Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 29, 2013

Mr. Matt Love, Director
Global Environmental Remediation
Exide Technologies
P.O. Box 14294
Reading, PA 19612-4294

Re: J Parcel Area, Buffer Zone Properties Surrounding Exide Technologies Frisco Recycling Center, 7471 South 5th Street, Frisco, Collin County, Texas 75034; Voluntary Cleanup Program (VCP) No. 2541; Customer No. CN600129787; Regulated Entity No. RN106583511

Dear Mr. Love:

Enclosed for your records is a signed copy of the VCP Agreement for the above referenced site. Monthly Status Reports should be submitted on the 10th of the month beginning May, 2013.

Please reference VCP No. 2541 on the front of any future letters or reports. Future submittals should be mailed to the TCEQ, VCP-CA Section, mail code MC-221, at the letterhead address. Please feel free to contact me with any questions or comments at (512) 239-2361.

Sincerely,

Gary Beyer, Project Manager
VCP-CA Section
Remediation Division

GB/jdm

cc: Mr. Sam Barrett, TCEQ Region 4 Office, Dallas/Ft. Worth

Mr. George Purefoy, City of Frisco and Frisco Community Development Corporation (CDC), 6101 Frisco Square Blvd., 5th Floor, Frisco, TX 75034

Mr. James L. Gandy, Frisco Economic Development Corporation (EDC), 6801 Gaylord Parkway, Suite 400, Frisco, TX 75034

Enclosures: Executed Agreement

G BEYER
16930436

RECEIVED
MAR 05 2013
REMEDIATION DIVISION

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
VOLUNTARY CLEANUP PROGRAM AGREEMENT

INTRODUCTION

This Agreement is entered into voluntarily by **Exide Technologies, the City of Frisco, the Frisco Economic Development Corporation (EDC), and the Frisco Community Development Corporation (CDC)** (Applicant) and the executive director of the Texas Commission on Environmental Quality (TCEQ). This Agreement is not and shall not be construed as an admission of any liability under the Texas Solid Waste Disposal Act or any other law or as a waiver of any defense to such liability. No approval hereunder or receipt of funds hereby shall be taken as a warranty as to sufficiency or efficacy of the response action. The purpose of this Agreement is to detail the obligations and functions of each party, related to the voluntary response action process at the **J Parcel Area , Exide Technologies, Frisco, Texas** (Site), Voluntary Cleanup Program (VCP) No. 2541.

The activities conducted by the Applicant under this Agreement are subject to approval by TCEQ. The activities conducted by the Applicant shall be consistent with this Agreement, all applicable laws and regulations and any appropriate guidance documents. Applicant shall employ sound scientific, engineering and construction practices.

STATEMENT OF ELIGIBILITY

The executive director has determined that the application submitted by the Applicant is complete and that the Site is eligible to participate in the VCP established under Subchapter S of Chapter 361 of the Health and Safety Code (HSC). If the TCEQ determines that the Applicant withheld or misrepresented information that would be relevant to the Site's eligibility, the executive director may exercise his/her right to withdraw from this Agreement.

PARTIES BOUND

This Agreement shall apply to and be binding upon the Applicant, its officers, directors, principals, employees, receivers, trustees, agents, successors, subsidiaries over which the Applicant exercises control and assigns and upon the TCEQ, its employees, agents, assigns and successors. The signatories to this Agreement certify that they are fully authorized to execute and legally bind the parties they represent. No change in ownership, corporate, or partnership status of the Applicant shall in any way alter its status or responsibilities under this Agreement unless Applicant or TCEQ withdraws from this Agreement.

The Applicant shall provide a copy of this Agreement to any subsequent business owners or successors before ownership rights are transferred. If the Applicant is also the owner of the Site, the Applicant shall provide a copy of this Agreement to prospective purchasers of the Site prior to transfer of title. The Applicant shall provide a copy of this Agreement to all contractors and consultants who are retained to conduct any work performed under this Agreement, within 14 days after the effective date of this Agreement or within 14 days after the date of retaining their services, whichever is later.

