



Appendix 1 to this report is exempt by virtue of paragraph 3 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

CABINET	18th September 2024
Subject Heading:	Award of Energy Contracts 2024-28
Cabinet Member:	Councillor Paul McGeary
ELT Lead:	Kathy Freeman – Chief Operating Officer
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Policy context:	<ul style="list-style-type: none">• Havering’s Medium Term Financial Strategy• Havering’s Climate Change Action Plan• Havering’s Corporate Plan 2024-2027• Havering’s HRA Business Plan and Capital Programme update
Financial summary:	The energy contracts are worth around £5.3m per annum (£21.3m over the next 4 years, with a 1-year extension option providing a sum total of £26.7m); 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
Is this a Key Decision?	Yes - expenditure or saving (including anticipated income) of £500,000 or more
Is this a Strategic Decision?	Yes
When should this matter be reviewed?	We need to take a decision and award the contract by the end of September 2024 so that the selected public sector procurement body is able to purchase energy in advance for the period starting in April 2025.
Reviewing OSC:	Places

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

People - Things that matter for residents [X]

Place - A great place to live, work and enjoy [X]

Resources - A well run Council that delivers for People and Place [X]

SUMMARY

This report seeks approval to use the LASER (Kent County Council) flexible Procurement Framework 2024-28 and award contracts for the supply of electricity and gas upon expiry of the existing arrangements on 31st March 2025. This approach will save the Council a substantial amount of money over the term of the contracts. Further details of this are contained within exempt **Appendix A**.

It is recommended that Cabinet award the Council's electricity supply contract to Npower, and gas contract to Corona energy utilising LASER's 2024-2028 framework agreement. The term of the Framework Agreement will be from 2022 - 2028. The supply period is 1st October 2024 through to 30th September 2028, unless terminated in accordance with the Conditions of the Framework Agreement. The combined value of the proposed call-off contracts is expected to be around £21.2m in total over the next 4 years, for the 2025-2029 contractual period with the option to extend for a further 1 year estimating the total cost to be around £26.7m.

The contracts will include the supply of electricity and gas to the Council's corporate buildings; street lighting; housing, and schools that choose to opt-in.

This report recommends the use of the following two framework agreements:

Flexible Procurement and Supply of Half Hourly (HH), Non-Half Hourly (NHH), Metered and Unmetered Electricity with Meter Operations and Additional Services — Y22009; and Supply of Natural Gas Daily Metered and Non-Daily Metered — Y22008.

RECOMMENDATIONS

That Cabinet:

1. Approve entering into an access agreement with Kent County Council, trading as LASER, so the Council can access framework agreements for Electricity (Flex 2024-2028, Framework Number: Y22009) and Gas (Flex 2024-2028 Framework Number: Y22008).
2. Approve the award of an electricity supply contract under LASER framework agreement Y22009, to Npower Commercial Gas Limited (Company number 03768856) (Npower), for the period of four years commencing on 1 April 2025 and expiring on 31 March 2029, with an estimated value of £14m) and with one year's extension option with an estimated value of £17.5m.
3. Approve the award of a gas supply contract under LASER framework agreement Y22008 to Corona Energy Retail 4 Ltd (Company number 02798334) (Corona) for the period of four years commencing on 1 April 2025 and expiring on 31 March 2029, with an estimated value of £7.2m, with an option to extend for one year with an estimated value of £9m.
4. Approve the use of LASER's 'Price Certainty' energy buying strategy for both electricity and gas.
5. Approve the use of LASER's 'Procurement Only Service Option' (POSO)

REPORT DETAIL

1. BACKGROUND

- 1.1 Havering Council has historically procured its energy requirements (gas and electricity) on behalf of internal departments: Street Lighting, Housing (Communal areas and equipment (e.g. lifts), Schools, and FM (Corporate Buildings). The council spends an average of £5.3m a year on electricity and gas. Gas and electricity prices can fluctuate and be unpredictable, and to mitigate the risk of buying energy at times of high market prices, the majority of the public sector utilise a 'Flexible Procurement' approach which provides a cost saving initiative and security of price maintenance during times when energy prices are high.
- 1.2 The forecasted energy values for the corporate sites are given below. This is based on the 2024/25 KWH prices:

