to the City for motor vehicle idling limitations under 30 Texas Administrative Code Chapter 114, Subchapter J.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

**CITY OF EL PASO**

\_\_\_\_\_  
Dee Margo  
Mayor


**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kristen Lynn Hamilton-Karam  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Director  
Environmental Services Department

**MEMORANDUM OF AGREEMENT  
FOR  
VEHICLE IDLING LIMITATIONS**

**I. Parties**

This Memorandum of Agreement (MOA) is entered into between the Texas Commission on Environmental Quality (TCEQ) and the City of El Paso, a Texas Municipal Corporation, (Local Government), collectively the "Parties."

1. The Parties represent that they have the authority to enter into this MOA, including the authority granted in the Texas Government Code Chapter 791 Interlocal Cooperation Contracts.
2. The TCEQ has authority under Section 5.229 of the Texas Water Code and Section 382.033 of the Texas Health and Safety Code to enter into this MOA.
3. The Local Government has authority under Section 382.115 of the Texas Health and Safety Code to enter into this MOA.

**II. Intent and Purpose**

The intent of this MOA is to memorialize the agreement between the Parties to implement the following rules aimed at the control of air pollution from motor vehicles: 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 – 114.512 and 114.517.

The Parties enter into this MOA for the purpose of delegating rule enforcement from the TCEQ to the Local Government and potentially incorporating the emission reductions resulting from the implementation and enforcement of the above-referenced rules into the State Implementation Plan (SIP).

**III. Definitions**

As used in this MOA the following terms have the meanings given below:

1. EPA shall mean the United States Environmental Protection Agency.
2. TCEQ shall mean the Texas Commission on Environmental Quality.
3. Local Government has the meaning assigned by 30 TAC Section 114.510.
4. SIP shall refer to the Texas State Implementation Plan.

**IV. Background**

On November 17, 2004, the TCEQ adopted rules concerning locally enforced motor vehicle idling limitations, which are applicable only within the jurisdiction of a Local Government that has signed a MOA with the TCEQ delegating enforcement of the rules. The rules became effective December 9, 2004. The EPA approved the rules as a revision to the SIP in the April 11, 2005, *Federal Register* (70 FR 18308), effective on June 10, 2005.

**V. Obligations of Parties**

(A) The Local Government agrees as follows:

1. In accordance with the terms of this MOA the Local Government agrees to implement the following TCEQ Rule:
    - a. 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517. Changes to these TCEQ Rules shall be incorporated into this Agreement without requiring amendment of this Agreement.
  2. The Local Government agrees to submit the following information to the TCEQ for the rules listed above not later than forty-five (45) calendar days after the effective date of this MOA:
    - a. detailed description of the plan for implementation of these rules;
    - b. copies of local ordinances or resolutions adopted by each Local Government to implement these rules; and
    - c. copies of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules.
  3. The Local Government agrees to submit copies of any requisite resolutions under Section 7.352 of the Texas Water Code to the TCEQ forty-five (45) calendar days after the effective date of this MOA or within fourteen (14) calendar days after passage by the local governing body, whichever is later.
- (B) The TCEQ agrees to consider this MOA for submission to the EPA for inclusion in the Texas SIP.

#### **VI. Term and Termination**

This MOA will become effective upon signature by both Parties and shall expire on December 31, 2024 unless renewed in writing by mutual agreement of the Parties. A Party may withdraw from this MOA at any time upon thirty (30) calendar days written notice to the other Party. This MOA may be terminated at any time by mutual written consent of the Parties.

#### **VII. Miscellaneous**

This MOA represents the entire agreement between the TCEQ and the Local Government and supersedes all other agreements, understandings or commitments, written or oral, relative to the intent of this MOA. This MOA may not be amended or modified except pursuant to a mutual written agreement executed by each of the Parties.

This MOA shall be governed by and interpreted in accordance with the laws of the State of Texas.

In Witness Whereof, Texas Commission on Environmental Quality and the Local Government, by their authorized officers, have made and executed this MOA in multiple copies, each of which is deemed an original.

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

By: \_\_\_\_\_  
Name: Donna F. Huff  
Title: Director, Air Quality Division

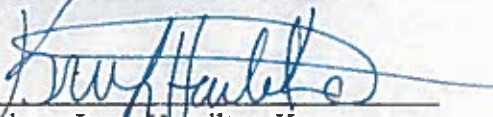
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Date

**CITY OF EL PASO**

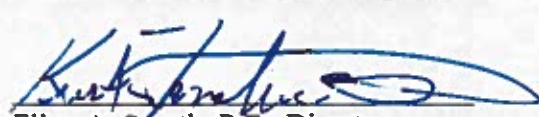
By: \_\_\_\_\_  
Name: Thomas Gonzalez  
Title: City Manager

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kristen Lynn Hamilton-Karam  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Director  
Department of Environmental Services