DEFINITIONS

"Site" means the area described in the VCP application, attached and incorporated herein as Exhibit "A" or, if the executive director approves the Applicant's request to address a partial response action area, then only that portion (i.e., the partial response action area) of the area described in Exhibit "A."

ADDRESSES FOR ALL CORRESPONDENCE

Documents, including reports, approvals, notifications, disapprovals, and other correspondence to be submitted under this Agreement, may be sent by certified mail, return receipt requested, hand delivery, overnight mail or by courier service to the following addresses or to such addresses as the Applicant or TCEQ may designate in writing.

Documents to be submitted to TCEQ should be sent to:

Mailing Address

Gary Beyer, Project Manager
VCP-CA Section, MC-221
P.O. Box 13087
Austin, TX 78711-3087

Overnight/Express Mail Address

Gary Beyer, Project Manager
VCP-CA Section, MC-221
12100 Park 35 Circle
Austin, TX 78753

Documents to be delivered to the Applicant should be sent to (include name, address and phone number):

For Exide:
Matt Love, Director, Global Environmental Remediation, Exide Technologies

Mailing Address

PO Box 14294
Reading, PA 19612-4294
Phone (610) 921-4054

Overnight/Express Mail Address

Spring Valley Road & Montrose Avenue
Reading, PA 19605

For the City of Frisco:
George Purefoy, City Manager, City of Frisco
6101 Frisco Square Blvd. 5th Floor
Frisco, Texas 75034
(972) 292-5105

For Frisco Economic Development Corporation (EDC)
James L Gandy, President, Frisco Economic Development Corporation
6801 Gaylord Parkway, Suite 400
Frisco, Texas 75034
(972) 292-5150

For Frisco Community Development Corporation (CDC)
George Purefoy, City Manager, City of Frisco
6101 Frisco Square Blvd. 5th Floor
Frisco, Texas 75034
(972) 292-5105

COMPLIANCE WITH APPLICABLE LAWS

All work undertaken by the Applicant pursuant to this Agreement shall be performed in compliance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, all Occupational Safety and Health Administration, Department of Transportation and Resource Conservation and Recovery Act regulations. In the event of a conflict in the application of federal, state, or local laws, ordinances and regulations, the Applicant shall comply with the more/most stringent such laws, ordinances, or regulations, unless authorized otherwise in writing by TCEQ. Federal requirements shall be followed if they are the more/most stringent. However, as provided by HSC, Section 361.611 a state or local permit shall not be required, although the Applicant must coordinate with ongoing federal and state hazardous waste programs and must comply with the substantive requirements of an otherwise required state permit. Where it is determined that a permit is required under federal law, the Applicant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The Applicant shall be responsible for obtaining all federal permits which are necessary for the performance of any work hereunder.

APPLICABLE RULES AND REGULATIONS

The VCP rules, 30 Texas Administrative Code (TAC) 333, Subchapter A and the following rules or regulations are specifically designated as being directly applicable for the Site and must be followed. Citation of these rules does not imply that they are the only applicable rules.

__X__ 30 TAC 350 (Texas Risk Reduction Program Rules - TRRP)
_____ 30 TAC 334 (Petroleum Storage Tank Rules)
_____ Other _____

SUBMITTALS AND SCHEDULES

The following plans and reports were included with the VCP application, in this Agreement, or have been added by amendment to this Agreement:

_____ Phase I Environmental Site Assessment (ESA)
_____ Phase II/Limited Phase II ESA

_____ Affected Property Assessment Report - Texas Risk Reduction Program (TRRP) Rules
_____ Response Action Plan (TRRP)
__X__ Other: **Soil Investigation Report, J Parcel Area, Exide Technologies, Frisco, Texas**

In compliance with the aforementioned rules or regulations, the required submittals shall include a monthly status report, which describes all activities completed for the current month and those planned for the upcoming month. In order to complete the voluntary cleanup activities which are necessary for Certificate of Completion issuance, the following plans and reports will be submitted according to the schedule specified below (put anticipated date of submittal of report in blanks or NA if not applicable):

