

**Report for:** Cabinet, 12 March 2024

**Title:** Procurement of the Council's Energy Contracts

**Report authorised by :** Jon Warlow, Director of Finance

**Lead Officer:** **Joe Baker. Head of Carbon Management, 020 8489 3976,**  
[joe.baker@haringey.gov.uk](mailto:joe.baker@haringey.gov.uk)  
**Risa Wilkinson, Energy Manager, 020 8489 2178,**  
[risa.wilkinson@haringey.gov.uk](mailto:risa.wilkinson@haringey.gov.uk)

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** Non-Key Decision, in accordance with CSO 9.07.1 (f)

## **1. Describe the issue under consideration**

- 1.1. The Council's current electricity and gas contracts commenced on 1 April 2020 and expire on 31 March 2025. Our current electricity supplier is Npower and current gas supplier is Corona. These contracts were called-off from LASER's 2020-2024 framework.
- 1.2. The purpose of this report is to seek approval from Cabinet to access LASER Framework Agreements and to use these to call off and procure contracts for the supply of electricity and gas to the Council for the four-year period - 1 April 2025 to 31 March 2029.
- 1.3. The new contracts will use LASER's 2024-2028 framework agreement, and it is recommended to use these to award the Council's electricity supply contract to Npower, and gas contract to Corona. The combined value of the contracts is expected to be c£56.44m in total over the next 4 years.
- 1.4. The contracts will include the supply of electricity and gas to the Council's corporate buildings; streetlighting; housing communal areas, shared services, communal heating systems, hostels and non-domestic buildings; and schools that choose to opt-in.
- 1.5. Energy prices and hence recharges to leaseholders of the costs of energy supplies have increased to the point that statutory s20 consultation is now required.

## **2. Cabinet Member Introduction**

- 2.1. Energy prices have increased significantly and with unprecedented volatility over the past couple of years, following the initial phases of the Ukraine war. This has

increased energy costs for the Council and our partners. We have mitigated against volatility and spikes in costs by procuring our energy through the LASER framework. LASER's Price Certainty purchasing strategy has consistently delivered prices lower than the market average. This strategy will provide budget certainty for the financial year and is based on a purchasing strategy that will continue to offer cost effectiveness.

- 2.2. In line with Haringey's net zero ambitions, the contract has the flexibility to add in renewable energy procurement. The Council is working with other London Boroughs as part of the London Councils' Renewable Power for London workstream, to explore joint procurement opportunities.

### **3. Recommendations**

That Cabinet:

- 3.1. Considers the outcome of consultation with leaseholders set out at paragraphs 6.44 to 6.51 of this report.
- 3.2. Approves that the Council enters 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), as permitted under CSO 7.01 b) (selecting one or more contractors from a Framework).
- 3.3. Approves the award of an electricity supply contract under LASER framework agreement Y22009, to Npower Commercial Gas Limited (Npower) for the period of four years commencing on 1 April 2025 and expiring on 31 March 2029, with an estimated value of £36.68m in accordance with CSO 9.07.1 d) (Contracts value at £500,000 or more can only be awarded by Cabinet).
- 3.4. Approves the award of a gas supply contract under LASER framework agreement Y22008 to Corona Energy Retail 4 Ltd (Corona) for the period of four years commencing on 1 April 2025 and expiring on 31 March 2029, with an estimated value of £19.76m in accordance with 9.07.1 d) (Contracts value at £500,000 or more can only be awarded by Cabinet).
- 3.5. Approves the use of LASER's 'Price Certainty' energy buying strategy for both electricity and gas.
- 3.6. Approves the use of LASER's 'Procurement Only Service Option' (POSO) as opposed to the 'Fully Managed' (FM) service.
- 3.7. Agrees that the annual and forthcoming year's estimated expenditure, will be reported to the Director of Finance and Cabinet Member for Finance. Where the estimated expenditure exceeds those stated in 3.3 and 3.4 above, Cabinet delegates the authority to the Director of Finance after consultation with the Cabinet Member for Finance, the approval to vary the contracts and increase the values to cover the additional expenditure within the original term of the contracts;

and any expected spend above a 10% increase set out in this report, shall be reported to Cabinet.

- 3.8. Notes that, in alignment with the Council's commitment to net zero by 2027, Haringey is engaged with London Councils' Renewable Power for London workstream. This aims to develop an opportunity for London Boroughs to purchase renewable electricity directly from a renewable energy generation asset such as a solar farm, through a collective Power Purchase Agreement (PPA). This opportunity may become available during the term of the electricity contract and the terms of the LASER framework contract allows for electricity volume purchased through a PPA to be transferred-in (known as sleeving in).

