

**BY LAWS
OF
H-GAC ENERGY PURCHASING CORPORATION**

ARTICLE 1

NAME AND PURPOSE

1.1 **Name.** The name of the corporation is **H-GAC Energy Purchasing Corporation** (the "Corporation").

1.2 **Purpose.** 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 lawful acts not prohibited to be undertaken by a political subdivision corporation described in Tex. Loc. Gov't Code §§ 303.001 *et seq.*

1.3 **Offices.** The Corporation may have, in addition to its registered office, offices at such places, both with and without the State of Texas, as the Board of Directors may from time to time determine or as the activities of the Corporation may require.

ARTICLE 2

MEMBERS

2.1 **Number, Powers and Duties.** This Corporation shall have no voting members. The Corporation's Board of Directors may by resolution, authorize the formation of an advisory panel to provide advice to the Corporation's Board of Directors. The terms of appointment and government with respect to the advisory panel shall be determined by the Board of Directors and may be set forth in resolutions authorizing the formation of such panel.

2.2 **Identity.** The identity of the advisory members of this Corporation shall be determined by the Board of Directors (each, an "Advisory Member").

2.3 **Non-Liability of Advisory Members.** The Advisory Members shall not be individually liable for the debts, liabilities, or obligations of the Corporation.

ARTICLE 3

BOARD OF DIRECTORS

3.1 **Number, Tenure, and Vacancies.** 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 (the "Board") which shall consist of not less than three (3) persons. Such number of directors shall from time to time be fixed and determined by the Board of Directors of the Houston-Galveston Area Council, a political subdivision created under Tex. Local Gov't Code Ann. §§391 ("H-GAC Board") and shall be set forth in the notice of any meeting of the H-GAC Board held for the purposes of electing directors. Until changed by the H-GAC Board in accordance with these Bylaws, the number of directors constituting the Board shall be three (3). The original directors shall hold office until the first annual meeting of the directors and until their successors are duly elected and qualify; thereafter, directors so elected shall hold office for a period of one (1) year and until their successors are duly elected and qualify. A director elected by virtue of an increase in the number of directors of the Corporation shall hold office until the next annual meeting of directors and until his or her successor is duly elected and qualifies. A vacancy shall be declared in any seat on the Board upon the death, resignation or removal of the occupant thereof, or upon the disability of any occupant rendering him or her permanently incapable of participating in the management and

affairs of the Corporation. In case of election to fill a vacancy, the term of the successor shall be for the unexpired term for which the former occupant thereof was elected.

3.2 **Resignation of Directors.** Each director shall have the right to resign at any time upon written notice thereof to the President or Secretary of the Corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof, and the acceptance of such resignation shall not be necessary to make it effective.

3.3 **Removal of Directors.** The H-GAC Board may remove at any time a director from the Board when such removal is determined by the H-GAC Board to be in the best interest of the Corporation.

3.4 **Election.** Directors constituting the initial Board shall be named in the Articles of Incorporation of the Corporation. Thereafter, successor directors shall be elected at a regular meeting of the H-GAC Board to serve terms as directed by the H-GAC Board. A director may be elected to succeed himself or herself.

3.5 **Annual Meeting.** The annual meeting of the Board for the election of officers and the transaction of such other business as may lawfully come before the meeting shall be held at such time and on such day as established from time to time by the Board. The Chairman of the Board or the Secretary of the Corporation shall give a minimum of one day's notice of such meeting to each director, either personally or by mail, telecopy, telex or telegraph.

3.6 **Order of Business.** The order of business at the annual meeting shall be as follows:

- (a) Roll call.
- (b) Reading of the notice of the meeting.

(c) Reading of the minutes of the preceding meeting and action thereon.

(d) Acknowledge election of directors by H-GAC Board.

(e) Reports of officers.

(f) Election of officers.

(g) Miscellaneous business.