TRRP Submittals:
Affected Property Assessment Report **by September 13, 2013**
Response Action Plan **by September 13, 2013**
Response Action Completion Report **Within 90 days of completion of response action**
Response Action Effectiveness Reports **NA**
Post-Response Action Completion Reports **NA**
Monthly Status Report will be submitted by the **10th** of each month.
Other reports (or indicate if attached Exhibit B): **Community Relations Plan expected by February 15, 2013, Phase I Environmental Site Assessment expected by February 28, 2013**

If the Applicant is self-implementing to Remedy Standard A, a completed TCEQ Form 10323 (Self- Implementation Notice) must be attached to this Agreement. If the Applicant is self-implementing, TCEQ will not review or comment on site-specific issues submitted by the Applicant prior to submittal of the Response Action Completion Report (RACR) or the Response Action Effectiveness Report if the RACR has not been previously submitted.

Petroleum Storage Tank Submittals:
Release Determination Report (TCEQ-0621) _____
Assessment Report Form (TCEQ-0562) _____
Plan B Risk Assessment Report _____
Corrective Action Plan Worksheets (TCEQ-0707) _____
Operation, Monitoring and Performance Report Form (TCEQ-0696) _____
Site Closure Request Form (TCEQ-0028) _____
Other Reports (or indicate if attached Exhibit B): _____

The TCEQ may terminate this Agreement if:

1) the aforementioned submittals are not submitted by the time frames stated above unless TCEQ approves an Applicant's revised schedule; or

2) responses to TCEQ comments on the aforementioned submittals are not submitted in accordance with time frames provided in TCEQ comments letters.

Proposed future land use to be achieved:

___ Residential (i.e., unrestricted)*
_X_ Non-residential (i.e., commercial/industrial)
___ Other (e.g., agricultural or recreational) _____

*** The Site will be remediated to risk-based residential clean-up standards (or below, in the case of lead), however, deed restrictions will be placed on the Site limiting future Site development to commercial/industrial use.**

DESIGNATED PROJECT MANAGER

On or before the effective date of this Agreement, the TCEQ and the Applicant shall each designate a project manager. Each project manager shall be responsible for overseeing the implementation of this Agreement. The TCEQ project manager will be the TCEQ- designated representative at the Site. To the maximum extent possible, communications between the Applicant and TCEQ and all documents (including reports, approvals and other correspondence) concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the project managers. During implementation of this Agreement, the respective project managers shall whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each party has the right to change its respective project manager by notifying the other party in writing at least five days prior to the change.

ACCESS

To the extent that the Site or other areas where work is to be performed hereunder is presently owned or controlled by parties other than those bound by this Agreement, the Applicant shall obtain, or shall use its best efforts to obtain access agreements from the present owners. Best efforts shall include at a minimum, a certified letter from Applicant to the present owner of such property requesting an access agreement to permit Applicant, TCEQ, their authorized representatives and persons designated by the TCEQ in accordance with HSC, Section 361.752(c) access to such property. Any such access agreement shall be incorporated by reference into this Agreement. Such an agreement shall provide access for Applicant, TCEQ and authorized representatives of TCEQ, and persons designated by the TCEQ in accordance with

HSC, Section 361.752(c), as specified below. In the event that such access agreement is not obtained, the Applicant shall so notify TCEQ, which may then, at its discretion, assist the Applicant in gaining access.

The Applicant shall provide authorized representatives of TCEQ access to the Site and other areas where work is to be performed at all reasonable times. Such access shall be related solely to the work being performed on the Site and shall include, but not be limited to inspecting records, operating logs and contracts related to the Site; reviewing the progress of the Applicant in carrying out the terms of this Agreement; conducting such tests, inspections, and sampling as TCEQ may deem necessary; using a camera, sound recording, or other documentary type equipment for field activities; and verifying the data submitted to TCEQ by the Applicant hereunder. The Applicant shall permit TCEQ's authorized representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to this Agreement and over which the Applicant may exercise control. All persons with

access to the Site pursuant to this Agreement shall comply with submitted health and safety plans. The TCEQ does not approve health and safety plans.

