Addendum

The MOU with the City of El Paso was approved on November 5, 1991.

This MOU was subsequently replaced by an MOA between the TNRCC and the City of El Paso on October 9, 2001. Both documents follow.

MEMORANDUM OF UNDERSTANDING
BETWEEN TEXAS AIR CONTROL BOARD
AND THE CITY OF EL PASO

Introduction

The 1990 Federal Clean Air Act requires states to submit a State Implementation Plan (SIP) for all areas classified as moderate nonattainment areas for inhalable particulate matter (PM_{10}) by November 15, 1991. Failure to submit a satisfactory document by that deadline may result in the United States Environmental Protection Agency redesignating the area as "serious" nonattainment for PM_{10}.

On August 6, 1991, the Texas Register published proposed revisions to the PM_{10} SIP for the City of El Paso (El Paso). These proposed revisions applied to the control strategy portion of the SIP document and to Texas Air Control Board (TACB) Regulation I, concerning Control of Air Pollution from visible Emissions and Particulate Matter. This memorandum of understanding (MOU) between the TACB and El Paso will define the actions required and the responsibilities of each party under the SIP revisions.

Regulatory Requirements

TACB §111.111 requires that no person shall operate a solid fuel heating device in El Paso, including the Fort Bliss Military Reservation, when National Weather Service data indicates an atmospheric stagnation condition exists or is predicted to exist. Chapter 9.38 of the El Paso City Code currently requires that no person shall operate a solid fuel heating device when expected atmospheric conditions will not reasonably disperse wood smoke. Despite the difference in wording, the intent of these regulations is the same, and El Paso uses a stagnation index provided by the National Weather Service to determine no-burn periods. The stagnation index and related procedures are provided in Attachment 1 of this memorandum. First time violators of the El Paso ordinance are routinely given one warning. Subsequent violations are referred to Municipal Court with potential penalties of $2,000 per violation. For the purposes of the ordinance, each day a violation continues is considered a separate violation.

The TACB and El Paso agree that the continued enforcement of no-burning periods is a necessary part of the effort to improve air quality in El Paso, and the primary enforcement authority will be El Paso. The TACB and El Paso agree also that the TACB regional office having jurisdiction in El Paso will be notified of violations of Chapter 9.38 of the El Paso Municipal Code or TACB §111.111(c). The regional office will take action to enforce state

law when, in the opinion of the Regional Director, habitual violations or other circumstances require additional deterrence to ensure compliance with the law.

TACB §211.147 requires that El Paso pave alleys at a specified rate of 15 miles per year and adhere to a cleaning schedule for public thoroughfares. The TACB recognizes that El Paso will be required to commit funds to accomplish these tasks and that there is competition within the City budget for limited funds. El Paso agrees that funds will be allocated to meet the requirements of §111.147 on an annual basis, unless the allocation would jeopardize vital city services and to the extent allowed by law. Nothing in this MOU will be interpreted to abridge the right of El Paso to transfer previously allocated funds if emergencies occur that would require such a transfer to maintain vital city services. Nothing in this MOU affects the validity of TACB Rule 111.147 or El Paso's obligation to comply with §111.147.

Public Information

The distribution of public information can be an effective tool in curtailing the use of residential solid fuel heating devices. The TACB and El Paso agree that El Paso will implement a public information program by January 31, 1992 on topics regarding the use of such devices with the cooperation of the TACB as outlined in Appendix O of the PM_{10} SIP document.

Administration

Once executed, this MOU will continue in effect, unless modified by the mutual consent of both parties. The MOU will be evaluated annually and revised as necessary.

THE CITY OF EL PASO

Mayor

ATTEST:

City Clerk

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

APPROVED AS TO CONTENT:

Laurence N. Hickey, M.D., Director
El Paso City-County Health District

Steve Spaw, P.E.
Executive Director
Texas Air Control Board

APPROVED AS TO FORM:

Assistant City Attorney

CMB1:lcl
TACBCITY.MOU
11/05/91

R E S O L U T I O N

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

That the Mayor be authorized to sign a Memorandum of Understanding between the TEXAS AIR CONTROL BOARD and the CITY OF EL PASO, defining the actions required and the responsibilities of each party pursuant to the revisions to the State Implementation Plan.

