

**ARTICLES OF INCORPORATION
OF
H-GAC ENERGY PURCHASING CORPORATION**

The undersigned, each a political subdivision, acting as incorporators of a corporation under Texas Local Government Code § 303.001 *et seq.*, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE 1

The name of the corporation is H-GAC Energy Purchasing Corporation.

ARTICLE 2

The corporation is a non-profit political subdivision corporation described in Texas Local Government Code §§ 303.001 *et seq.*

ARTICLE 3

The period of its duration is perpetual.

ARTICLE 4

The corporation is organized and shall be operated exclusively to act as an agent to negotiate the purchase of electricity, or to likewise aid or act on behalf of the political subdivisions for which the corporation was created, with respect to their own electricity use for their respective public facilities and to undertake all other acts permitted to be undertaken by a political subdivision corporation described in Texas Local Government Code §§ 303.001 *et seq.*

ARTICLE 5

The street address of the initial registered office of the corporation is 3555 Timmons Lane, Suite 500, Houston, Texas 77027, and the name of its initial registered agent at such address is Steve Howard.

ARTICLE 6

Except as otherwise provided in these articles and in the bylaws of the corporation, the direction and management of the affairs of the corporation and the control and disposition of its properties and funds shall be vested in a board of directors composed of such number of persons (not less than three (3)) as may be fixed by the bylaws of the corporation. Until changed by the bylaws the original number of directors shall be three (3). The directors shall continue to serve until their successors are selected in the manner provided in the bylaws of the corporation. The names and addresses of the persons who shall serve as initial directors of the corporation until their successors are duly elected and qualified are as follows:

| <u>Name</u> | <u>Address</u> |
|----------------|--|
| Guy Sutherland | 3555 Timmons Lane, Suite 500 Houston, Texas 77027 |
| Terry Henley | 3555 Timmons Lane, Suite 500 Houston, Texas 77027 |
| Andy Meyers | 3555 Timmons Lane, Suite 500 Houston, Texas 77027 |

ARTICLE 7

The corporation shall have no members with voting rights.

ARTICLE 8

These articles of incorporation, and the corporation's bylaws, have been approved by ordinance, resolution or order adopted by the governing body of each political subdivision for which the corporation is created. The power to alter, amend or repeal the bylaws or to adopt new bylaws shall be vested in the board of directors, save and except Article 3 of the bylaws.

ARTICLE 9

Any action required to, or which may, be taken at a meeting of the directors or a committee of the board of directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of directors or committee members as would be necessary to take that action at a meeting at which all of the directors or committee members were present and voted, provided such consent is in the form provided for and such action is taken in accordance with the Texas Non-Profit Corporation Act, these Articles of Incorporation and the Bylaws of the corporation.

ARTICLE 10

Pursuant to Article 6.02, Subsection (3) of the Texas Non-Profit Corporation Act, upon dissolution of the corporation in accordance with the laws of the State of Texas, the board of directors, after paying or making provision for payment of all liabilities of the corporation, and after returning, transferring, or conveying those assets of the corporation that are held subject to conditions requiring such return, transfer, or conveyance, shall distribute all the corporation's remaining assets to one or more non-profit corporations and/or public entities and/or political subdivisions as the board of directors in its sole discretion shall determine.

ARTICLE 11

A director of the corporation shall not be liable to the corporation for monetary damages for an act or omission in the director's capacity as a director, except that this Article 11 does not eliminate or limit the liability of a director of the corporation to the extent the director is found liable for: (i) a breach of the director's duty of loyalty to the corporation; (ii) an act or omission not in good faith that constitutes a breach of duty of the director to the corporation or an act or omission that involves intentional misconduct or a knowing violation of the law; (iii) a

transaction from which the director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or (iv) an act or omission for which the liability of a director is expressly provided by an applicable statute. If the Texas Miscellaneous Corporation Laws Act or any other statute of the State of Texas hereafter is amended to authorize the further elimination or limitation of the liability of directors of the corporation, then the liability of a director of the corporation shall be limited to the fullest extent permitted by the statutes of the State of Texas, as so amended, and such elimination or limitation of liability shall be in addition to, and not in lieu of, the limitation on the liability of a director of the corporation provided by the foregoing provisions of this Article 11. Any repeal of or amendment to this Article 11 shall be prospective only and shall not adversely affect any limitation on the liability of a director of the corporation existing at the time of such repeal or amendment.

ARTICLE 12

The name and address of each incorporator is:

| <u>Name</u> | <u>Address</u> |
|---------------------------------------|--|
| Houston-Galveston Area Council | 3555 Timmons Lane, Suite 500 Houston, Texas 77027 |
| City of La Porte | 604 W. Fairmont Parkway La Porte, Texas 77571 |

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2001.

**Houston-Galveston Area Council,
a political subdivision**

**City of La Porte,
a political subdivision**

**By: _____
Jack Steele, Executive Director**

**By: _____
Norman Malone, Mayor**