

REPORT TITLE: ENERGY SUPPLY CONTRACTS

24 JUNE 2020

REPORT OF CABINET MEMBER: Cllr Kelsie Learney, Portfolio Holder for Housing and Asset Management

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WARD(S): ALL

PURPOSE

In April 2020 a Green Tariff was negotiated for the supply of electricity under the Council's existing contract. This energy contract for the supply of electricity and gas is due to expire on 30<sup>th</sup> September 2020.

This report explains how the contract has been re-tendered and seeks Cabinet approval to enter into a new energy contract for four years under a Laser framework agreement.

This new contract will enable the Council to continue using the Renewable Energy Guarantees Origin (REGO) backed renewable electricity tariff maintaining current benefits.

Coupled with carbon offsetting by the supplier, this will enable the Council to reduce its net carbon emissions by approximately 19%<sup>1</sup>. This report provides information on how the Council can procure its gas and electricity from October 2020 in accordance with Public Contract Regulations 2015 and the Council's own Contract Procurement Rules. Evidence is given to support how a new contract delivers best value by obtaining competitive energy prices with the least financial risk and an approach that supports the Council's carbon neutrality plan.

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<sup>1</sup> Figures are based on the draft 2018/19 Carbon Footprint report

RECOMMENDATIONS:

That Cabinet:

1. Approve procurement of electricity and gas via Hampshire County Council and the LASER framework.
2. Agree that authority is delegated to the Strategic Director - Place and Service Lead - Legal to negotiate terms and to enter into and to execute third party deeds of agreements with supplier terms and conditions under the LASER framework providers for gas and electricity for the period 01 October 2020 – 30 September 2024.
3. Agree that energy is purchased in a flexible manner through the method known as “Purchase In Advance”.
4. Delegate authority to the Strategic Director – Place the option to procure water in addition to gas and electricity through the same framework and enter into relevant contractual arrangements.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

## 1.1 Tackling the Climate Emergency and Creating a Greener District

The Council currently procures renewable electricity through the existing framework agreement. A new agreement with Hampshire County Council and LASER would enable Winchester City Council to continue to meet its objective for the purchase of green electricity via Renewable Energy Guarantee Origin (REGO) certificates. REGO certificates are issued per megawatt-hour of renewable generation fed into the UK's national grid. The electricity is largely generated from wind, hydro, biomass, sewerage/landfill gas or solar sources. The supplier (NPower) matches the equivalent certificates with the Council's consumption. The Business Energy product (supplying the REGO's) from NPower meet stringent carbon reporting requirements and have been verified by an independent sustainability body. The purchase of certificated green/renewable energy coupled with supplier offsetting will enable the Council to reduce its net (versus gross) carbon emissions by approximately 19%. The purchased green tariff energy coupled with the supplier offset is deducted from overall gross emissions to arrive at a net figure. This will then provide a carbon saving in tonnes. Furthermore, Hampshire County Council has the ambition to purchase energy directly from renewable energy generators in the medium term.

2 FINANCIAL IMPLICATIONS

2.1 The approximate annual value of the contract is £500k for electricity and £100k for gas.

2.2 There is a premium to be paid for the renewable electric tariff which is £0.60p/MWh which equates to £1506 per annum. This will increase from April 2021 at which time the rate could be 0.75p/MWh. The approximate annual cost for the supplier to offset 50% of carbon emissions from the tariff is £5208.

2.3 The management cost involved is incorporated within the unit price and fixed costs. Of the total contract value, this equates to 2% for LASER and 0.5% for Hampshire County Council (£13k per annum).

2.4 The approximate value of the contract for water is £131k.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The LASER Energy Framework Agreement to which this report relates was established in accordance with the provisions of Regulation 33 of the Public Contracts Regulations 2015 and is fully compliant with the Public Contract Regulations 2015 and the Council's own Contract Procedure Rules.

3.2 The Council may select one or more Contractors from a Framework established by a public body where the Council has been identified in the

OJEU Contract Notice as an approved user. The Council is permitted to use the framework without having to run separate OJEU tender processes for either the appointment of energy suppliers or contract management services.

- 3.3 The Council will enter into gas and electricity supply third party deeds of agreement on supplier terms and conditions with framework providers for a 4 year period through HCC and LASER Framework to enable gas and electricity to be procured

#### 4 WORKFORCE IMPLICATIONS

- 4.1 It is proposed that the works will be managed and administered by officers within the Asset Management Team.

#### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The Council's operational properties will benefit from the supply of renewable electricity. These include offices, sheltered housing schemes, communal areas such as stairwells within Council housing blocks, public conveniences, sport pavilions, sewage treatment works and car parks. Sites that are excluded are River Park and Meadowside leisure centres, Brooks Shopping Centre underground car park, Tower Street car park, Basepoint and street lighting.