PASSED AND APPROVED this 5th day of November, 1991.

THE CITY OF EL PASO

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

CMB1:lcl
TACECITY.RES
11/05/91

MOA-02-0000-4

STATE OF TEXAS §
§ **MEMORANDUM OF AGREEMENT**
COUNTY OF EL PASO §

This Memorandum of Agreement ("MOA") is agreed to by the Texas Natural Resource Conservation Commission ("TNRCC") and the City of El Paso, Texas ("City") (together, TNRCC and City may be referred to herein as the "Parties") on this 9th day of Oct, 2001.

RECITALS

In compliance with the Federal Clean Air Act, the State of Texas has submitted a State Implementation Plan ("SIP") to the United States Environmental Protection Agency.

The purpose of this MOA is to set forth in plain language the understanding of the Parties regarding their respective responsibilities under the Texas SIP as it pertains to certain streets and alleys within the City.

The Parties intend that, to the extent authorized by law, sufficient funds will be allocated by the City to meet its requirements under the MOA and the SIP on an annual basis, unless the allocation would jeopardize or reduce the ability of the City to provide vital services as set forth in its annual budget. The MOA is not intended to create or impose any obligation on either Party in excess of any legal requirement existing under the SIP and TNRCC rules or otherwise.

The Parties expressly recognize that their respective obligations, as described in this MOA, are subject to the availability of funds specifically budgeted and allocated for those purposes.

UNDERSTANDING

Streets. The Parties recognize that there currently exist within the City a total of approximately 19.0 miles of unpaved public thoroughfares, as defined in Title 30 Texas Administrative Code ("TAC") § 111.147, which total comprises less than 1.0 percent of all public thoroughfares within the City. During the term of this Agreement, the City agrees to apply all funds provided directly by the State, the use of which is expressly limited to the purpose of paving unpaved streets ("Designated Funds"), for the application of paving materials for dust control on the unpaved public thoroughfares within the City. For the purposes of this MOA, "Designated Funds" shall also include funds paid to the City by a third party under the terms of a consent decree or other agreement or judgment made pursuant to environmental enforcement action. In addition to using Designated Funds for application of paving materials, the City will continue to take reasonable actions calculated to reduce the miles of unpaved public thoroughfares as a percentage of all public thoroughfares within the City, and will seek funding through the Capital

Improvement Program to pave unpaved roads. In addition, Community Development projects will continue to focus on eliminating unpaved roadways.

The City currently conducts the programs more fully described in Exhibit A, which are designed to control dust on public thoroughfares. The programs include the application of magnesium chloride to road surfaces, repaving existing roads as listed in Exhibit A. The City will continue to conduct similar dust control programs during the term of this MOA, and will provide an annual summary of the programs to TNRCC substantially in the form of Exhibit A.

Alleys. The Parties recognize that there currently exist within the City a total of approximately 54 miles of unpaved alleys, which total comprises approximately 40 percent of all alleys within the City. The Parties further recognize that City vehicles comprise the majority of traffic in alleys within the City. During the term of this Agreement, the City will develop and implement a program to significantly reduce City vehicle traffic in unpaved alleys, and to restrict public access to those alleys. In addition, the City will continue to take reasonable actions calculated to reduce the miles of unpaved alleys as a percentage of all alleys within the City, and will seek funding through the Capital Improvement Program to pave unpaved alleys. All unpaved alleys involved in Community Development projects will be paved in conjunction with the Federal funding guidelines.