#### 4. Reasons for decision

- 4.1. The Council considers it necessary to enter into these two Contracts to provide an uninterrupted energy supply to the Council's buildings and services, including corporate buildings; streetlighting; housing communal areas, shared services, communal heating systems, hostels and non-domestic buildings; and schools that choose to opt-in. The Council needs to be able to supply electricity and gas to ensure Council services can operate; that common parts at residential properties have continuous service of lighting, lifts, security and electrical equipment; that residential shared heating systems continue to operate and that schools opting-in have continuous electricity and gas supply.
- 4.2. Energy prices have fluctuated significantly in recent years. To allow for any future fluctuations in prices, delegated authority is being sought to approve contract variations to allow for continuous supply of energy to the Council and its partners.
- 4.3. The decision is not a key decision in accordance with CSO 9.0.7.1 (f) that states "*In accordance with Part 5 Section C of the Constitution, the award of spot contracts for care packages and contracts for the supply of energy to the Council are not "key decisions".*"

#### 5. Alternative options considered

- 5.1. **Short term, spot buy (fixed duration, fixed price contracts)** This is where the Council would buy short-term contracts for a fixed price over the time period, directly with suppliers. Although it is possible that lower prices could be achieved, the opposite is also true. This is a high-risk strategy and the council would be significantly more exposed to the vagaries of the wholesale market (a price for the supply period is fixed on a single day). The Council also risks paying higher off-contract prices until appropriate new contract(s) are in place. The approach is not compliant with either Procurement Standing Orders (PSOs) or public procurement legislation. Further, the Pan Government Energy Project (now part of the Cabinet Office) recommendation is that all public sector organisations adopt aggregated, flexible and risk-managed energy procurement. This has been ruled out due to the risk of price volatility and lack of in-house expertise.
- 5.2. **Procure the Council's energy by direct tender** - This option would involve the Council running a standalone compliant tender process to secure contracts with the selected energy provider(s) (or via a broker see option 5.3). This approach is

unlikely to produce the best results due to the relatively small scale of the Council's energy requirement compared to that of most large purchasing organisations. By contrast, a Public Sector Buying Organisation can obtain good wholesale prices through aggregating the demand of many public sector organisations. In addition, a direct tender would require us to engage additional resources (skilled energy traders and additional staff for contract management) and provide greater risk of exposure to energy price fluctuations. This option is therefore deemed unviable.

- 5.3. **Procure through a Private Sector based provider** - The Council would require a tender for a private sector Third Party Intermediary (TPI) to procure energy supply (as option 5.2 above), but it would need to be sure that we would be getting best value through a truly aggregated, flexible contract. Full price transparency of all costs, including TPI fees and any commission paid by suppliers to the TPI would be needed. By aggregating our volumes, the TPI could access the wholesale market on our behalf, but we may only receive prices based on the supplier's view of the market. A compliant tender process would be required to engage with such a provider with all the associated resource and time implications that would be entailed. Due to this level of complexity and lack of in-house resources to deliver this, this option has been ruled out.
- 5.4. **Do nothing.** 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.

## 6. Background information

### Previous decisions

- 6.1. The Council's current contracts were awarded to Npower for electricity and Corona for gas, through LASER frameworks, by Cabinet decision on 12 November 2019.

### Financial context – energy prices

- 6.2. Energy prices have fluctuated significantly over the last few years, from lows in 2020/21 due to the Covid-19 pandemic, to record highs following the start of the conflict in Ukraine. UK energy market prices peaked at unprecedented highs in the autumn of 2022. The UK and Europe have since diversified sourcing of gas away from Russian piped gas and raised gas storage levels to almost full capacity in advance of the winter 2023/24. Combined with mild winters in 2022/23 and 2023/24, this has seen prices come down significantly since the peak. However, they remain elevated at two to three times historic averages.
- 6.3. Energy prices are forecast to remain elevated in the long-term. Cornwall Insight, an independent energy research, analytics and consulting firm has forecast that the commodity cost element of energy pricing will remain between two to three times higher than the pre-2021 five-year average until at least 2030.
- 6.4. In addition to the ongoing conflicts in Ukraine and the Middle East, other upward pressures on pricing include the closure of nuclear power stations, delays to the

development of Hinkley Point C power station, and the increasing cost of providing additional power capacity at peak use times. Should any of the conflicts escalate, it is likely to have an upward impact on energy prices.

### **Energy price caps**

- 6.5. In response to the price increases seen in the energy market in 2022, the Government introduced the Energy Bill Relief Scheme which provided a discount on wholesale electricity and gas prices for non-domestic customers, applicable to fixed contracts, deemed, variable and flexible tariffs agreed on or after 1 April 2022 and was applied to energy used between 1 October 2022 to 31 March 2023. The wholesale prices achieved by LASER for the Council's contracted energy requirement for this period were such that the price caps did not need to be applied.
- 6.6. The Government introduced the Energy Bill Discount Scheme (EBDS) for 2023/24 which applies a price cap for Energy and Trade Intensive Industries (ETII) and Heat Networks.
- 6.7. The Council has successfully applied for EBDS ETII support for its museum and libraries portfolio and is receiving the discounts where they apply.
- 6.8. The Council has successfully applied for EBDS Heat Networks support which applies a price cap on energy supplied to a heat network that supplies heating or hot water to one or more domestic customers.