3.7 **Additional Meetings.** Meetings of the Board shall be held no less than quarterly and additional meetings shall be held whenever called by the Chairman of the Board of the Corporation or upon written request of any two directors. The Chairman of the Board or the Secretary shall give one day's notice of each such quarterly meeting and any special meeting either personally or by mail, telecopy, telex or telegraph.

3.8 **Quorum for Meetings.** A majority of the directors shall constitute a quorum for the transaction of business at all meetings convened according to these bylaws.

3.9 **Voting.** The affirmative vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by law or these bylaws.

3.10 **Proxies.** A director may vote at a meeting of the Board by proxy executed in writing by the director and delivered to the Secretary of the Corporation at or prior to such meeting; however, a director present by proxy at any meeting of the Board may not be counted to determine whether a quorum is present at such meeting. Each proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law.

3.11 **Compensation.** Directors, as such, shall not be entitled to any stated salary for their services but by resolution of the Board, expenses of attendance, if any, may be allowed for attendance at each meeting of the Board.

ARTICLE 4

NOTICES

4.1 **Form of Notice.** Whenever under the provisions of these bylaws, notice is required to be given to any director and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing by mail, postage prepaid, addressed to such director at such address as appears on the books of the Corporation. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same be thus deposited, postage prepaid, in the United States mail as aforesaid.

4.2 **Waiver.** Whenever any notice is required to be given to any director under the provisions of these bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE 5

GENERAL OFFICERS

5.1 **Election.** The officers of this Corporation shall be a Chair of the Board, a Vice Chair of the Board, a President, a Secretary/Treasurer and such other officers as may be determined and selected by the Board. The Board, at its first meeting and annually thereafter at the annual meeting, shall elect the officers. The officers so elected shall hold office for a period of one year and until their successors are elected and

qualify. The offices of President and Secretary/Treasurer may not be filled by the same person, but all other offices may be filled by the same person.

5.2 **Attendance at Meetings.** The Chair of the Board, and in his or her absence, the Vice Chair of the Board, and in his or her absence, the President, shall call meetings of the Board to order, and shall act as chairman of such meetings. The Secretary/Treasurer of the Corporation shall act as secretary of all such meetings, but in the absence of the Secretary/Treasurer the Chairman of the Board may appoint any person present to act as secretary of the meeting.

5.3 **Duties.** The principal duties of the several officers are as follows:

(a) **Chair of the Board.** He or she shall preside at all meetings of the Board, and may exercise the powers vested in him or her by the Board, by law of these bylaws, or which usually attach or pertain to such office.

(b) **Vice Chair of the Board.** When the Chair of the Board is not in attendance, he or she shall preside at all meetings of the Board. He or she shall exercise the powers vested in him or her by the Board, by law or these Bylaws or which usually attach or pertain to such office.

(c) **President.** The President shall be the chief executive officer of the Corporation. He or she shall have general charge and supervision of the business, property, and affairs of the Corporation. The President shall see that all orders and resolutions of the Board are carried into effect. The President shall sign and execute all legal documents and instruments in the name of the Corporation when authorized to do so by the Board and shall perform such other duties as may be assigned to him or her from time to time by the Board.

(d) **Secretary/Treasurer.** The Secretary/Treasurer, or other officer designated by the Board, shall (i) have charge of the records and correspondence of the Corporation under the direction of the President, and shall be the custodian of the seal of the Corporation, (ii) give notice of and attend all meetings of the Board, (iii) take and keep true minutes of all meetings of the Board of which, ex officio, he or she shall be the secretary, (iv) keep account of all moneys, credits and property of the Corporation which shall come into his or her hands and keep an accurate account of all money received and discharged, (v) except as otherwise ordered by the Board, have the custody of all the funds and securities of the Corporation and shall deposit the same in such banks or depositories as the Board shall designate, (vi) keep proper books of account and other books showing at all times the amount of the funds and other property belonging to the Corporation, all of which books shall be open at all times to the inspection of the Board, (vii) submit a report of the accounts and financial condition of the Corporation at each annual meeting of the Board, (viii) under the direction of the Board, disburse all moneys and sign all checks and other instruments drawn on or payable out of the funds of the Corporation, which checks, however, must also be signed by the President, (ix) make such transfers and alterations in the assets of the Corporation as may be ordered by the Board, (x) in general, perform all the duties which are incident to the office of treasurer, subject to the Board, and (xi) perform such additional duties as may be prescribed from time to time by the Board. The Secretary/Treasurer shall give bond only if required by the Board. (Amended Feb. 19, 2002)