Additional Measures. The City will continue to reduce the airborne particulate matter (PM10) through a minimum of semi annual sweeping of streets throughout the City of El Paso. City staff will continue to evaluate City-owned property used as access to public and private property in order to identify practices and preventive measures which will reduce PM10. The City will continue to enforce its requirement that parking lots be paved with asphalt or concrete, as set forth in the City Code of the City of El Paso. The City also continues to actively enforce its MS4 permit BMP's which includes preventing mudtracking of streets.

The Parties agree that the continued enforcement of no-burning periods may contribute to improvement in air quality in El Paso. The City will continue to enforce the regulations regarding burning contained in Chapter 9.38 of the El Paso City Code, and will continue to notify the local office of TNRCC of violations of Chapter 9.38 and 30 TAC § 111.111. The City will continue to participate in the public information program conducted by the El Paso City-County Health & Environmental District on topics regarding the use of residential solid fuel heating devices.

TNRCC recognizes that a meaningful reduction of particulate matter has been achieved through the concerted efforts of the City. Although this MOA has identified certain areas of potential particulate reduction, it is recognized that there may be other areas of reduction equal to or greater than those identified with a better use of resources.

Term, Renewal, Termination and Modification. This MOA shall remain in effect through August 31, 2003. This MOA shall automatically be renewed for successive one-year Renewal Terms, without the necessity of formal action on the part of either Party, unless one of the Parties shall provide written notice of non-renewal 90 days prior to the end of the Term or any Renewal Term, whereupon the MOA shall terminate at the end of the then-current Term or Renewal Term, as applicable. Representatives of the Parties will meet by no later than the last day of March each year during the Term or any Renewal Term to consider whether any revisions or modifications to the MOA may be necessary or desirable. Any revision, modification, or amendment of the terms of the MOA must be made in writing, by agreement of the Parties.

AGREED to by the undersigned Parties, this 9th day of Oct., 2001.

ATTEST:

Carole Hunter
City Clerk

CITY OF EL PASO, TEXAS

Raymond C. Caballero
Mayor

APPROVED AS TO FORM:

Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

Edward Drusina, Director
Public Works Department

ATTEST:

2/15/02

Gerry Wolfe
El Paso SIP Coordinator

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Jeffrey A. Saitas, P.E.
Executive Director

Revised 3/14/00

Dist	Area	Street Name	From	To	Length(ft)	Width(ft)	Priority	Paved
1	1	Aguirre	Aguirre 199	West 885 Ft.	885	25	5	
1	1	Clayton Rd.	Clayton 424	Clayton 440	565	24	3	
1	1	Johannsen	Coates	Johannsen 5800	345	40	4	
1	1	Coates	Coates Booster	Coates 325	1550	44	4	
1	1	Batista	Edgar	Batista 5890	105	30	3	
1	1	Ethel Rd.	Edgar	Montoya Rd	2000	36	Platted	
1	1	Anni	Ethel	Anni 325	425	24	4	
1	1	Edgar Rd.	Ethel	I-10	1800	36	4	
1	1	Chariot	La Cruz	Mesita	300	30	4	
1	1	Lee Shannon	Lee Shannon 840	Lee Shannon 860	850	35	5	
1	1	Ethel Rd.	Medano	Ethel 5772	684	32	4	
1	1	Valdez	Medano	Ruby	580	24	4	
1	1	Johannsen	Montoya	350' N. of Montoya	350	40	Platted	
1	1	Linda	Montoya	West 450 ft.	450	25	2	
1	1	Granby	Pascal	Modesta	1011	22	4	
1	1	Fabian	Placida	Granby	747	22	4	
1	1	Michel	Placida	Granby	747	22	4	
1	1	Patria	Placida	Granby	747	22	4	
1	1	Rollins	Rollins 816	Rollins 832	127	30	5	
1	1	Camino De Paz	Rosinante	West 500 Ft.	500	30	2	
1	1	Don Quixote	Rosinante	West 500 Ft.	500	30	2	
2	3	Louisiana	Aurora	Lebannon	298	24	2	
2	3	Tracy	Cliff	Dead End	221	22	Millings	
2	3	Louisiana	Copper	Federal	288	24	2	
2	2	Vesta Loop	Cul-De-Sac	off Howard	36	75	2	
2	3	Louisiana	Federal	Wheeling	292	24	2	
2	2	Apollo	Gtwy. North	Diana	5000	33	Millings, 5	
2	3	Louisiana	Lebanon	Louisville	298	24	2	
2	3	Louisiana	Portland	San Jose	283	24	2	
2	3	Portland	Portland 2515	Dead End	131	32	3	
2	3	Louisiana	San Jose	San Diego	289	24	2	
2	3	Partello	Savannah	Frankfort	332	29	3	
2	3	Lebanon						
3	3	Geiger	Ascarate	Tangier	1310	28	15	
3	3	Houston	Cambridge	Hastings	331	29	12	
3	3	Patterson	Caples	Alley	178	30	11	
3	3	Rosa	Colfax	Revere	450	30	8	
3	3	Plata	Rosa	Gtwy. East	146	32	6	
3	3	Revere	Rosa	Gtwy. East	306	37	7	
3	3	Colfax	Rosa	Gtwy. East	146	34	10	
3	3	Roosevelt	Rosa	R.R. Tracks	136	50	9	
3	3	Hanley	Tampa	Cul-De-Sac	120	34	4	
3	3	Sacramento	Alabama	100' west	100	36	4	
4	2	Hasan	Arabian Knights	McCombs	498	36	3	
4	2	Aladdin	Arabian Knights	McCombs	796	37	4	
4	2	Venice	Arabian Knights	McCombs	352	36	5	
4	2	Angora Loop	Dyer	Dead End	1594	37	3	