DISPUTE RESOLUTION

This section (Dispute Resolution) shall apply to any dispute arising under any section of this Agreement, unless specifically excepted. It should be noted, that as provided for in HSC, Section 361.607, the executive director or the Applicant in its sole discretion may terminate the Agreement by giving 15 days advanced written notice to the other.

The parties shall use their best effort to, in good faith; resolve all disputes or differences of opinion informally. If, however, disputes arise concerning this Agreement which the parties are unable to resolve informally, the Applicant may present written notice of such dispute to TCEQ and set forth specific points of dispute and the position of the Applicant. This written notice shall be submitted no later than five calendar days after the Applicant discovers the project managers are unable to resolve the dispute. The Applicant's project manager shall notify the TCEQ's project manager immediately by phone or other appropriate methods of communication prior to written notice, when he/she believes the parties are unable to resolve a dispute. Within ten days of receipt of such a written notice, the TCEQ will provide a written response to the Applicant setting forth its position and the basis therefore. During the five calendar days following the receipt of the response, the parties shall attempt to negotiate in good faith a resolution of their differences. If during this negotiation period, the TCEQ concurs with the position of the Applicant, the Applicant will be notified in writing and this Agreement shall be modified to include any necessary extensions of time or variances of work.

Following the expiration of the previously described time periods, if no resolution of the disputed issue(s) has been reached, the executive director shall make a determination regarding the dispute, based upon and consistent with the terms of this Agreement and will provide written documentation of such determination to the Applicant.

At this juncture, if dispute resolution fails and either or both parties exercise their right to withdraw from the Agreement by giving 15 days advance written notice to the other, only those costs incurred or obligated by the TCEQ before notice of termination of the Agreement are recoverable under the Agreement.

RESERVATION OF RIGHTS

TCEQ and Applicant reserve all rights and defenses they may have pursuant to any available legal authority unless expressly waived herein.

Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity which the parties may have against any person, firm, partnership or corporation, not a party to this Agreement for any liability it may have arisen out of, or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any materials, hazardous substances, hazardous waste, contaminants or pollutants at, to or from the Site. The parties to this Agreement expressly reserve all rights, claims, demands, and causes of action they have against each other, and against any and all other persons and entities who are not parties to this Agreement.

The Applicant reserves the right to seek contribution, indemnity, or any other available remedy against any person other than TCEQ found to be responsible or liable for contribution, indemnity or otherwise for any amounts which have been or will be expended by the Applicant in connection with the Site.

During the term of this Agreement, TCEQ will not bring an enforcement action against Applicant for any violations of statutes or regulations for the specific violations or releases that are being remediated by this Agreement, unless the Applicant or TCEQ withdraws from this Agreement prior to completion of the response action. However, a responsible party remains liable for contamination should response action standards change or additional contamination be discovered. Non-responsible party Applicants have a release from liability upon issuance of the Certificate of Completion subject to statutory conditions in Section 361.610(c) HSC.

ADMINISTRATIVE COSTS

Applicant A, unless indicated otherwise in Exhibit "A", agrees to reimburse TCEQ for all of its costs associated with implementation of this Agreement. TCEQ's costs may include direct and indirect costs of overhead, salaries, equipment, utilities, legal, management and support costs associated with the review of the Applicant's work plans and reports and oversight of field activities.

The TCEQ will track all costs to the TCEQ for review and oversight activities related to the Site and provide monthly invoices to the person responsible, per this Agreement for said costs. If TCEQ costs are less than the application fee of one thousand ($1,000) dollars, the remaining balance in the Site account will not be refunded. The Applicant shall pay these invoiced costs to the TCEQ within 30 days after the date the Applicant receives notice that these costs are due and owing. If payment is not made within 30 days after the date the second notice that these costs are due and owing is sent, the TCEQ will stop reviewing any site-related submittals. If payment is not made within 30 days after the date the third notice is sent, the TCEQ shall terminate this Agreement and request that the attorney general bring action to recover all costs allowed by law.

