

**DISTRICT ENERGY CORPORATION
RESOLUTION NO. 16-4**

A RESOLUTION APPROVING AND ADOPTING AMENDED AND RESTATED ARTICLES OF INCORPORATION FOR DISTRICT ENERGY CORPORATION.

RECITALS:

I.

District Energy Corporation has operated under Amended and Restated Articles of Incorporation dated January 22, 1992 and now deems it appropriate to further amend and restate the Articles of Incorporation.

II.

In accordance with the Nebraska Non-Profit Corporation Act, the Articles of Incorporation may be amended and restated by the Board of Directors and, pursuant to the "Interlocal Cooperation Agreement between the City of Lincoln, Nebraska and the County of Lancaster Nebraska establishing District Energy Corporation" ("Interlocal Agreement"), the Articles must thereafter be approved by a majority vote of the Parties thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DISTRICT ENERGY CORPORATION:

That the "Amended and Restated Articles of Incorporation of District Energy Corporation," a copy of which is attached hereto and marked as Attachment A, are hereby approved and adopted, subject to receipt of approval from the Parties pursuant to the Interlocal Agreement.

BE IT FURTHER RESOLVED that the Recording Secretary is directed to transmit a copy of this Resolution, together with a copy of the "Amended and Restated Articles of

Incorporation of District Energy Corporation,” as adopted by this Resolution, to the City Clerk of the City of Lincoln and the Lancaster County Clerk for review and action by the Lincoln City Council and Lancaster County Board.

PASSED AND APPROVED this 23rd day of August, 2016.



President

ATTEST:



Secretary/Treasurer

1425903

ATTACHMENT A

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
DISTRICT ENERGY CORPORATION**

Pursuant to the provision of the Nebraska Non-Profit Corporation Act (Neb. Rev. Stat. § 21-1901 et seq. (Reissue 2012)), the District Energy Corporation has adopted the following Amended and Restated Articles of Incorporation on August 23, 2016, in the manner prescribed by law:

**ARTICLE I
NAME**

The name of the Corporation is District Energy Corporation.

**ARTICLE II
DURATION**

The period of the Corporation's duration is perpetual.

**ARTICLE III
PURPOSES AND POWERS**

The Corporation is a public benefit corporation. The Corporation is organized for the following purposes and shall possess the following powers:

- (a) To purchase, lease, construct, finance, and otherwise acquire, own, maintain, and operate public service and public utility property and facilities in order to furnish heating and cooling and other energy requirements and related services to federal, state and local governmental entities, agencies, and subdivisions and to the general public;

(b) To possess and exercise all powers conferred by the laws of Nebraska upon corporations organized under the Nebraska Non-Profit Corporation Act to the extent that such powers are consistent with those powers that can be delegated by the parties to the Agreement (as hereinafter defined) to the Corporation for the purposes specified in these Articles of Incorporation;

(c) To possess and exercise all the powers, privileges, and authority as authorized by the Nebraska Interlocal Cooperation Act (Neb. Rev. Stat. § 13-801 et seq. Reissue 2012) and pursuant to that certain Interlocal Cooperation Agreement dated as of the 27th day of March, 1992 by and between the City of Lincoln, Nebraska, the County of Lancaster County, Nebraska, and such other parties as may join such Interlocal Cooperation Agreement (the "Agreement").

ARTICLE IV REGISTERED OFFICE AND REGISTERED AGENT

The address, including street and number, of the Corporation's registered office is 1040 O Street, Lincoln, Nebraska 68508. The name of the Corporation's registered agent at such address is Jason L. Fortik.

ARTICLE V MEMBERS

The Corporation shall have no members.

ARTICLE VI BOARD OF DIRECTORS

The powers of the Corporation shall be exercised by a Board of Directors that shall have and shall exercise all the powers of the Corporation. The number of Directors constituting the

Board of Directors shall be specified in the Bylaws, but in no case shall the number be fewer than five (5). The number of Directors may be changed from time to time through appropriate amendments to the Bylaws.

The Directors shall be chosen in the manner as provided in the Bylaws of the Corporation. Directors shall resign when requested to do so as provided in the Bylaws of the Corporation.