### **Contract value**

- 6.9. The 2025-2029 electricity and gas contracts will provide energy for:
  - Street lighting – mostly highways lighting but also some parks and housing developments lighting. This is approx. 10% of the combined contract value.
  - Corporate - all buildings. These are largely non-domestic e.g. offices, libraries etc but also some domestic e.g. adult services supported accommodation. This is approx. 20% of the combined proposed contract value.
  - Housing – all landlord supplies for e.g. stairwell lighting, lifts, door alarms etc; communal gas and electricity for properties on heat networks/communal heating systems; individual hostel dwelling supplies and supplies to non-domestic buildings e.g. community centres and offices. This is approx. 31% of the combined proposed contract value. With the exception of hostels, the contracts will not cover energy for individual dwellings where residents/tenants/ leaseholders have to arrange their own energy contracts.
  - Schools – all schools that opt-in. The majority of Haringey's schools are on the Council's current energy contracts and all schools will be invited to join the new contracts. This is approx. 39% of the combined proposed contract value.
- 6.10. The Council's current electricity and gas spend and projected costs under the new contracts are outlined in the tables below. The projected annual costs have been calculated as an average of 2022/23 and 2023/24 prices to reflect the elevated long-term prices that have been forecast (see paras 6.2 and 6.3), while

acknowledging that these cannot be predicted with 100% accuracy due to the volatile nature of energy markets, particularly at the present time.

**Table 1 - Electricity spend by service area (£)**

Service area	Used to calculate future projections		Projections for new contract cost	
	2022/23 Cost (£)	Forecast 2023/24 Cost (£)	Projected annual cost 2025-2029	Projected 4-year spend
Street Lighting	£1.22m	£1.55m	£1.38m	£5.52m
Corporate	£1.51m	£2.42m	£1.97m	£7.88m
Housing	£2.05m	£3.23m	£2.64m	£10.56m
Schools	£2.37m	£3.99m	£3.18m	£12.72m
<b>Total</b>	<b>£7.15m</b>	<b>£11.19m</b>	<b>£9.17m</b>	<b>£36.68m</b>

**Table 2 - Gas spend by service area (£)**

Service area	Used to calculate future projections		Projections for new contract cost	
	2022/23 Cost (£)	Forecast 2023/24 Cost (£)	Projected annual cost 2025-2029	Projected 4-year spend
Street Lighting	N/A - electric	N/A - electric	N/A - electric	N/A - electric
Corporate	£0.73m	£0.92m	£0.83m	£3.32m
Housing	£1.34m	£2.22m	£1.78m	£7.12m
Schools	£1.84m	£2.82m	£2.33m	£9.32m
<b>Total</b>	<b>£3.91m</b>	<b>£5.96m</b>	<b>£4.94m</b>	<b>£19.76m</b>

**Table 3 - Total spend by service area (£)**

Service area	Used to calculate future projections		Projections for new contract cost	
	2022/23 Cost (£)	Forecast 2023/24 Cost (£)	Projected annual cost 2025-2029	Projected 4-year spend
Street Lighting	£1.22m	£1.55m	£1.38m	£5.52m
Corporate	£2.23m	£3.34m	£2.79m	£11.16m

Housing	£3.39m	£5.46m	£4.43m	£17.72m
Schools	£4.22m	£6.8m	£5.51m	£22.04m
<b>Total</b>	<b>£11.06m</b>	<b>£17.15m</b>	<b>£14.11m</b>	<b>£56.44m</b>

- 6.11. To note - The price of energy responds to several factors outside the Council's control. These include level of supply, which may be influenced by geo-political factors (e.g. conflicts). Level of demand, such as a particularly cold season, and the costs associated with generation. As we have recently seen in the UK energy markets, these can significantly increase the costs of energy. The Council will report annually on the market prices (both current and a year ahead) to the Cabinet Member for Finance, to ensure budgets and energy management mitigation measures are in place.