5.4 **Vacancies.** Whenever a vacancy shall occur in any general office of the Corporation, such vacancy shall be filled by the Chairman of the Board subject to

ratification by the Board at its next meeting subsequent to such appointment. Such new officer shall hold office until the next annual meeting and until his or her successor is elected and qualifies.

ARTICLE 6

APPOINTIVE OFFICERS AND AGENTS

The Board may appoint such officers and agents in addition to those provided for in Article 5, as may be deemed necessary, who shall have such authority and perform such duties as shall from time to time be prescribed by the Board. All appointive officers and agents shall hold their respective offices or positions at the pleasure of the Board, and may be removed from office or discharged at any time with or without cause; provided that removal without cause shall not prejudice the contract rights, if any, of such officers and agents.

ARTICLE 7

EXECUTIVE COMMITTEE

7.1 **Members.** The Board may, by resolution passed by a majority of the whole Board, establish an Executive Committee which shall consist of not less than two (2) directors, one of whom shall be the Chair of the Board and one of whom shall be the Vice Chair of the Board.

7.2 **Powers.** The Executive Committee shall have power to make investments of funds of the Corporation and to change the same, and from time to time to sell any part or all of the assets of the Corporation or any rights or privileges that may accrue thereon and to cause the same to be transferred by the proper officers of the Corporation.

During the intervals between meetings of the Board, the Executive Committee shall have the immediate charge, management and control of the activities and business affairs of the Corporation and have full power to do any and all things in relation to the affairs of the Corporation and to exercise any and all powers of the Board in the management and direction of the business and conduct of the affairs of the Corporation.

The Executive Committee shall direct the manner in which the books and accounts of the Corporation shall be kept and cause to be examined from time to time the accounts and vouchers of the Secretary/Treasurer or designee and moneys received and paid out by the Secretary/Treasurer or designee.

The Executive Committee shall keep a record of its proceedings and report the same to the Board at each succeeding meeting of the Board. (Amended Feb. 19, 2002)

7.3 **Quorum.** A majority of members of the Executive Committee shall constitute a quorum.

ARTICLE 8

INDEMNIFICATION OF DIRECTORS AND OFFICERS

8.1 **Indemnification.** Article 1396-2.22A of the Texas Non-Profit Corporation Act permits the Corporation to indemnify its present and former directors and officers to the extent and under the circumstances set forth therein. The Corporation hereby elects to and does hereby indemnify all such persons to the fullest extent permitted or required by such Article promptly upon request of any such person making a request for indemnity hereunder. Such obligation to so indemnify and to so make all necessary determination may be specifically enforced by resort to any court of competent jurisdiction. Further, the Corporation shall pay or reimburse the reasonable expenses of

such persons covered hereby in advance of the final disposition of any proceeding to the fullest extent permitted by such Article and subject to the conditions thereof.

ARTICLE 9

AMENDMENTS

These bylaws may be amended only by the Board of Directors, save and except Article 3 of the bylaws.

CERTIFICATE

I, the undersigned, Andy Meyers, Secretary/Treasurer of H-GAC Energy Purchasing Corporation, a Texas non-profit corporation, do hereby certify that the foregoing bylaws were duly adopted as the bylaws of the Corporation on _____, 2001, by the affirmative vote of the directors of the Corporation.

Dated: _____, 2001.

Andy Meyers, Secretary/Treasurer