EXHIBIT "A"

4	2	O'Donnell	Dyer	Dead End	3076	36	4	
4	2	Sean Haggerty	Dyer	edge of pavement	2208	33	1	
4	2	O'Dell	Dyer	O'Donnell	1437	36	4	
4	2	O'Rourke	Dyer	O'Donnell	1224	36	4	
4	2	O'Brady	Dyer	O'Riley	871	36	4	
4	2	Pandora	Hercules	Diana	2190	26	Millings, 4	
4	2	O'Toole	O'Brian	O'Conner	797	36	4	
4	2	O'Malley	O'Conner	Dead End	879	36	4	
4	2	O'Hara	O'Donnell	Dyer	1670	36	4	
4	2	O'Riley	O'Donnell	Dyer	1023	36	4	
4	2	O'Brian	O'Hara	Dead End	1110	36	4	
4	2	O'Conner	O'Malley	Dyer	1294	36	4	
4	2	Ranchito	Roanoke	Rutledge	494	37	4	
4	2	Pheasant	Sun Valley	Bridalveil	786	36	1	
4	2	Pheasant	Sun Valley	Dyer	1228	44	1	
4	2	Souda	Taj Mahal	McCombs	623	36	5	
5	4	Pendleton	Ardell	Arrow Rock	200	60	*	
5	4	Lee	Edgemere	Pratt	2700	60	2	
5	4	Turner	Esper	Perkins	3000	60	*	
5	4	Ardelle	George Dieter	Lee	2500	60	*	
5	4	Lindenwood	George Dieter	Lee	2500	60	*	
5	4	Menlo	George Dieter	lee	2500	60	*	
5	4	Pratt	George Dieter	Lee	2500	60	*	
5	4	Sun Dance	George Dieter	Lee	2500	60	*	
5	4	Patricia	George Dieter	Pendleton	1300	60	*	
5	4	Edgemere	Lee	Perkins	2600	60	3	
5	4	Edgemere	Pendleton	Lee	1200	60	3	
5	4	Patricia	Pendleton	Lee	1300	60	*	
5	4	Pendleton	Pratt	Ardelle	1400	60	*	
5	4	Harkis	Pratt	Turner	5400	60	*	
5	4	Perkins	Pratt	Turner	5400	60	*	
5	4	Edgemere	Rising sun	Pendleton	1300	120	3	
6	5	Cana 9109	Candelaria	Dead End	267	20	3	
6	5	Padilla	Dead End		200	36	4	
6	5	Loma Vista	Lomaland	Dead End	310	20	2	
6		Emma 200	Socorro	Dead End	366	20	1	
6	4	Kuna Loop	Zaragosa	Diamond Head	3500	60	4	
6	4	Pali	Zaragosa	Diamond Head	1400	60	4	
6	4	Diamond Head	Zaragosa	Kuna	1400	75	4	
7	5	Ranger	Tower Trail	Dead End	309	25	5	
8	3	Chico	Birch	Maple	432	23	4	
8	3	Rosa	Cebada	Luna	466	31	1	
8	3	Chico	Cedar	Birch	221	21	4	
8	3	Luna	Durazno	R.R. Tracks	270	40	2	
8	1	Coupland	Emory	Coupland 110	505	28	3	
8	1	Cynthia	Emory	Dead End	500	28	3	
8	1	Belva	Emory	East 300 ft.	300	28	3	
8	1	Hazel	Emory	Hazel 105	500	28	3	