### **Route to market**

- 6.12. Purchasing our energy through the current 2020-2024 LASER frameworks has protected the Council from the peaks of the price shocks that have affected the markets. If the Council had had to spot-buy its energy requirement at the peak of the energy crisis, it would have been facing prices in excess of 18 times higher than normal. The Price Certainty flexible purchasing strategy utilised by LASER to buy the Council's energy requirement has ensured that the delivered prices, while higher than normal in the last couple of years, have been many times lower than the market highs and have also been lower than the market averages for the buying periods (see exempt Appendix 1).
- 6.13. LASER is a Public Buying Organisation (PBO) wholly owned by Kent County Council, which sets up framework agreements that public sector bodies can access to purchase services and goods. LASER's framework agreements have been procured in accordance with the Public Contracts Regulations 2015. The Council may therefore access the framework agreement without needing to run its own, resource intensive compliant tender process.
- 6.14. LASER offer a flexible, risk-managed approach to purchasing energy. Buying energy in 'clips' over longer periods of time avoids the high-risk strategy of purchasing on a single day, seen on fixed price, fixed term purchasing. This approach is aligned with the recommendation of the Pan Government Energy Project (now part of the Cabinet Office) which is that all public sector organisations adopt aggregated, flexible and risk-managed energy procurement.
- 6.15. LASER have over 200 public sector customers including local authorities and the NHS. By aggregating the energy requirement of so many customers, LASER delivers economies of scale benefits on pricing by going to market with much larger volumes than Haringey's alone.
- 6.16. LASER's purchasing strategies usually achieve prices that are lower than the market average.
- 6.17. Other PBOs and private sector Third Party Intermediaries (TPI) also provide energy procurement services. The number of TPIs in particular is large, estimated to be in the thousands.

- 6.18. 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 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.
- 6.19. As the LEP ceased in 2020, in 2024, six London local authorities created a consortium, the London Energy Procurement Partnership (LEPP), to commission a provider, Cornwall Insight, to undertake and deliver a broker options assessment. Haringey was not part of the consortium. However, the councils have used the report to inform their own energy procurement decisions and have included details on this in their own Cabinet decision paper some of which are publicly available online.
- 6.20. The LEPP provided Cornwall Insight with a Statement of Requirements (SoR) which was used to complete a broker market evaluation, assessing the PBOs and TPIs. The process narrowed down a long list to a short list, with the shortlisted organisations being scored against the SoR. The assessment took into consideration the resourcing and costs required by local authorities to change suppliers.
- 6.21. Cornwall Insight’s research found that LASER’s procurement is fit for purpose and is achieving prices significantly better than market average.
- 6.22. Several other providers offer similar products, but none with features that would be expected to outweigh the disruption and cost of resourcing change. They further concluded that for Local Authorities already supplied by the PBO LASER, there is unlikely to be a material advantage to be gained from moving to another provider. It is therefore recommended that the Council continue to use LASER for the 2025-2029 contract period.

### **Supplier selection**

- 6.23. The suppliers on the Electricity Flex 2024 – 2028, Framework Number: Y22009 are Npower (1st Place Supplier), Total GP, EDF Energy and SSE.
- 6.24. The suppliers on the Gas Flex 2024 – 2028, Framework Number: Y22008 are Total Energies (1st Place Supplier) and Corona Energy.
- 6.25. The assessment criteria and weighting used by LASER to award the framework are included as Appendix 3.
- 6.26. The framework agreements permit a direct award to any supplier based on their (1) coming first overall (i.e. being the primary supplier), (2) being the incumbent supplier on an existing contract, or (3) winning a particular evaluation section which is of most importance to an organisation. There is also an option to run a mini-tender.



- 6.27. The Council proposes to award the electricity contract to Npower based on their being the primary supplier on the LASER framework agreement and being the Council's supplier on the existing contract. Npower is the first-place supplier overall and first place on cost, providing value for money assurance. In addition, Npower is the Council's current electricity supplier which should ensure a smooth transition to the new contract.
- 6.28. The Council proposes to award the gas contract to Corona based on their being the incumbent supplier on the Council's existing contract. Corona is the secondary supplier overall on the LASER framework agreement but the difference in the contract value between Corona and the primary supplier is small (less than 0.5% difference). Changing suppliers on a contract of this scale is resource intensive, requiring significant officer time for many months or years. Diverting resources from other services including contract management for such a long time for a small saving would not deliver value for money. Corona is also the first-place supplier in terms of account management/quality of service which provides long term value for money. Accurate billing, effective account management and prompt query resolution result in financial as well as time savings so it is considered that awarding the contract to Corona will be overall the most cost effective and appropriate.

#### **Purchasing strategy option**

- 6.29. LASER have four purchasing strategies or 'basket options' that will be available for this framework round:
- Purchase in Advance (PIA)                      - Price Certainty (PC1)
  - Purchase within Period (PWP)                - Signal
- 6.30. A fifth option offered by LASER, Flex, Set and Reset (FSAR) will be discontinued from September 2024, and therefore excluded from consideration.
- 6.31. The PIA strategy involves all the Council's energy requirement for a 12-month period being purchased over a period of up to three-year period in advance of the 12-month supply period. The pass-through charges (including costs to maintain the electricity and gas networks, metering costs and costs for government levies) are then added, and a delivered price is then fixed for the 12-month supply period. There is budget certainty for a 12-month period but there will be two sets of prices in each financial year as the supply period and pricing run from October to September. While the customer cannot take advantage of a falling market during the supply period, equally, they are protected from any market increases during the supply period.
- 6.32. Price Certainty (PC1) has the same buying strategy as PIA, buying all the energy requirement for a 12-month period in advance of the supply period, but the supply period and pricing run from April to March. This aligns with the financial year and provides full financial year budget certainty. For this reason, this is the preferred option of the Council.
- 6.33. Under PWP, a proportion of the energy requirement is purchased in advance of the supply period, but some volume is left open to purchase within the supply

period. A reference price is set at the beginning of the supply period, which is six months long and a reconciliation between the reference price and the final achieved price is completed at the end of the six months. PWP allows the customer to take advantage of falls in the market during the supply period but also means that should the market rise during the supply period, the reconciliation could be negative and would need to be resourced and budgeted accordingly. This option provides less budget certainty than PIA or PC1 as it has two prices per financial year and two reconciliations.