Contract Estimated Consumption and Value Current Usage	Annual Consumption kWh	Per Unit Price kWh (£)	Annual Contract Value (£m)	Two Year Contract Value (£m)	Four Year Contract Value (£m)	Five Year Contract Value (£m)
Electricity	11,057,512	0.26	2.87	5.75	11.50	14.37
Street Lighting	2,792,835	0.26	0.73	1.45	2.90	3.63
Gas	29,016,142	0.06	1.74	3.48	6.96	8.70
Total	42,866,489		5.34	10.68	21.36	26.70

Table 1 – Forecast Energy Values

- 1.2 Havering Council has been a customer with LASER since 2020 and uses the LASER framework for energy. Havering Council last carried out its energy procurement in 2020. The existing LASER call-of contract (2020-2024) was for 4 years (extended for a further 1 year until March 2025).
- 1.3 LASER is a public sector energy buying group and is part of Kent County Council's commercial services division. It provides energy procurement and contract management on behalf of its public sector members. LASER currently procures energy on behalf of over 200 public organisations, including London Boroughs, County Councils, NHS Trusts, Universities and Police foundations, managing contracts over £1.5 billion in total value, it is a significant player in the wholesale energy market, and offers competitive energy rates. The approach is compliant with procurement regulations (PCR15). LASER provides the aggregated, flexible, and risk managed approach recommended by Government, and has expertise in energy buying for local authorities.

2 PROPOSAL

- 2.1 This report recommends that the Council utilises the direct award procedure available within the LASER framework agreement as the method for awarding the new contract.
- 2.2 Laser/ Kent County Council have conducted a mini competition/ analysis based on Havering's requirements for supply of gas and electricity. As a result, Laser have

obtained the best prices that Havering could obtain on the market to show that the proposals in this report represent value for money for the Council overall.

- 2.3 The proposed Direct Award is to the Council's existing provider.
- 2.4 A small number of alternative PBOs (Public Buying Organisations) provide a similar framework to LASER, adhering to Government guidance for public bodies. As part of this review process, other PBOs were considered.
- 2.5 Several PBO's are smaller than LASER, buying significantly lower aggregated volumes, and therefore not going to market as frequently and are not as well-resourced in energy buying. Smaller PBOs do not necessarily buy sufficient volume for the employment of independent buying advisors to be viable, and as a result tend to be supplier led. PBOs have less separation of the buying and audit functions.
- 2.6 LASER's Flexible Procurement approach aggregates customer energy requirements. LASER then monitors market price drivers and buys the aggregate energy requirements in multiple 'blocks' of energy prior to the point of use. This report proposes using the Purchase in Advance option within each Framework Agreement. The Purchase in Advance option facilitates the purchase of all site volume prior to delivery for a 12-month supply period. Pass through charges will be added to arrive at the delivered price in pence per kilowatt hour. The delivered price is fixed for the 12-month period.
- 2.7 Analysis of other PBOs shows a high degree of variability in customer service – with LASER scoring well. Taking into account the large number of individual energy supply accounts that the Council manages, this is of significant importance. In terms of pricing, forward purchasing strategies can only be assessed through benchmarking of past performance.
- 2.8 Benchmarking energy service providers is a complex process. From 2007–2020, this was undertaken by the London Energy Project, a collaborative, authority-led, authority-owned Category Management resource, led by London Borough of Haringey. The LEP's principal purpose was to use authorities' combined spending power to minimise risk, reduce procurement, contract operation and back-office costs to achieve better commercial outcomes.
- 2.9 The London Energy Procurement Partnership (LEPP) was a collaboration after the discontinuation of the London Energy Partnership. The LEPP commissioned a benchmarking review which supported the views of the Council including cost of change for benefit appraisals.
- 2.10 LEPP hired Cornwall Insight to assess and deliver brokerage options. Havering was not involved in the consortium.

