## **ORDINANCE NO. 3773**

AN ORDINANCE OF THE CITY OF RICHARDSON, TEXAS, TO IMPLEMENT AND ENFORCE THE TEXAS STATE RULE ON LOCALLY ENFORCED MOTOR VEHICLE IDLING LIMITATIONS AND TO APPROVE ENTERING INTO A MEMORANDUM OF AGREEMENT WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TO ENFORCE THIS RULE LOCALLY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Dallas-Fort Worth area is a federally designated nonattainment area for the pollutant ozone and air quality impacts the public and economic health of the entire region; and

WHEREAS, the U.S. Environmental Protection Agency ("EPA") and the Texas Commission on Environmental Quality ("TCEQ") jointly have considered emission reductions to control air pollution from motor vehicles, and the Texas Legislature has created the Texas Clean Air Act ("Act"), which addresses that purpose; and

WHEREAS, Section 382.113 of the Act provides authority for municipalities to enact and enforce local laws and ordinances for the control and abatement of air pollution; and

WHEREAS, Locally Enforced Idling Restrictions is a Voluntary Mobile Source Emissions Reduction Program commitment in the Dallas-Fort Worth 8-Hour Ozone Attainment Demonstration State Implementation Plan (SIP); and

WHEREAS, the City of Richardson, Texas, desires to actively participate in improving the air quality of the region; and

WHEREAS, the City Council finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare of the citizens of the City of Richardson, Texas, by limiting the pollution created by motor vehicles unnecessarily idling within the City's jurisdiction;

NOW, THEREFORE, BE IT ORDAINED CY THE CITY COUNCIL OF THE CITY OF RICHARDSON, TEXAS, THAT:

**SECTION 1.** The City Council endorses the TCEQ Idling Limitations Rule as published in the Texas Administration Code, Title 30, Part 1, Chapter 114, Subchapter J, Operational Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitation.

**SECTION 2.** The City Council approves the adoption and implementation of the TCEQ Idling Limitation Rule by reference.

**SECTION 3.** The City Council authorizes the City Manager to execute a Memorandum of Agreement, attached hereto, with the TCEQ for the purposes of local enforcement of the Idling Limitation Rule in Richardson.

**SECTION 4.** That all provisions of the ordinances of the City of Richardson in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Richardson not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional.

**SECTION 6.** This Ordinance shall take effect immediately from and after its passage as the law and charter in such case provide.

DULY PASSED AND APPROVED by the City Council of the City of Richardson,

Texas, this 26th day of April , 2010.

APPROVED

APPROVED AS TO FORM:

& Smith

CORRECTLY ENROLLED:

CITY ATTORNEY

(43016)

CITY SECRETARY

# MEMORANDUM OF AGREEMENT VEHICLE IDLING LIMITATIONS IN THE NORTH CENTRAL TEXAS AREA

## I. PARTIES

This Memorandum of Agreement ("Agreement") is entered into between the Texas Commission on Environmental Quality ("TCEQ") and the local governments signing this agreement (Local Governments), 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 Performing Parties have 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, Operational 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 TCEQ to Local Governments and 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 U.S. 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. "North Central Texas Area" shall refer to those Texas counties included in the Dallas-Fort Worth-Arlington (DFW) Texas, Metropolitan Statistical Area.
- 5. "SIP" shall refer to the State Implementation Plan.

# IV. Background

- 1. Under Section 110 of the Federal Clean Air Act ("FCAA"), 42 U. S. Code (U.S.C.) Section 7410, each state that has a non-attainment area must submit a SIP to the EPA demonstrating strategies to come into compliance with the National Ambient Air Quality Standards ("NAAQS").
- 2. Section 110 of the FCAA, 42 U.S.C. Section 7410 requires Texas to submit to the EPA for approval any SIP revisions and to demonstrate that such SIP revisions will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the FCAA, as required by Section110(1) of the FCAA.
- 3. 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 Memorandum of Agreement with TCEQ delegating enforcement of the rules. The TCEQ submitted the rules to EPA for approval on December 6, 2004. EPA approved the rules on June 10, 2005.
- 4. The Parties acknowledge that they have entered into this MOA voluntarily and it shall become binding upon the signature of the Executive Director of TCEQ or his designated representative. The Parties agree to comply with the terms of this MOA.
- 5. The Local Governments understand and agree that the commitments in this Agreement become federally enforceable by the EPA, and by persons using the citizen suits provision of the Federal Clean Air Act (42 U.S.C.A. Section 7604), upon approval of this Agreement into the SIP.

# V. Obligations of Parties

- (A) Performing Parties agree as follows:
  - 1. In accordance with the terms of this MOA, the Performing Parties agree to implement the following TCEQ Rules:
    - a. 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 – 114.512 and 114.517. Changes to these rules shall be incorporated into this Agreement without requiring amendment of this Agreement.
  - 2. The Performing Parties agree 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;

#### MOA0800001

- Copies of local ordinances or resolutions adopted to implement these rules; and
- c. Copies of agreements entered between Performing Parties and other units of Local Government for the purpose of the implementation of these rules. Agreements entered into after the effective date of this MOA shall be submitted within forty-five (45) calendar days of their execution.
- Copies of any requisite resolutions under Section 7.352 of the Texas Water Code shall be submitted to the TCEQ within fourteen (14) calendar days after passage by the local governing body.
- (B) The TCEQ agrees to submit this agreement to the U.S. EPA as a technical support document to the DFW eight-hour ozone attainment demonstration SIP.

## VI. Term and Termination

This MOA will become effective upon signature by the Parties and shall expire on January 2, 2013, unless renewed in writing by mutual agreement of the Parties. A Party may withdraw from this Agreement at any time upon thirty days written notice to the other Parties of this agreement. Withdrawal by a Local Government does not constitute termination of the entire MOA. This Agreement 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 Performing Parties 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.

# MOA0800001

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

IEXAS	COMMISSION	ON ENVIRONMEN	IAL QUALITY	

By:		
	Mark R. Vickery, P.G.	Date
	Executive Director	

## MOA0800001

Memorandum	of A	greement
------------	------	----------

Local Government Signature Page

In witness thereof, *City of Richardson, Texas*, through its authorized officer, has made and executed this signature page that shall be attached to the Memorandum of Agreement to Control Air Pollution From Motor Vehicles Through Locally Enforced Vehicle Idling Limits, which is hereby incorporated by reference in its entirety.

Executed by:	
CITY OF RICHARDSON, TEXAS	
By:	
Bill Keffler City Manager	Date

5