ARTICLE VII REGULATION OF CORPORATION

A. The Corporation shall not have nor shall it issue any shares of capital stock in any form or denomination and shall declare no dividends. No part of the net earnings in the Corporation shall inure to the benefit of a Director or Officer of the Corporation or any private individual except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered to or for the Corporation in carrying out one or more of its purposes, and no Director or Officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

B. No Director or Officer of the Corporation shall be individually liable on any indebtedness of the Corporation.

ARTICLE VIII BYLAWS

The Board of Directors shall establish Bylaws for the conduct of the Corporation's business. The Bylaws of the Corporation, unless otherwise provided under the Nebraska Non-Profit Corporation Act, may be adopted, amended, or rescinded by the Board of Directors at any

regular or special meeting, with the consent of the parties to the Agreement as provided by the Agreement.

**ARTICLE IX
OFFICERS**

The Board of Directors shall elect such Officers as are provided for in the Bylaws.

**ARTICLE X
INDEMNIFICATION**

Any Director or Officer of the Corporation made a party to a proceeding because the individual is or was a Director or Officer shall be entitled to indemnification and to reimbursement for reasonable expenses incurred in defense of such proceedings as authorized or permitted by the then current provisions of the Nebraska Non-Profit Corporation Act.

**ARTICLE XI
DISSOLUTION**

This Corporation may be dissolved in such manner as is provided by law or as may be directed by a court having jurisdiction of its dissolution proceedings. Upon the dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed in such manner as the Board of Directors shall determine in accordance with the terms of the Agreement.

**ARTICLE XII
AMENDMENT OF ARTICLES**

These Articles of Incorporation may be amended in the manner provided by statute at the time of such amendment, with the consent of the parties to the Agreement as provided by the Agreement.

Dated as of this 23rd day of August, 2016.

President/Director

Secretary-Treasurer/Director

Vice President/Director

Director

Director

**DISTRICT ENERGY CORPORATION
RESOLUTION NO. 16-5**

A RESOLUTION APPROVING AND ADOPTING AMENDED AND RESTATED
BYLAWS FOR DISTRICT ENERGY CORPORATION.

RECITALS:

I.

District Energy Corporation has operated under Amended and Restated Bylaws adopted January 22, 1992 and now deems it appropriate to further amend and restate the Bylaws.

II.

In accordance with the Nebraska Non-Profit Corporation Act, the Bylaws may be amended and restated by the Board of Directors and, pursuant to the "Interlocal Cooperation Agreement between the City of Lincoln, Nebraska and the County of Lancaster Nebraska establishing District Energy Corporation" ("Interlocal Agreement"), the Bylaws must thereafter be approved by a majority vote of the Parties thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DISTRICT ENERGY CORPORATION:

That the "Amended and Restated Bylaws of District Energy Corporation," a copy of which is attached hereto and marked as Attachment A, are hereby approved and adopted, subject to receipt of approval from the Parties pursuant to the Interlocal Agreement.

BE IT FURTHER RESOLVED that the Recording Secretary is directed to transmit a copy of this Resolution, together with a copy of the "Amended and Restated Bylaws of District Energy Corporation," as adopted by this Resolution, to the City Clerk of the City of Lincoln and

the Lancaster County Clerk for review and action by the Lincoln City Council and Lancaster County Board.

PASSED AND APPROVED this 23rd day of August, 2016.



President

ATTEST:



Secretary/Treasurer

1425942

ATTACHMENT A

AMENDED AND RESTATED

BYLAWS

DISTRICT ENERGY CORPORATION

The bylaws have been amended and restated for the conduct of the business of the District Energy Corporation (the "Corporation"), a corporation organized and existing pursuant to the Nebraska Nonprofit Corporation Act in accordance with an Interlocal Cooperation Agreement dated as of March 27, 1992 (the "Agreement") between the City of Lincoln, Nebraska, the County of Lancaster, Nebraska, and such other entities as may join the Agreement from time to time, subject to the provisions of the Corporation's Articles of Incorporation and the laws of the State of Nebraska, at a meeting of the Board of Directors of the Corporation held in Lincoln, Nebraska, on the 23rd day of August, 2016, called for that special purpose.

ARTICLE I – MEMBERSHIP

Section 1. The Corporation shall have no members.