- 6.34. Signal is a new option in the 2024-2028 frameworks. The trading mechanism is driven by market price signals. Purchases and sales are made directly from these signals, buying where prices are likely to be lower and selling where they are likely to be higher, with minimal human intervention. Forecasting prices is very difficult as sales and purchases can be made within the purchasing window. The strategy is geared towards buying more aggressively in the final three months, taking advantage of opportunity in volatile markets. The basket has proved competitive vs. PIA in back-testing going back to 2010 but is likely to see wider variance in delivered pricing than the standard PIA/PWP baskets. It is a new option this year and it is considered that the Council may not wish to access an option that has not yet been tested in real-world circumstances.
- 6.35. Price Certainty is the purchasing option the Council has used historically for its current April 2020 to March 2025 energy contracts. The option was developed following a collaborative purchasing exercise of local authorities, including Haringey, led by the London Energy Project (LEP). The LEP was a collaborative Category Management resource, led by Haringey, whose 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. The joint statement of requirements that was developed to meet the needs of all the local authorities involved resulted in LASER developing the Price Certainty option.
- 6.36. It is recommended to continue with the Price Certainty basket for the following reasons:
- Price Certainty offers the best budget certainty of all the options, being priced for 12-months and in alignment with the financial year. Budget certainty is particularly important for schools and for Housing, so tenants and leaseholders can be recharged accurately.
  - Price Certainty protects from market price rises during the supply period.
  - As volume is purchased incrementally leading up to the supply period, the price can be forecasted with increasing accuracy as the supply period draws nearer.
  - The basket has been performing very well against the market during the current 2020-2025 contract, consistently achieving prices below the market average.
  - The basket has been performing well against the other basket options. Performance data is provided in exempt Appendix 1
  - The purchasing strategy is well established and is being delivered effectively by LASER.

## **Service level**

- 6.37. LASER offer two levels of management service: the Procurement Only Service Option (POSO) where LASER procure electricity and gas on the customer's behalf, but the customer interfaces directly with the suppliers for bill payment and query management. They also offer the Fully Managed (FM) service, where LASER procure electricity and gas on the customer's behalf and act as the interface between the customer and the suppliers for bill validation, bill payment and query management (also known as an Energy Bureau service).
- 6.38. The Council currently uses the POSO service, which comes at lower cost than the Fully Managed (FM) option and has a separate provider for our Energy Bureau and bill validation services. The combined cost of the POSO service and a third-party Energy Bureau is less than the cost of the FM service, so it is considered that continuing with the POSO option delivers value for money. A cost breakdown is outlined in exempt Appendix 2.
- 6.39. LASER's fee for framework management and providing a buying and risk management service, is recovered through the supplier's invoices. This fee is less than 1% of the total contract cost.

## **Social value**

- 6.40. The Council's Procurement Strategy confirms that the Council is committed to using the Public Service (Social Value) Act 2012 in procurement and commissioning functions to deliver broader social value to our residents, the local economy and our environment. All Council-tendered contracts will include 10%-25% of the scoring methodology dedicated to social value.
- 6.41. Social value was 10% of the scoring methodology used by LASER in awarding their frameworks, which is in line with the Council's own Procurement Strategy. Suppliers were required to demonstrate commitment to social value across economic, environmental and social factors.
- 6.42. The suppliers on the framework agreement have committed to providing social value funding that customers can apply for, each year of the framework agreement. The funding commitment from Npower will relate to food banks and the funding from Corona has not been directed to a specific area, at this stage.
- 6.43. In addition, there will be access to an Energy Management Qualification for five individuals across a number of customers and provision of an electronic information pack so that customers can run energy awareness events.

## **Leaseholder consultation**

- 6.44. Section 20 of the Landlord and Tenant Act 1985 (as amended) and Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003, requires that, as a landlord, the Council must consult leaseholders and Recognised Tenants' Associations where it wishes to enter into a long-term agreement for the provision of services.

