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Mr Alistair Neill  
Chief Executive  
Herefordshire Council  
Brockington  
35 Hafod Road  
Hereford  
HR1 1SH

**Your ref:**  
**Our ref:**  
**Date:** 20 December 2013

Dear Ms Haines and Mr Neill,

**Herefordshire Council and Worcestershire County Council Waste Infrastructure Project (the "Project"): Waste Infrastructure Credit Letter<sup>1</sup>**

1. I refer to your draft Variation Business Case (VBC) in relation to the Project submitted on 31 July 2013 and subsequently updated in September 2013.
2. We have had various discussions with your Authorities concerning the VBC's implications for continuing Waste Infrastructure Grant support for the Project. I am writing to confirm these implications and to set out future arrangements for Waste Infrastructure Grant support for the Project.
3. As you know, by a letter dated 23 October 1998, Defra's predecessor department, the Department for Environment, Transport and Regions ("**DETR**") issued a promissory note to Worcestershire County Council ("**WCC**") in respect of PFI (now Waste Infrastructure) Credits of £57.361m in support of the Project. That was the second of two promissory notes issued in support of your Project: the first was issued in the form of a letter from DETR to WCC dated 17 March 1998 (together, the "**Promissory Notes**").
4. When the PFI Credits were allocated in 1998/1999, it was on the basis of eligible expenditure, including for recycling and Energy from Waste (EFW) facilities. We understand from your letter dated 10 December 2013 that the capital expenditures

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<sup>1</sup> The former PFI credits are now referred to as Waste Infrastructure Credits. Likewise the former PFI Grant is now referred to as Waste Infrastructure Grant.

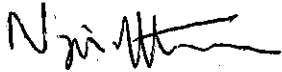
envisaged in 1998 other than those related to the EfW facility have been invested. However the main residual waste treatment infrastructure – the Energy from Waste facility - is still to be delivered.

5. Your Authorities propose to deliver the EfW facility with the Authorities providing debt finance to the contractor. My letter dated 13 November 2013 outlines our main concerns with the proposal. Therefore, from the first quarter of 2014/15, the Authorities will not receive any Waste Infrastructure Grant payments from Defra to contribute to the running costs of the proposed EfW facility.
6. Pursuant to recent discussions at officer level and with the agreement of both Authorities on 12 December 2013, as notified in the joint letter of 13 December 2013 from your Section 151 Officers, we are writing in the following terms. The terms under which PFI Credits were allocated to the Project in 1998/1999 are varied and superseded by this letter. Defra, by this Waste Infrastructure Credit Letter, now confirms the continuation of payment of the Waste Infrastructure Grant for the Project to your Authorities solely to support the service payment of the facilities already delivered. Subject to the remaining provisions of this letter, the Waste Infrastructure Grant payable with effect from the first quarter of 2014/15 will be £2,416,044 per annum until 2022/23 followed by £1,710,559 for the final year of the contract (2023/24). The maximum WIG from the first quarter of 2014/15 until contract expiry in December 2023 is £23,454,955.
7. This Waste Infrastructure Credit letter is subject to:
  - i. The following project specific conditions:
    - a. The Authorities will develop and provide Defra at the beginning of each financial year with an annual recycling and composting plan which details how the Authorities will make year on year progress to achieve the 50% recycling and composting target by 2020;
    - b. The Secretary of State may require your Authorities to make payments in respect of any EU financial sanctions resulting from an infraction of EU law where any acts of your Authorities were found to have caused or contributed to that infraction.
  - ii. your Authorities continuing to comply with any relevant terms of the Promissory Notes dated 17 March 1998 and 23 October 1998.
  - iii. your Authorities' agreement to and compliance with the general terms and conditions set out below:
    - a. Your Authorities are required to send a copy of the signed variation agreement and any related contract documentation (including financing) directly to the WIDP team in Defra. This will be used for compliance monitoring purposes. Please send this on CD (or any other appropriate medium) marked for the attention of

The WIDP Scrutiny Team (area 2B), Defra, Nobel House, 17 Smith Square, London SW1P 3JR or submit via your Transactor.

- b. If you have not already done so, you should also publish your VBC (once approved by the Authorities' respective members) on at least one of your Authorities' websites within one month of completion of the variation agreement, although you may remove any information which falls within the exceptions to the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.
  - c. Your Authorities must provide to Defra all information that Defra requests in relation to the Project and, furthermore, must act proactively and in good faith in providing information relevant to Defra's involvement with the Project and the Authorities' involvement.
  - d. Your Authorities must not, without Defra's prior written approval, agree or make any material changes to the terms of the Contract that relate to the recycling and composting services. Any plan for any such changes must be reported to Defra and approved by Defra before the changes are agreed with the Contractor or implemented. Approval to such changes, if given, would be confirmed by way of a further Waste Infrastructure Credit Letter.
8. The Waste Infrastructure Grant is not intended to match or correlate directly to the payments that arise under the Contract between your Authorities and their Contractor. The level of Waste Infrastructure Grant payable in the remaining funding period will not therefore be affected by any decision of your Authorities in respect of the planned Energy from Waste facility and/or by any other new facilities and/or by any increase in the costs of the project for any other reason.
  9. Existing or future central government guidance, including the CLG Local Government PFI Project Support Guide (or as it may be amended), is guidance only and may be updated from time to time. Your Authorities are bound by any relevant terms of its Promissory Notes and this Waste Infrastructure Credit Letter. In the case of any discrepancy or overlap between the terms of this Waste Infrastructure Credit Letter, your Authorities' Promissory Notes and any central government Guidance, they shall have priority in the order in which they appear in this sentence.
  10. Any departure from the terms and conditions of this Waste Infrastructure Credit Letter or the Promissory Notes, or a termination of the Contract, may affect your Authorities' continuing entitlement to the Waste Infrastructure Credits and therefore Waste Infrastructure Grant.

Yours sincerely,



Nigel Atkinson  
Programme Director  
Waste Infrastructure Delivery Programme (WIDP)  
**Email:** [widp.programmeoffice@defra.gsi.gov.uk](mailto:widp.programmeoffice@defra.gsi.gov.uk)

cc:

Patrick Birch – Director of Resources (S151 Officer), Worcestershire County Council  
Peter Robinson – Chief Financial Officer (S151 Officer), Herefordshire Council  
John Hobbs – Director of Business, Environment and Community, Worcestershire County Council  
Sean Pearce – Head of Corporate Financial Strategy, Worcestershire County Council  
Rachel Hill – Programme Director, Waste  
Teresa Oliviere – WIDP Project Transactor  
Wijanty Tijono – Head of WIDP Commercial Team and Contracts  
David Watts – WIDP Programme Manager