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Mr Doug Patterson
London Borough of Bromley
Civic Centre
Stockwell Close
Bromley
BR1 3UH

Our ref: DWR/slj/0816_01

Your ref:

Date: 5th August 2016

Dear Doug,

Remediation of Waste4Fuel waste transfer station at Cornwall Drive, Orpington, Kent, BR5 3JB.

This letter is supplementary to the agreement reached between us on 18 March 2015, which, except to the extent amended by this letter, remains in force. [A copy of that agreement is enclosed for ease of reference.] I am writing to confirm the Environment Agency's (EA) position regarding the remediation of the Waste4Fuel (W4F) transfer station at Cornwall Drive, Orpington (the site).

The costs associated with clearing the site have increased since the original agreement. Additionally I also recognise that it has become necessary for LBB to acquire Cornwall Drive in order to facilitate access to the site.

We will pay LBB an additional £609,384 in recognition of these increased and additional costs. These additional funds are to be used by LBB as a contribution towards the costs associated with acquiring Cornwall Drive and for LBB to hold the remaining funds on trust until it has acquired the freehold of the W4F site. At which point the remaining funds, including the £1,800,000 already held on trust by LBB, are to be used towards the costs associated with LBB clearing the illegally deposited waste from the site.

LBB will remain responsible for the cost of clearing the lawfully deposited waste from the site and increase the amount it contributes to clearing the site to achieve that aim.

If the cost of clearing the site is less than the expected £2,589,384 the actual costs will be shared in the proportion of 2.3:0.3.

This will be the final payment from the EA regarding this site. Any additional expenditure associated with the remediation of the site will be covered by LBB.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Rooke".

David Rooke
Deputy Chief Executive



Waste4fuel briefing: spending approvals

Summary

Purpose	Treasury Approval	Defra Accounting Officer Approval	Sum Approved	Date of Approval(s)	Note
Clearance of the site	Yes	No	Not specified	9 March 2015	Conditions applied by HMT
Purchase of the access road	Yes	Yes	£120,000	19 January 2016 (HMT) 5 February 2016 (Defra AO)	Conditions applied by HMT

1. Spending approval for clearance of waste at the former Waste4fuel site.

Defra officials first approached Treasury officials to obtain approval for the use of Defra funds to clear waste abandoned at the former Waste4fuel site in January 2015.

The briefing note attached at **Annex A** was supplied by Defra to Treasury officials in January 2015 to inform the discussions between officials. The briefing note makes clear that the estimated total clearance cost for the site fell within a range of £2.05 million to £2.66 million plus VAT.

HMT officials briefed the Exchequer Secretary to Treasury (XST) on the Waste4fuel case and Defra's request for approval of the use of Defra funds to clear the site.

On 9 March 2015 the XST wrote to the Defra Secretary of State (see **Annex B**) approving the use of Defra funds to clear the site. The approval provided by XST to Defra was on the principle of using Defra funds to clear this site and did not specify a financial limit on the use of Defra funds for this purpose.

Subsequent to approval provided by the XST on the 9 March Treasury officials applied a further condition to the approval provided for the use of Defra funds to clear the site on the 17 March 2015 (**See Annex C**). Treasury Officials specified that the use of funds to clear the site should be linked to the transfer of the site's freehold.

On 18 March Paul Leinster (Chief Executive of the Environment Agency(EA)) wrote to Doug Patterson (Chief Executive of the London Borough of Bromley (LBB)) (see **Annex D**) agreeing to the payment by the EA of £1.8m to LBB to contribute to the cost of clearing the site. LBB committed in the same agreement to give due consideration to a contribution of £300,000. It would have been clear at that point that there was a potential funding pressure if it transpired that actual clearance costs were closer to the upper range of the estimated figure.

Regardless of any current funding pressure associated with clearing the site it is clear that the approval provided by Treasury on the use of Defra funds to clear the site was not linked to the initial payment made by the EA to LBB of £1.8m and that consequently no further Treasury approval is required for the use of Defra funds for this purpose.

2. Spending approvals of payment to the landowner of the Waste4fuel site

A. Treasury approval

Defra officials submitted a business case to Treasury officials on the 23 December 2015 (see **Annex E**) to obtain Treasury approval on a proposal to use of Defra funds to make a payment to the landowner of the Waste4fuel site to enable purchase of the site's access road. Approval was sought for a maximum spend of £120,000.

Treasury officials gave approval to the proposal on the 19 January 2016 (see **Annex F**) subject to the following conditions:

- (i) the Defra Accounting Officer is satisfied that the proposal meets the key public sector principles set out in Chapter 1, box 1.1 of Managing Public Money;
- (ii) the approval does not set a precedent for expenditure on any such sites in the future;
- (iii) that the proposal does not include any element of ex-gratia payment;
- (iv) that the conditions in the XST letter of 9 March 2015 stand, where applicable; and should development take place at this site, any proceeds should be split between those funding site clearance.

B. Defra Accounting Officer approval

Officials sought the views of the Defra Accounting Office in a submission dated 4 February 2016 (**Annex G**).

The Defra Accounting Officer was asked to note the conditions set by Treasury on their approval of the proposed purchase of the access road and to confirm that the Defra Accounting Officer was content with the Waste Regulation and Crime team's assessment that the Accounting Officer tests were met in respect to the proposal.

The Defra Accounting Officer confirmed on the 5 February (see **Annex H**) that she had noted the Treasury conditions and that she was satisfied the Accounting Officer Tests had been met.

Subsequent to this approval the Defra Accounting Officer was briefed on the 7 April and the 12 April regarding a proposal to increase the amount of the offer to the landowner for the purchase of the access road to the sum of £120,000. The Defra Accounting Officer confirmed that she was content for a settlement up to £120,000 to be pursued (see **Annex I**).

The approvals provided by Treasury and the Defra Accounting Officer in respect of the proposal to purchase the access road approve the use of a maximum of £120,000 for this purpose.