- 2.11 Cornwall Insight's research indicates that LASER's procurement is effective and achieves prices significantly better than the market average.
- 2.12 Many alternative providers offer similar products; however, none of them possess features that would be expected to outweigh the disruption and cost of resourcing change. Cornwall Insight further ascertained that Local Authorities currently utilising the PBO LASER are unlikely to derive substantial advantages from switching to another provider. Consequently, it is recommended that the Council continue its utilisation of LASER for the 2025-2029 contractual period.
- 2.13 The main alternatives to LASER, such as Crown Commercial Services (CCS) and private sector brokers, have been thoroughly researched. They all offer a compliant procurement route in line with Government Guidance. The CCS option provides fewer purchasing baskets, placing a greater administrative burden on member organisations, potentially increasing the overall cost.
- 2.14 Private sector brokers can also provide the procurement service as public sector procurement bodies like CCS and LASER but their procurement and purchasing options are limited. Further, such a brokerage would be procured as an added expense and their fees upwards, which may be levied on the whole bill, rather than just on the energy spend. The benefits of aggregation are lost with this route, as contracts are typically stand alone or based on smaller groups of public sector bodies
- 2.15 The existing framework option has been more widely adopted by London boroughs to maximise financial benefits and service quality.
- 2.16 LASER reports that the current frameworks have delivered cost avoidance measures by identifying and correcting overcharges, preventing erroneous bills and the procurement price achieved for energy. Further detail on LASER cost avoidance is shown in **Appendix 1**.
- 2.17 The below table provides an overview of the comparison between the available framework agreements:

	CCS	LASER
Public Contract Regulations (PCR) compliant framework	Yes	Yes
Fully managed service	No	Yes
Unmanaged service	Yes	No
Number of purchasing options	3	8
Delegated authority to purchase	Yes	Yes
Service level Agreement	Yes	Yes

Table 2 – Comparison Table

- 2.18 The recommended option is to utilise LASER's new frameworks with a contractual period from April 2025 until March 2029. These frameworks for energy supplies provide a reasonable route to the market at an affordable price for service, and LASER staff resources provide an efficient procurement route for its members.

2.19 The Council declared a climate emergency in 2023, and the revised Havering Climate Action Plan 2024-27, aimed at promoting sustainability and achieving net-zero operations by 2040, was approved at Cabinet in April 2024. A key focus is the reduction of energy consumption in buildings and street lighting to minimise fuel usage, lower energy costs, and mitigate greenhouse gas emissions associated with the built environment. The implementation of low-carbon energy sources will complement existing initiatives to enhance operational efficiency, upgrade systems, and generate on-site renewable electricity through photovoltaic panels (PVs).

2.20 The frameworks enable the future integration of Power Purchase Agreements (PPAs) for renewable energy. This encompasses the addition of renewable energy generation capacity to the grid and/or the procurement of an energy supply or tariff with a high percentage of renewable energy. Additionally, it allows for flexibility in making future energy management decisions by the Council, facilitating their progress towards achieving a 100% renewable electricity supply by 2040.

2.21 There are various benefits and many risks associated with Power Purchase Agreements. Any decision to enter into a Power Purchase agreement must involve a thorough investigation to evaluate the market position, assess the market through horizon scanning to enable a full benefits appraisal to be developed. This will need to involve a wide variety of contributors both internally and externally and will not be able to be considered as part of this decision.

REASONS AND OPTIONS

Reasons for the Decision

The Council is required to procure its energy in accordance with the Public Contracts Regulations 2015.

