

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Approval to commence procurement process for energy contracts
<b>Cabinet Member:</b>	Councillor Damian White
<b>SLT Lead:</b>	Jane West – Chief Operating Officer
<b>Report Author and contact details:</b>	Mark Butler 01708 432947 Mark.Butler@onesource.co.uk
<b>Policy context:</b>	Supporting the Havering Vision as an enabler via the effective procurement of energy resources
<b>Financial summary:</b>	<p>There are no direct financial implications associated with commencing the procurement process as this will be conducted within existing resources.</p> <p>The corporate energy contracts are worth around £3.5m over the next 12 months, the cost of which is met from existing budgets across a range of services. Consumption and consequent expenditure is mitigated where possible by a number of energy efficiency measures</p>
<b>Relevant OSC:</b>	O&S
<b>Is this decision exempt from being called-in?</b>	No

### The subject matter of this report deals with the following Council Objectives

Communities making Havering  
 Places making Havering  
 Opportunities making Havering

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Connections making Havering

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## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the commencement of a procurement process via the LEP Laser (London Energy Project) energy framework seeking 1 year supply contracts with effect from 1<sup>st</sup> April 2020.

### AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 [Responsibility for Functions], para 3.4 of the Constitution – Powers of Members of the Senior Leadership Team

#### Contract Powers

(a) to approve commencement of a tendering process for all contracts above a total contract value of £500,000.

### STATEMENT OF THE REASONS FOR THE DECISION

The Council currently procures its corporate energy supplies (gas and two energy contracts) via a framework operated by Crown Commercial Services (CCS). The contracts mainly cover energy supplies to Council buildings, schools, highways lighting, and common parts in housing schemes and are worth around £3.5m per annum. The existing arrangements for both gas and electricity are due to expire on 31<sup>st</sup> March 2020. The required six months' notice has been submitted to CCS indicating the Council's intention to reprocure its supply contract to commence at the end of the current arrangement.

The London Energy Project (LEP), a public sector shared service, enables its participating authorities to achieve better value for money, process efficiencies, social value and carbon reduction through innovation, and working and buying together. The LEP has recommended its participant member authorities use an enhanced LASER framework they negotiated, to manage contracts ready for delivery of energy supplies by April 2020. LASER, a company wholly owned by Kent County Council, is a Central Purchasing Body which has specialised in the purchase of energy for the public sector for 30 years.

The London Borough of Havering is part of the oneSource arrangement and its partner, the London Borough of Newham is already benefiting from the LASER framework, which is now recommended by the LEP to its member authorities which includes the LB of Havering. Using the LASER framework will help oneSource to manage both authorities' energy procurement and management in a uniform and effective way. The proposed framework will also provide cost avoidance as the LEP has negotiated a better value framework with LASER compared to the wider LASER offer and the CCS framework. By utilising the LEP/LASER framework for LB of Havering, the current gas supplier (CORONA) will remain the gas supplier and one

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electricity supplier (NPOWER) will be appointed to manage all HH (Half Hourly) and NHH (Non Half Hourly) metered and non-metered electricity supplies unlike in the previous CCS framework where two different suppliers had to be managed. This will help in the transfer process for all the gas accounts to a new contract and having just one provider will help with managing the electricity accounts for all types of customers.

Under the new framework, we will also get the opportunity to manage the major corporate sites under LASER's fully managed option where LASER will validate invoices within the contract. This option was not available within the CCS framework and the staff team which carried out the management activities no longer exists.

It should be emphasised that this Executive Decision only enables the commencement of a procurement process and that the outcome will be the subject of separate Key Executive Decisions in the coming weeks.

**OTHER OPTIONS CONSIDERED AND REJECTED**

Options Energy	Advantages	Dis-Advantages
<b>1. Buy Direct i.e. Procure from market and manage our own partner brokerage</b>	<ul style="list-style-type: none"><li>• Savings (Not determined as outside recommended practice)</li><li>• Control of own strategy</li><li>• Flexible in market</li><li>• Concurrent to market</li><li>• Flexible in demand</li></ul>	<ul style="list-style-type: none"><li>• Does not conform to the Pan-London Energy Project recommendation that all Public Sector organisations adopt aggregated, flexible and risk-managed energy procurement.</li><li>• Procuring the supply will require a full OJEU process</li><li>• Increased staff resources required</li><li>• In-House technical broker expertise becomes a single point of failure and high risk factor</li><li>• Best price limited to current market</li><li>• LBH would have to provide all service management</li><li>• Volume tolerance is applied by providers limiting the in-contract changes allowed and they may apply penalties</li><li>• Would not represent best practice as not forming part of an aggregated, flexible and risk-</li></ul>

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		managed, energy procurement strategy
<b>2. Full out-source i.e. 3rd party procurement; private broker &amp; bureau; e.g. Capita /Buy Energy Online; or alternative E-Auction /Broker</b>	<ul style="list-style-type: none"><li>• We retain strategic control</li><li>• Flexibility</li><li>• Access to wholesale market (aggregated)</li><li>• Variety of procurement tools available</li><li>• Cost &amp; hidden fees</li></ul>	<ul style="list-style-type: none"><li>• Low procurement volume would not drive best price model.</li><li>• Need to compliantly procure the broker</li><li>• Need clarity over procurement requirements</li><li>• Needs local client sign-off as new options are agreed</li><li>• Missing opportunities i.e. buying during market lows, due to local sign off /availability of relevant decision-maker in line with scheme of delegation</li><li>• Cost &amp; Fees transparency</li><li>• Supply tolerance</li></ul>

**PRE-DECISION CONSULTATION**

None

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Mark Butler

Designation: Technical Director

Signature: *Mark Butler*

Date: 7/2/2020.

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

If a framework is not used to procure the Council's energy needs then there is a risk of non-compliance with the Public Contracts Regulations 2015 (PCR 2015). There is also risk of non-compliance with the EU Directive on energy efficiency measures like DEC, EPC, etc. The value of the contracts means that their procurement is subject to full compliance with the PCR 2015. Compliance with the Regulations is met by utilising an existing compliant framework which is accessible to the Council for call-off arrangements.

In relation to the activities which are the subject of this report the Council has powers under s111 Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council is also empowered to enter into contracts for the discharge of its powers under the Local Government (Contracts) Act 1997. These powers can be coupled with the Council's general power of competence under s1 of the Localism Act 2011 to do anything that corporate individuals generally may do as long as there are no statutory bars.

### **FINANCIAL IMPLICATIONS AND RISKS**

None given as this Executive Decision seeks only to commence a procurement process and does not commit the Council to financial expenditure. Further Executive Decisions will follow for each award and the relevant financial consequences stated on each.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no anticipated HR issues resulting from the decision to commence a procurement process.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

There are no equalities implications as a result of these energy contracts as they are supplied to buildings. The members of the energy frameworks are required to answer questions regarding their equalities policy and any adverse findings as part of their procurement of a public sector framework.

### **BACKGROUND PAPERS**

None

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

~~Proposal NOT agreed because~~

**Details of decision maker**

Signed Jane West

Name: Jane West

CMT Member title: Chief Operating Officer

Date: 11/2/20

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 11/2/20

Signed P. J. [Signature]