- 6.45. A qualifying long-term agreement is where the minimum length of the agreement is 12 months and if any one of the leaseholders will pay more than £100 in any one year, the landlord must consult all affected leaseholders.
- 6.46. It is anticipated that, at current prices, the contracts will be qualifying long-term agreements and so the Section 20 consultation requirements apply. However, while the electricity and gas contracts qualify as long-term agreements, the Council is unable to comply with all the statutory consultation requirements. While the contracts are of a sufficient financial value that 'public notice' would be required to be given, and a Notice of Intention served in accordance with paragraph 1 of Schedule 2 to the Regulations, the Council will not be able to comply with the Notice of Intention requirement because it proposes to enter contracts accessed through existing frameworks set up by another person, i.e. LASER. LASER already issued such notices when they tendered for the frameworks.
- 6.47. The Council will therefore be applying to the First-tier Tribunal (Property Chamber) for an order dispensing with the statutory requirements. Within that Application the Council will be contending that leaseholders have not suffered relevant prejudice by its omission to follow the full statutory requirements. The application will take place after the decision to which this report relates.
- 6.48. Although a full Section 20 consultation cannot be undertaken, in line with the Haringey Deal, the Council would still like to give leaseholders the opportunity to have a say on our approach and as such has completed a non-statutory consultation with leaseholders.
- 6.49. A letter detailing the Council's proposed procurement and contract approach was sent to leaseholders on 19 January 2024 with a 30-day period to make observations. Information relating to the consultation has been placed on the Council's website and information relating to the dispensation application will also be uploaded to the same location as it becomes available.
- 6.50. The Council received four responses to the consultation and a summary of these observations and the Council's responses is below:

<b>Observation</b>	<b>Summary of response from Council</b>
We should be trying to get the contract with the lowest carbon emissions. The contract should allow for Power Purchase Agreements to be included in the contract in future, to allow for direct purchase of power from e.g. local renewable energy projects.	Haringey is engaged with London Council's Renewable Power for London workstream and is exploring setting up a joint Power Purchase Agreement (PPA) in conjunction with six other London Boroughs. This would initially cover the electricity requirement of our key corporate sites and future electric vehicle fleet and the proposed electricity contract can incorporate this.

Request for more information on costing.	Prices cannot be forecast accurately due to the nature of the energy markets and how they are affected by geopolitical events. However, as the proposals are a continuation of the current framework, suppliers and purchasing strategy, the pricing processes will remain the same, purchasing in a flexible, risk-managed way for a long period of time ahead of the supply period.
Observations received detailed repairs concerns and other issues not related to the energy contract proposals.	Further information requested on observations related to the energy contract proposals, but no further feedback received.

6.51. The full list of responses is provided in Appendix 4.

### **Contract management**

6.52. The electricity and gas contracts are procured and managed by the Council's Energy Team, within Carbon Management. The team manages the billing for over 1,700 supply points across the portfolio, addressing billing errors, metering issues and financial queries with suppliers. The team engage the services of and contract manage a third-party energy bureau and bill validation provider. The team are also responsible for managing the energy contract procurement every four years.

6.53. The team is increasingly working on opportunities to reduce the Council's energy consumption to reduce energy spend and help the Council's net zero targets. This include, but is not limited to:

- Coordinating with suppliers to exchange the manually read meters in the portfolio to automatic meters. These provide regular, accurate readings which make it easier to identify areas of energy waste.
- Analysing data to identify unexpected energy consumption, for example, gas use in a void property, that can be reduced or eliminated.
- Provision of energy consumption data for energy efficiency funding bids.
- Address mis-billing or discrepancies with suppliers on behalf of the building users.
- Work with buildings users (such as schools or community buildings) should debt arise on accounts to ensure that they are not disconnected.
- Management of 38 solar photovoltaic (PV) systems across the Council's building portfolio that generate renewable energy, reduce spend on grid electricity and generate an income through the Feed in Tariff.
- Working with local community energy groups to identify opportunities and deliver additional solar PV capacity.

6.54. Funding of the team is achieved through a rebate applied to the billing. This service fee is not expected to exceed 2.5% of the combined contract value and is applied within the bills that services pay. This process is common across local authorities and has historically been the way that the Council funds the management of this service.

## 7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes'

- 7.1. In agreeing this report, we will be contributing to the following outcomes:
- 7.2. **'Homes For the Future - Everyone has a home that is safe, sustainable, stable and affordable'** by ensuring that energy costs to tenants, leaseholders and service users are fair and represent good value for money.
- 7.3. **'Responding to the Climate Emergency - High Level Outcome 3 - A Low Carbon Place'** by having access, through the frameworks to additional services that can help the Council to deliver on its net zero targets and by being able to set up a PPA to purchase renewable electricity and transfer (known as sleeving in) this volume in through the contract.
- 7.4. **'Resident experience, participation and collaboration - High Level Outcome 2 - Inclusive Public Participation'** by consulting with leaseholders on the proposed contracts.