ARTICLE II – ACTIVITIES AND CHARACTER OF CORPORATION;

RIGHTS AND LIABILITIES OF DIRECTORS AND OFFICERS

Section 1. Activities. The Corporation shall purchase, lease, construct, finance and otherwise acquire, own, maintain and operate public service and public utility property and facilities in order to furnish heating and cooling and other energy requirements and related services to federal, state and governmental entities, agencies and subdivisions and to the general public as authorized and directed by the Board, and to exercise all powers conferred upon it by its Articles of Incorporation and the Agreement.

Section 2. Non-profit Character. The Corporation is not organized for profit and shall have no capital stock. The corporate income shall not inure, nor shall any distribution be made of any of its

property or assets, to its officers or Directors or any other private person, provided, such persons may be compensated for services rendered.

Section 3. Beneficial Interests. If the Corporation incurs indebtedness to acquire property, then upon retirement of such indebtedness full legal title to the property of the Corporation with respect to which the indebtedness is incurred shall vest with the Corporation unless otherwise provided in any contracts entered into by the Corporation.

Section 4. Dissolution. Upon dissolution of the Corporation, it shall transfer all of its right, title, and interest in its property and assets as provided in the Agreement.

Section 5. Liability. No member of the Board of Directors (the "Board") or officer of the Corporation shall be individually liable upon any indebtedness incurred by the Corporation.

ARTICLE III - DIRECTORS

Section 1. General Powers. The powers of the Corporation shall be exercised by a Board. The Board shall have power to adopt rules and regulations, not inconsistent with the Agreement, the Articles of Incorporation, these Bylaws, or the laws of the State of Nebraska, for the management, administration, and regulation of the business affairs of the Corporation.

Section 2. Election and Tenure. The term of office of a Director shall be two (2) years. The Board shall consist of five (5) members. Two (2) members shall be appointed by the Board of Commissioners of Lancaster County, Nebraska and two (2) members shall be appointed by the Mayor of the City of Lincoln, Nebraska and confirmed by the City Council. In each case, the members of the Board appointed by Lancaster County shall have terms ending in alternate years and the members of the Board of Directors appointed by the mayor of the City of Lincoln shall have terms ending in alternate years. One (1) director shall be appointed by Lincoln Electric System with a term ending on December 31 in even numbered years.

Section 3. Removal of Directors. Directors may be removed from office by the appointing entity at any time without cause.

Section 4. Vacancies. Any vacancy in the Board shall be filled by an appointee of the entity that originally appointed the former Board member. Such appointee shall serve for the unexpired portion of the term.

Section 5. Accounting and Audits. The Board shall establish and maintain an appropriate accounting system. A complete audit shall be made of the Corporation's accounts, financial records, and financial condition after the close of each fiscal year, and a report thereon shall be submitted to each party to the Agreement not later than June 1st immediately following such audit(s).

Section 6. Principal Place of Business. The principal place of business of the Corporation shall be Lincoln, Lancaster County, Nebraska.

ARTICLE IV - MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board shall be held at such time and place as the Board shall determine by resolution.

Section 2. Special Meetings. Special meetings of the Board may be called by the President or by any three Directors, pursuant to which the Secretary shall give written notice of the time, place, and purpose of such meetings to each Director no less than three days prior thereto.

Section 3. Waiver of Notice. Any director may waive, by writing, any notice of a meeting required to be given to such Director by these Bylaws. The attendance at a meeting shall constitute a waiver of notice of such meeting by such Director, except where such attendance shall be for the express purpose of objecting that any such meeting has been lawfully called and convened.

Section 4. Quorum. A majority of the Board shall constitute a quorum.

Section 5. Public Notice. The Corporation shall comply with the Nebraska Open Meetings Act (Neb. Rev. Stat. § 84-1407 et. seq., with respect to meetings of the Board.

Section 6. Contracts and Services. No officer or Director of the Corporation may be interested directly or indirectly in any contract relating to or incidental to the operations conducted by the

Corporation except to the extent permitted by, and subject to the requirements of, the Nebraska Political Accountability and Disclosure Act (Neb. Rev. Stat. § 49-1401 et. seq.).

Section 7. Compensation. Directors shall serve without compensation, but by resolution of the Board, a fixed reasonable sum or expenses of attendance, if any, or both, may be allowed for attendance at each regular or special meeting of the Board. The Board shall have the power in its discretion to contract for and to pay to any director, rendering unusual or exceptional services to the Corporation, special compensation appropriate to the value of such services.