Alternative Options Considered

There are a number of options as set out below with the advantages and disadvantages of each listed:

Options Energy	Advantages	Dis-Advantages
1. Buy Direct i.e. Procure from market and manage our own partner brokerage	<ul style="list-style-type: none">• Savings (Not determined as outside recommended practice)• Control of own strategy• Flexible in market• Concurrent to market• Flexible in demand	<ul style="list-style-type: none">• Does not conform to the Pan-London Energy Project recommendation that all Public Sector organisations adopt aggregated, flexible and risk-managed energy procurement.• Procuring the supply will require a full tender process (timing)• Increased staff resources required• In-House technical broker expertise becomes a single point of failure and high risk factor• Best price limited to current market

		<ul style="list-style-type: none"> • We would have to provide all service management • Volume tolerance is applied by providers limiting the in-contract changes allowed and they may apply penalties • Would not represent best practice as not forming part of an aggregated, flexible and risk-managed, energy procurement strategy • Low procurement volume would not drive best price model.
<p>2.Public Sector Framework e.g. current CCS or LASER (Kent County Council)</p>	<ul style="list-style-type: none"> • LEPP aggregated risk-managed flex contracts continues to be the most appropriate price risk-managed strategy • No lengthy procurement • Budget Stability (Purchase In Advance (PIA – please see paragraph 2.5)) • Bigger basket £350m) • Supports public sector • Tried & Tested • Auditable • Rebate mechanisms • Longer Buying Window (Up to two years) 	<ul style="list-style-type: none"> • Control is limited as it subject to the framework Governance & Risk Management Strategy • Pricing strategy doesn't allow all line items to be fully negotiated and maximise saving opportunities • Suppliers are pre-selected and set for 4 -5 year term • Flexible – timing for baskets of combined authorities' needs to access the markets
<p>3. Full out-source i.e. 3rd party procurement; private broker & bureau; e.g. Capita /Buy Energy Online; or alternative E-Auction /Broker</p>	<ul style="list-style-type: none"> • We retain strategic control • Flexibility • Access to wholesale market (aggregated) • Variety of procurement tools available • Cost & hidden fees 	<ul style="list-style-type: none"> • Need to compliantly procure the broker (timing), • Need clarity over procurement requirements • Needs local client sign-off as new options are agreed • Missing opportunities i.e. buying during market lows, due to local sign off /availability of relevant decision-maker in line with scheme of delegation • Cost & Fees transparency • Supply tolerance

It is recommended to proceed with the second option; using a compliantly-procured, public sector framework with providers that buy on the wholesale energy market and in particular the LASER framework. In addition to the benefits outlined below, we can also get the opportunity to manage the major corporate sites under LASER's fully-managed category where LASER will validate all invoices within the contract. This option was not available within the CCS framework and required a team of staff to carry out this work. We will get the following additional benefits using a LASER framework:

- **Additional protections against supplier failure** – the option to switch between suppliers on the framework in the event of a supplier going out of business or materially breaching the terms of the contract.
- **Cost Avoidance through Additional Services** - A large range of energy efficiency hardware and support, renewable generation and Demand Side Response services to help achieve Havering's goals
- **Robust Framework terms and Conditions** - Written with public sector bodies in mind and contain all key terms that should be included as a standard.

- **Power and Gas purchase agreements** – additional options to generate revenue or reduce costs through customer-owned or third-party owned generators.
- **Additional green energy options** – reduced costs and more options around purchasing green energy from suppliers. Historically green energy has attracted price premiums, and recently, there has been a further increase in the price of REGO-based green energy. This element focuses mainly on the electricity market, which currently would not show best value, however the Council could consider if a proportion could be procured to assist with the carbon reduction commitments, however this would need to be carefully considered.
- **Additional trading strategies** – the ability for LASER to amend and introduce new trading strategies to meet bespoke customer requirements.
- **Additional management information requirements** – increased requirements on suppliers to provide meaningful management information to customers.
- **Additional supplier Service Level Agreement** requirements and enhanced KPIs
- **Social Value** The annual global value guaranteed through the contract (laser's framework commitment across its total spend) is £130,000 per annum, with Laser customers having the ability to apply for an element(s) of the pot to be made available for specific SV projects. Discussions are ongoing with Laser to secure a guaranteed proportion of the pot for LB Havering.

Other options considered:

'Do nothing' - is not viable, as a public authority Havering is obliged to procure services of a certain value through a compliant approach and requires the renewal of the existing contract with LASER to join new framework.

Due to the value of the Council's annual electricity and gas spend, it is required to have a contract in place. If a contract is not put in place, the Council may default onto more expensive out of contract rates that would not provide value for money, so doing nothing is not an option.