## 8. Carbon and Climate Change

- 8.1. As the Council has committed to reducing its carbon footprint it will need to move towards the purchasing of green energy in both electricity, and if possible, gas. These contracts enable the Council to purchase green electricity if the cost is viable for the Council. To do this the following options are under consideration:

### **REGOs**

- 8.2. LASER's electricity framework offers the option of purchasing 100% Renewable Energy Guarantees of Origin (REGOs) backed electricity i.e. purchasing electricity that the supplier can demonstrate has come from a renewable source. While purchasing REGO backed electricity is an indicator of support for reducing carbon emissions, as the electricity has already been produced, purchasing REGO backed energy doesn't reduce carbon emissions at grid-level and many suppliers are stepping away from them. REGO prices have been increasing recently and would add to the cost of electricity at a time when prices are already much higher than usual. For this reason, the option to purchase REGOs is not being sought at present. However, the option remains available within the electricity contract, should costs become viable.

### **Power Purchase Agreements (PPAs)**

- 8.3. A Power Purchase Agreement is a long-term agreement between an electricity generator and a customer whereby the price is pre-negotiated for a long-term period, usually around 15 years. This can provide significant benefits in a rising market, protecting the customer against sudden price rises. Having agreed power purchasers in place finances new renewable energy generation assets such as solar PV farms or wind turbines, providing greater renewable additionality to the grid than purchasing REGOs.

- 8.4. In March 2020, London Councils' Transport and Environment Committee (TEC) and the London Environment Directors' Network (LEDNet) issued a Joint Statement on Climate Change which set out a number of workstreams, including Renewable Power for London (RP4L). The aim of RP4L is to secure 100% renewable energy for London's public sector now and in the future.
- 8.5. Haringey is engaged with the RP4L workstream and is currently exploring setting up a joint PPA in conjunction with six other London Boroughs. The proposed PPA would cover the electricity requirement of our key corporate sites and future electric vehicle fleet.
- 8.6. This joint PPA may commence during the 2025-2029 electricity contract period. The electricity contract with Npower through the LASER framework allows for PPA volume to be sleeved in. This means that should a PPA be put in place during the contract period, we can add this generation in, as well as providing the rest of the Council's electricity requirement. There is no cap on the volume of electricity that can be transferred in through the LASER framework.

#### **Energy efficiency and renewable energy generation**

- 8.7. The Council has a target of net zero by 2027 for its key corporate buildings and transport fleet. As the Council improves the energy efficiency of its building portfolio, increases renewable energy generation by installing solar panels and assets are downsized, energy requirements are anticipated to reduce over time. It was therefore important to confirm that there are no penalties within the framework contracts for reducing volume. This supports the decarbonisation of the Council's buildings and others that will use this contract.

### **9. Statutory Officers comments (Director of Finance (procurement), Assistant Director of Legal and Governance, Equalities)**

#### **Finance**

- 9.1. This report for Cabinet to approve the recommendations as set out in para 3 of this report.
- 9.2. The estimated combined value of the electricity and gas contracts across the 4-year period 1 April 2025 – 31 March 2029 of £56.44m is a significant sum. The contracts will provide energy supply to a wide range of users including the Council's buildings and services, including corporate buildings; streetlighting; housing communal areas, shared services, communal heating systems, hostels and non-domestic buildings; and schools that choose to opt-in.
- 9.3. Energy costs have fluctuated significantly over the last few years and, despite reductions more recently, independent research highlighted in para 6.3 forecast that the commodity cost element of energy pricing will remain between two to three times higher than the pre-2021 five-year average until at least 2030. Recent history shows how volatile and difficult to accurately predict the cost of these services can be and given their monetary value and critical importance in supporting continuous delivery of key services for the Haringey residents the

recommendation to use LASER's 'Price Certainty' energy buying strategy for both electricity and gas is supported. Further, it is noted that LASER has and can continue to deliver economies of scale benefits on pricing by going to market with much larger volumes than Haringey's alone.

- 9.4. Budgetary provision for energy costs within the General Fund is managed corporately and is a key part of the Council's established budget monitoring and financial planning processes which ensures that the Council can respond in a timely manner to forecast changes and set robust and realistic budgets.
- 9.5. It is noted that under the proposed new contract, the Council's Energy team will continue to be funded via a rebate applied to the billing. This service fee is not expected to exceed 2.5% of the combined contract value and is applied within the bills that services pay. This model has worked well for the Council to this point. The team are responsible for effective management of the energy contract as well as working on opportunities to reduce the Council's energy consumption to reduce energy spend and help the Council's net zero targets.