ARTICLE V - OFFICERS AND STAFF

Section 1. Number. The officers of the Corporation shall be a President, Vice-President, and Secretary-Treasurer, and such other officers as the Board may deem appropriate from time to time, all of whom shall be members of the Board.

Section 2. Election and Tenure. At the first meeting of the Board it shall elect the officers of the Corporation, who shall serve until their successors are elected at the next annual meeting. Officers shall thereafter be elected annually for a one-year term. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

Section 3. Removal of Officers. Officers may be removed by an affirmative vote representing at least 80% of the whole Board for cause or whenever in the Board's judgment the best interests of the Corporation will be served thereby.

Section 4. President. The President:

(a) shall be the principal executive officer of the Corporation and, unless otherwise determined by the Board, shall preside at all meetings of the Board.

(b) may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board by resolution to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or of the Corporation, or shall be required by law to be otherwise signed or executed; and

(c) shall in general perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time.

Section 5. Vice-President. In the absence of the President, or in the event of the President's inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall also perform such other duties as from time to time may be assigned to the Vice-President by the Board.

Section 6. Secretary-Treasurer. The Secretary-Treasurer shall:

- (a) keep the minutes of the meetings of the Board in one or more books provided for that purpose;
- (b) see that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) be custodian of the Corporation records and of the seal of the Corporation and affix the seal of the Corporation to documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws;
- (d) have general charge of the financial records of the Corporation;
- (e) keep on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Corporation containing all amendments thereto (which copy shall always be open to the inspection of any member) and, at the expense of the Corporation, forward a copy of the Bylaws and all documents thereto to each Director;
- (f) have charge and custody of, and be responsible for, all funds and securities of the Corporation;
- (g) be responsible for the receipt of and the issuance of receipts for all monies due and payable to the Corporation and for the deposit of all such monies in the name of the Corporation in such bank or banks as shall be selected in accordance with the provisions of these Bylaws; and
- (h) in general perform all the duties incident to the office of Secretary-Treasurer and such other duties as from time to time may be assigned to the Secretary-Treasurer by the Board.

Section 7. Administrator. The Board of Directors may appoint, or may contract for the services of, an administrator to conduct the day-to-day affairs of the Corporation. The administrator shall perform such duties as may be imposed by the Board and shall exercise such authority as may be vested in the administrator by the Board from time to time. The Board may employ such other agents or employees as it may from time to time deem necessary or appropriate, and may contract for such professional services, including but not limited to, attorneys, accountants, engineers, financial consultants or other professionals as the Board may deem from time to time necessary or appropriate for the conduct of the Corporation's business.

Section 8. Bonds of Officers. The Secretary-Treasurer and any other officer or agent of the Corporation charged with responsibility for the custody of any of its funds or property shall give bond in such sum and with such surety as the Board shall determine. The Board in its discretion may also require any other officer, agent or employee of the Corporation to give bond in such amount and with such surety as it shall determine.

Section 9. Compensation. The powers, duties and compensation of officers, agents and employees shall be fixed by the Board and subject to the provisions of these Bylaws with respect to compensation for Directors.

Section 10. Vacancies. A vacancy in office because of death, resignation, removal, disqualification or otherwise shall be filled by a vote by the Board.

Section 11. Other Officers. The Board is authorized to create such other offices and appoint persons to such offices as the Board deems necessary to effectively conduct the operations of the Corporation.

ARTICLE VI - FINANCIAL TRANSACTIONS

Section 1. Contracts. Except as otherwise provided in these Bylaws, the Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in

the name and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts, wire transfers, or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Corporation shall be signed or otherwise approved by such officer or officers, agent or agents, employee or employees of the Corporation and in such manner as shall from time to time be determined by resolution of the Board.

Section 3. Deposits. All funds of the Corporation shall be deposited and be secured in the same manner as public funds to the credit of the Corporation in such bank or banks as the Board may select.

ARTICLE VII - AMENDMENT

Section 1. Amendments. These Bylaws may be altered, amended or repealed by an affirmative vote representing at least 80% of the whole Board at any regular or special meeting of the Board, provided that the notice of such meeting shall fully describe the proposed change and provided further that consent to such amendment is obtained as provided in the Agreement.

Approved and adopted by unanimous action of the Board of Directors of the Corporation present on August 23, 2016.

DISTRICT ENERGY CORPORATION

Director

Director

Director

Director

Director

1418055