An authority-led individual tender or mini-competition - not recommended due to the cost of the tender process and not commensurate with potential benefits of retailer service efficiencies and savings. Local authorities have very few bespoke or unique business/service requirements and retailers are unlikely to offer an attractive price, service or enhancements for individuals as they may for the group.

The wholesale energy market is extremely volatile and competitive. Given the scale of expenditure over the next 5 years it is essential for the Council to exploit economies within the broader energy supply market via a public sector framework that is actively managed responding to opportunities to forward buy energy when prices are lower as utilised by most of the local authorities within London.

IMPLICATIONS AND RISKS

Financial implications and risks:

Based on 2024/25 KW/H prices and the energy usage from 2023/24. The General Fund annual cost is forecast to be £1.8m, with available budget of £2.3m. The purchase in advance price achieved by Laser, and the energy consumption used are likely to change each year, this will continue to be monitored as there is a risk that movements in either or both, will result in additional budgetary support being required.

The remaining £3.54m of forecasted cost is attributable to Housing and Schools, these elements are funded separately, from the Housing Revenue Account and the Dedicated Schools Grant respectively.

Legal implications and risks:

The Council has a general power of competence under Section 1 of the Localism Act 2011 to do anything that an individual generally may do subject to other statutory provisions limiting or restricting its use. The recommendations to award the aforementioned contracts are compatible with this statutory power.

The total value of each contract exceeds the threshold for services under the Public Contract Regulations 2015 ("2015 Regulations"). Therefore, the 2015 Regulations apply in full.

This report seeks authority to utilise two Framework Agreements for the award of its electricity and gas contracts as follows:

- Electricity Framework (Contract Award Notice: 2022/S 000-027135); and
- Gas Framework (Contract Award Notice: 2022/S 000-027136)

Both Framework Agreements appear to be compliant with the Public Contracts Regulations 2015. The Framework Agreements were executed on 27 September 2022. Participating authorities have until September 2028 to call-off suppliers from either Framework.

The Council's Contract Procedure Rule 20.4 state that where a framework agreement is operational, all subsequent purchases under the framework shall either not require further competition (if a single supplier) or, if there are two or more suppliers for those goods or services on the framework, follow the express framework provisions for choosing a supplier.

The two Framework Agreements permit direct awards to any supplier based on either, coming first overall, being the Council's incumbent provider or to the successful supplier for a particular evaluation section which is of most importance to the Council. The body of the report already sets out the reasons for the direct awards.

Human Resources implications and risks

There will be increased human resource requirements in the case of using other options, as mentioned in the report, due to the handling of high volumes of data.

Equalities implications and risks:

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to:

- the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- the need to advance equality of opportunity between persons who share protected characteristics and those who do not; and
- the need to foster good relations between those who have protected characteristics and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Then you can set out how the framework meets this duty.

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.

Health and Wellbeing implications and Risks

Making sure that buildings and street lights have lower costs and a secure supply of energy helps communities. It also helps reduce the problem of not being able to afford fuel, and makes things safer. Council buildings and other important structures help the people who live in the area. They provide safe and comfortable places for everyone to hang out, do sports, do business, and meet new people. This helps make life better for everyone and keeps people healthy and happy.

Environmental and Climate Change Implications and Risks

The chosen framework will provide the necessary tools to reduce our carbon emissions related to our property assets. This includes the ability to "sleeve" a PPA with additional services. Additionally, access to the LASER framework will enable us to purchase green tariffs, Renewable Electricity Guarantees of Origin certificates (REGOs), and switch electricity providers. These opportunities will be available at multiple points over the 4-year framework period, supporting the council in achieving its strategic aims, such as becoming carbon neutral by 2040, which is ahead of the national commitment to 2050. As the Council improves the energy efficiency of its building portfolio and increases renewable energy generation by installing solar panels energy requirements are anticipated to reduce over time.

1. Exempt - Appendix 1 - Cost Avoidance Report for LB Havering using LASER.