### **Strategic Procurement**

- 9.6. Strategic Procurement have been consulted and supported the Energy Team throughout the procurement process, and can confirm the Council is able to access and call off contracts from the Laser Frameworks pursuant to CSO 7.01 (b).
- 9.7. The Laser Framework allows for direct awards depending upon ranking and continuity of service provider.
- 9.8. Npower is the primary supplier on LASER framework Y22009 and is ranked first place overall and on cost, therefore it is permitted to directly award a contract to NPower.
- 9.9. Corona is the second ranked supplier overall on LASER framework Y22008; however, they are ranked first place on Account Management and Quality of Service. Corona is the Council's current supplier and so the Direct Award through the LASER framework is permitted. Whilst there is a slight additional cost of continuing with Corona, this is very small compared to the overall value of the contract and the significant cost and timescales involved in migrating from one supplier to another. For these reasons Strategic Procurement confirms the award of the contract to Corona provides best overall value to the Council and residents.
- 9.10. The Price Certainty purchasing option is performing well under the current LASER frameworks and is anticipated to continue achieving prices below the market average under the new LASER frameworks.
- 9.11. Pursuant to CSO 9.07.1 d) all contracts of £500,000 or more may only be awarded by Cabinet.



- 9.12. Strategic Procurement confirms there are no procurement related matters preventing Cabinet from approving the Recommendations stated in paragraph 3 above.

### **Legal Comments**

- 9.13. The Assistant Director Legal and Governance (Monitoring Officer) has been consulted in the drafting of this report.
- 9.14. Approval is being sought for the Council to enter into an Access Agreement with Kent County Council trading as LASER to participate in Electricity Flex 2024 – 2028 framework agreement Y22009 and Gas Flex 2024 – 2028 framework agreement Y22008 and for the Council to call off contracts from the abovementioned framework agreements with Npower for electricity and Corona for gas.
- 9.15. The use of a Framework Agreement is compliant with Regulation 33 of the Public Contracts Regulations 2015 (the Regulations). Strategic Procurement has confirmed that the Council is a Contracting Authority which is eligible to the Framework Agreements referred to in this report and that the procurement has been carried out in accordance with the Regulations.
- 9.16. Contract Standing Order 7.01 (b) also allows for the selection of a contractor from a Framework Agreement.
- 9.17. In accordance with CSO 9.07.1 (d), all contracts valued at £500,000 (five hundred thousand pounds) or more at the time of award may only be awarded, assigned, or novated by the Cabinet.
- 9.18. In accordance with CSO 9.07.1 (f), the award of contracts for the supply of energy to the Council are not “key decisions”.
- 9.19. Council leases granted under the right to buy include provision to recover the cost of energy supplied to communal areas and heating systems.
- 9.20. In accordance with Section 20 of the Landlord and Tenant Act 1985 (as amended) and Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003, the Council is required to consult all affected leaseholders and Recognised Tenants' Associations where it wishes to enter into a qualifying long-term agreement - an agreement where the amount payable by any one contributing leaseholder under the agreement exceeds £100 in any one year.
- 9.21. While the electricity and gas contracts are qualifying long-term agreements, the Council is unable to comply with all the statutory consultation requirements and will therefore be applying to the First-tier Tribunal (Property Chamber) for an order dispensing with the statutory requirements. This application will take place after the decision to which this report relates.
- 9.22. Although a full Section 20 consultation cannot be undertaken, the Council has completed a non-statutory consultation with leaseholders, the outcome of which has been described in paras 6.44-6.51.

9.23. The Assistant Director of Legal and Governance (Monitoring Officer) see no legal reason why the recommendations set out in this report should not be adopted by Cabinet.

## **Equality**

9.24. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between people who share those protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

9.25. The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.26. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

9.27. This report recommends accessing LASER's Electricity Flex 2024 – 2028 framework Y22009 and Gas Flex 2024 – 2028 framework Y22008 and awarding the Council's Energy Contracts to Npower for electricity and Corona for gas, from 1 April 2025 until 31 March 2029. This will deliver value for money and enable continuity of electricity and gas supply to council buildings (including community centres and libraries); streetlighting; housing communal services, hostels and non-domestic properties; and enable schools to join the contract.

9.28. The award of the contract is not considered to have a direct, disproportionate impact on groups with protected characteristics in the borough. The contract will enable the council to ensure electricity and gas supply to services and accommodation more likely to be used by individuals and groups with protected characteristics including day centres, supported accommodation, youth services and schools. The social value aspect of the contracts could have a positive impact on by individuals and groups with protected characteristics. The funding available through the social value commitment by Npower will relate to food banks, which are more likely to be accessed by individuals and groups with protected characteristics.

## **10. Use of Appendices**

**Appendix 1 - LASER purchasing strategy options seasonal performance against market average** (EXEMPT from publication under para 3 of Schedule 12A of the Local Government Act 1972, '*Information relating to the financial or business affairs of any particular person (including the authority holding that information*').)

**Appendix 2 – POSO and FM cost comparison** (EXEMPT from publication under para 2 of Schedule 12A of the Local Government Act 1972, '*Information which is likely to reveal the identity of an individual*'.)

**Appendix 3 - LASER framework assessment criteria and weighting** (EXEMPT from publication under para 3 of Schedule 12A of the Local Government Act 1972, '*Information relating to the financial or business affairs of any particular person (including the authority holding that information)*'.)

**Appendix 4 - Responses to leaseholder consultation**

**11. Background papers**

N/A