Checks shall be made payable to the Texas Commission on Environmental Quality and be mailed along with a transmittal letter stating the Site name, VCP number, and addressed to the Texas Commission on Environmental Quality; MC-214; Attention: Cashier; P.O. Box 13088, Austin, Texas, 78711-3088.

In the event that this Agreement is terminated for any reason, Applicant A, unless indicated otherwise in Exhibit "A", agrees to reimburse TCEQ for all costs incurred or obligated by the TCEQ before notice of termination of the Agreement.

NOTICE OF BANKRUPTCY

As soon as Applicant has knowledge of its intention to file bankruptcy or no later than seven days prior to the actual filing of a voluntary bankruptcy petition, Applicant shall notify TCEQ of its intention to file a bankruptcy petition. In the case of an involuntary bankruptcy petition, Applicant shall give notice to the TCEQ as soon as it acquires knowledge of such petition.

INDEMNIFICATION

The Applicant agrees to indemnify and save and hold the State of Texas, its agencies, successors, departments, agents and employees, harmless from any and all claims, damages or causes of action arising from or on account of, the willful or negligent acts or omissions of the Applicant, its officers, directors, principals, employees, receivers, trustees, agents, successors, subsidiaries over which the Applicant exercises control and assigns in carrying out the activities pursuant to this Agreement. By entering into this Agreement, the Applicant does not assume any liability arising from the acts or omissions of the TCEQ or its agents or employees in carrying out any activities pursuant to this Agreement.

EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

The effective date of this Agreement shall be the date on which this Agreement is signed by the Executive Director of TCEQ or his/her authorized representative.

This Agreement may be amended by mutual agreement of TCEQ and the Applicant. Amendments shall be in writing and shall be effective when signed by the Executive Director of TCEQ, or his/her authorized representative.

TERMINATION AND SATISFACTION

The provisions of the Agreement shall be satisfied when TCEQ gives the Applicant written notice in the form of a Final Certificate of Completion that the Applicant has demonstrated to TCEQ's satisfaction that all terms of this Agreement have been completed, including the selection and implementation of a response action, when appropriate.

Nothing in the Agreement shall restrict the State of Texas from seeking other appropriate relief to protect human health or the environment from pollution or contamination at or from this Site not remediated in accordance with this Agreement.

SIGNATURES

Applicant A

By: Bruce A. Cole
(signature)

Date: 2/7/13

Name: Bruce A. Cole
(print or type)

Title: Executive Vice President, Strategy and Business Development, Exide Technologies

Applicant B

By: _____
(signature)

Date: _____

Name: George Purefoy
(print or type)

Title: City Manager, City of Frisco

Applicant C

By: _____
(signature)

Date: _____

Name: James L Gandy
(print or type)

Title: President, Frisco Economic Development Corporation (EDC)

Applicant D

By: _____
(signature)

Date: _____

Name: George Purefoy
(print or type)

Title: City Manager, City of Frisco, for Frisco Community Development Corporation (CDC)

TCEQ Representative

By: _____
(signature)

Date: _____

Name: _____
(print or type)

Title: _____

SIGNATURES

Applicant A

By: _____ (signature)

Date: _____

Name: Bruce A. Cole (print or type)

Title: Executive Vice President, Strategy and Business Development, Exide Technologies

Applicant B

By: George Purefoy (signature)

Date: 3-4-13

Name: George Purefoy (print or type)

Title: City Manager, City of Frisco

Applicant C

By: James L. Gandy (signature)

Date: 2-26-13

Name: James L Gandy (print or type)

Title: President, Frisco Economic Development Corporation (EDC)

Applicant D

By: George Purefoy (signature)

Date: 3-4-13

Name: George Purefoy (print or type)

Title: City Manager, City of Frisco, for Frisco Community Development Corporation (CDC)

TCEQ Representative

By: _____ (signature)

Date: 3/27/2013

Name: Anna R. Brolloths (print or type)

Title: Manager

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
VOLUNTARY CLEANUP PROGRAM AGREEMENT
ADDITIONAL APPLICANTS FORM

Applicant E

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Applicant F

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Applicant G

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Applicant H

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____