#### 6 CONSULTATION AND COMMUNICATION

- 6.1 Consultation has taken place with Hampshire County Council's energy Framework Manager, WCC Procurement Manager, WCC Procurement and Contract Solicitor and the Carbon Neutrality Action group

#### 7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Contracting with LASER would contribute toward fulfilment of the Winchester Climate Emergency Carbon Neutrality Action Plan. The plan calls for the sourcing of 100% of all electricity purchased by the Council to come from renewable sources by 2021. Through the LASER framework the Council is able to purchase Renewable Energy Guarantee Origin (REGO) certificates.

#### 8 EQUALITY IMPACT ASSESSMENT

- 8.1 None

#### 9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None

10 RISK MANAGEMENT

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i>		
<i>Community Support</i>	Not required	
<i>Timescales</i> Contract not agreed prior to existing contract expiring in September 2020	This cabinet report recommends the replacement contract is in place prior to expiry.	
<i>Project capacity</i> Insufficient staff resources to implement the contract.	Both WCC and HCC have already allocated resources to implement and monitor the contract.	
<i>Financial / VfM</i> There is a risk prices will fluctuate as differing factors effect the energy market	Over the course of the contract it would be more likely to cost more for a fixed tariff.	
<i>Legal</i> A risk of a challenge on procurement grounds	The use of the framework reduces the risk of a procedural challenge and speeds up the process to ensure a contract is in place prior to expiry.	To enter into a new contract with a supplier on updated terms.
<i>Innovation</i>		
<i>Reputation</i> Should a contract not be in place, there is a risk that supplies be cut off.	This cabinet report recommends the replacement contract is in place prior to expiry. This method of procuring green energy demonstrates the council's commitment to sustainable energy sources. .	
<i>Other</i>		

11 SUPPORTING INFORMATION:

## 11.1 Background

The Council currently procures electricity (green/renewable) and gas via a third party agreement with Hampshire County Council (HCC). HCC have in turn contracted with Laser Energy Buying Group under an Access Agreement for the supply of energy through a Framework Agreement to administer the purchase of energy supplies. The supplier of electricity is NPower and the

supplier of gas is Total Gas. This framework contract is due to expire 30 September 2020. The Council's approximate annual spend is £500k electricity and £100k for gas.

Winchester City Council's electricity usage under contract is 4233.89 MWh. Using the Department for Business, Energy and Industrial Strategy's emission factors and a 'location based' calculation, this equates to 770 tonnes CO<sub>2</sub>e. However, by electing to procure renewable energy, this reduces to 0 tonnes CO<sub>2</sub>e, using a 'market based' calculation.

## 11.2 Details of proposal

HCC have conducted a benchmarking exercise undertaken by their energy procurement specialists in the HCC Energy Team. They have reviewed alternative routes to the energy market for Winchester City Council, HCC and its associated partners. They have concluded that the new LASER framework offers the best value, strong cost management expertise, access to additional energy efficiency products and services with minimum disruption.

LASER was established in 1989 to manage Kent County Council's energy purchasing and has since grown to become the second largest Professional Buying Organisation in the UK. They have experience in purchasing for the public sector and achieving savings through significant aggregation of over 180 authorities.

Contracting with LASER would aid the fulfilment of the Winchester Climate Emergency Carbon Neutrality Action Plan. The plan calls for the sourcing of 100% of all electricity purchased by the Council to come from renewable sources by 2021. LASER are able to meet the Council's aspirations for the purchase of renewable energy via Renewable Energy Guarantee Origin (REGO) certificates. The purchase of certificated renewable energy coupled with supplier offsetting will enable the Council to reduce its net carbon emissions by up to 19%. The Business Energy product (supplying the REGO's) from NPower meets stringent carbon reporting requirements and have been verified by an independent sustainability body.

## 11.3 Value for money

LASER offers a service of either managed or unmanaged (procurement only) services. WCC currently has a managed service which is via HCC. The benefits of having a fully managed service are that we have access to technical expertise to ensure the contracts are providing value for money. For example, in 2018 HCC carried out work to establish if there was any financial savings that could be made through capacity cost optimisation. HCC identified that the capacity allowance could potentially be reduced at five properties. Ultimately the decision to reduce the capacity by half at one of the Council properties resulted in a £869 per annum saving. In addition, HCC have carried out an unbundling of costs exercise on their own portfolio which has resulted in significant savings. HCC have advised that they would be able to apply this to the WCC portfolio. Furthermore, HCC purchases energy on behalf of itself,

East Hants District Council, New Forest District Council, Test Valley Borough Council and Havant Borough Council. Purchasing all the Council's energy through HCC will allow the Council to benefit from HCC's buying power. This can help with lowering fixed costs as the shape of the energy profile is flattened. HCC also provide portfolio management and advice

LASER is a consortium that tenders and negotiates prices on behalf of around 180 local authorities. The consortium tenders prices with energy suppliers based on energy supplies worth £450m (approximately 2% of the UK's non-domestic energy demand) rather than with just the Council's i.e. discounted prices are secured through the aggregation of demand of all participants. LASER provides a risk-managed approach through flexible purchasing recommended by Government and provides expertise in energy-buying for local authorities.