EXHIBIT "A"

8	1	Mahogany	Emory	Mahogony 110	505	25	3	
8	3	Rosa	Estrella	Cebada	233	31	1	
	1	River Bend	Little Lane	South 1445 ft	1445	60	5	
8	3	Chico	Maple	Rosewood	449	23	4	
8	3	Luna	Rosa	Luna 221	170	40	2	
8	3	Luna	San Antonio	Dead End	150	31	2	
8	1	Santa Rosa	Torres	To end (row issues)	350	30	2	
		Duckett	UpperValley Rd	Park				

* Kimberly Heights Subdivision
Proposed Lien Paving

TOTAL	102657	3819
MILES	19.442614	

(REVISED 10/3/01- BY CEH)

RESOLUTION

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

THAT the Mayor be authorized to sign a Memorandum of Agreement between the City of El Paso and the Texas Natural Resource Conservation Commission (TNRCC), regarding the reduction of particulate matter and the improvement El Paso's air quality, in accordance with the State Implementation Plan of Texas.

ADOPTED this 9th **day of** October**, 2001.**

THE CITY OF EL PASO

Mayor

ATTEST:

Carole Hunter
City Clerk

APPROVED AS TO FORM:

Raymond L. Telles
Assistant City Attorney

Foust/74988/ENVIRON/Y41K

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

February 19, 2002

Mr. Thomas H. Diggs
Chief Air Planning Section-Region 6
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Subject: Memorandum of Agreement (MOA) - Particulate Matter (PM_{10})
State Implementation Plan (SIP)

Dear Mr. Diggs:

Enclosed is a copy of the signed final MOA between the City of El Paso and the Texas Natural Resource Conservation Commission (TNRCC) concerning the reduction of particulate matter and the improvement of El Paso's air quality. This MOA replaces the Memorandum of Understanding (MOU) that is included as Appendix Q in the State of Texas SIP for El Paso PM_{10}. In keeping with the original 1991 MOU, this agreement serves as additional clarification to the existing responsibilities of the parties under applicable TNRCC rules for the control of air pollution from particulate matter in Title 30, Texas Administrative Code, Chapter 111. It does not modify any existing federal regulation or state rules relating to the control of air quality in El Paso.

The TNRCC and the City of El Paso will review this agreement annually beginning in March 2003 to consider whether any revisions or modifications to the MOA may be necessary. If it is determined that changes to the agreement need to be made, your staff will be contacted to coordinate the appropriate actions. If you have any questions or would like to discuss the provisions of this MOA, please contact Gerry Wolfe, TNRCC SIP coordinator for El Paso, at (512) 239-4703.

Sincerely,

for Glenn W. Shankle
Deputy Executive Director

Enclosure