Flexible purchasing options through LASER come via Purchase Within Period (PWP) and Purchase In Advance (PIA). PWP is when a proportion of energy is purchased in advance with the remainder of energy purchased during the 6 month supply window. Energy market prices tend to get lower the closer one gets to the point of delivery. As such PWP has performed well over the past 10 years, out performing PIA by 2% on wholesale prices. However, using PWP does not safeguard one as well as PIA does in times of rising market prices which have occurred in more recent years. PIA facilitates the purchase of all site volume prior to the delivery period. Tranches of energy can be purchased in advance when prices are considered favourable. HCC are now moving all their supplies over to PIA and are recommending that WCC does the same. Market prices are currently close to a 10 year low and a number of LASER's customers want to lock in to take advantage of this. The PIA style product will secure proportionately more volume at the current market prices, effectively locking in a discount against the previous years prices. Although, this is not to say that PWP would not be able to take advantage of further dips in the market. WCC would have the option to move volumes back to PWP should it wish to do so.

#### 11.4 Conclusion

The recommendation to procure energy through the HCC contract with an option to flexibly purchase under the Purchase In Advance arrangement represents best value for the Council. HCC's energy specialists have undertaken benchmarking exercises of the energy market and determined that LASER presents the best option for itself and its associated partners. Furthermore, risk in terms of price fluctuations can be reduced where LASER buys energy under a flexible purchasing arrangement, rather than at the point of contract renewal. The Council will also benefit from the purchasing power of a Professional Buying Organisation.

## 12 OTHER OPTIONS CONSIDERED AND REJECTED

### 12.1 Option 1 – Do nothing

The consequences are unattractive because once out of our current agreement with LASER, the council is likely to find itself paying higher off-contract prices for the energy for its buildings after October 2020.

### 12.2 Option 2 – Procure our own energy by direct tender

This option is possible, but it would involve the Council undertaking a standalone OJEU tender to secure its own energy independent of a Central Purchasing Body (CPB) such as LASER or any other intermediary.<sup>2</sup>

With this option, the Council would be contracting directly with the selected energy provider(s). This approach is unlikely to produce the best results due to the small scale of our portfolio compared to a large purchasing organisation and is unlikely to offer value for money. In addition a direct tender would require the Council to engage additional resources (skilled energy traders and potentially additional staff for contract management) and provides greater risk of exposure to energy price fluctuations.

The Council could look to procure collaboratively with other Councils. However, Central Purchasing bodies are already realising the maximum benefits of joint procurement.

### 12.3 Option 3 – Other Frameworks

There are a number of other organisations that have set up OJEU compliant tendered frameworks. Some frameworks are restricted to authorities in specific parts of the public sector such as higher and further education or specific geographical areas which are not available for the Council's use.

These OJEU frameworks have been reviewed in more detail and offer a full range of brokerage, consultancy, and energy management services which are provided by a separate organisation who partners the framework providers.<sup>3</sup> The suppliers listed on the framework are invited to partake in a reverse e auction process and submit pricing based on WCC's portfolio and requirements on an agreed day. The costs are then fixed for a set period, typically two - three years. The framework's partners would be procuring for Winchester only and therefore would not have the same buying power as a

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<sup>2</sup> A Central Purchasing Body is an organisation within the public sector whose primary purpose is to buy goods and services, or put in place commercial arrangements, on behalf of or for use by other organisations.

<sup>3</sup> OJEU – stands for Official Journal of the European Union. This is the publication in which all tenders from the public sector which are valued above a certain financial threshold according to EU legislation, must be published.



consortium as they cannot aggregate the Council's volume with other customers in order to achieve further economies of scale. Furthermore, it is considered that such a fixed term model does not offer long term risk management in a volatile market.

Crown Commercial Services were approached. However, at the time of writing insufficient information was available to enable comparison. Further delay would risk securing a seamless renewal of the existing contract on new terms.

#### 12.4 Option 4 – Third Party Intermediary

A third party intermediary is an independent energy consultancy who would procure the Council's energy requirements on its behalf. The consultancy would be procured via a competitive tender based on a fee for their services, or a gain/share arrangement based on the savings made. This does not bring any advantages and is unlikely to be as competitive as the recommendation.

#### BACKGROUND DOCUMENTS:-

None

#### Other Background Documents:-

None

APPENDICES: None