

# City of Philadelphia



(Bill No. 220294)

## AN ORDINANCE

Amending Bill No. 100163-AA, entitled "An Ordinance authorizing the City of Philadelphia to organize an authority to be known as The Philadelphia Energy Authority, pursuant to the terms of the 'Municipalities Authorities Act,' of 2001, June 19, P.L. 287, No. 22, as amended, under certain terms and conditions," as amended, to reaffirm the responsibilities and powers of the Authority; authorizing and directing certain actions in connection with fulfilling the procedural requirements for the formal documentation of the related Articles of Amendment, all under certain terms and conditions.

WHEREAS, in accordance with Bill No. 100163-AA, the City authorized the organization of The Philadelphia Energy Authority ("Authority") pursuant to the provisions of the Municipality Authorities Act, Act of June 19, 2001, P.L. 287, No. 22, as amended (codified as 53 Pa. C.S. § 5601 et seq.) ("Act"), and set forth the responsibilities and powers of the Authority; and

WHEREAS, by Ordinance approved January 3, 2019 (Bill No. 181007), the City determined that it was desirable to expand upon the responsibilities, purposes and power of the Authority and amended, in relevant part, Bill No. 100163-AA; and

WHEREAS, Bill No. 181007's amendment of Bill No. 100163-AA provides for the Authority's expanded responsibilities, purposes and powers to enable the Authority to finance energy storage and/or generation projects and energy efficiency projects, promote a vital clean energy sector of the Philadelphia economy and increased employment in the sector by undertaking efforts to strengthen the markets for energy efficiency and energy storage and generation projects, and have all of the powers set forth in the Act that are necessary or convenient for the Authority to carry out its purposes and responsibilities; and

WHEREAS, no formal amendment to the Authority's Articles of Incorporation was made in connection with such expansion of the responsibilities, purposes and powers of the Authority pursuant to Bill No. 181007; and

WHEREAS, the Authority's Board, in anticipation of the Authority undertaking certain financings and for greater clarity in connection with the Authority's entrance into the bond and/or other credit markets, has determined that it is in the best interest of the Authority to set forth formally in its Articles of Incorporation an express provision reflecting the intent and purposes of Bill No. 100163-AA and Bill No. 181007 pursuant to which the Authority's original responsibilities, purposes and powers were expanded; and

WHEREAS, on February 25, 2022, the Authority's Board adopted a Resolution (Exhibit A hereto) proposing an amendment to its Articles of Incorporation in accordance with the

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procedural requirements of the Act to formally set forth in such Articles of Incorporation an express provision as described above; and

WHEREAS, the Authority's Board has submitted that amendment to Council for its consideration in accordance with the procedural requirements of the Act; and

WHEREAS, Council concurs with the judgment of the Authority's Board that it is desirable for the Authority's Articles of Incorporation to be amended to set forth formally therein an express provision as described above and further desires to amend Bill No. 100163-AA, as amended by Bill No. 181007, to reaffirm the Authority's responsibilities and powers; now, therefore,

## *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. The amendment to the Articles of Incorporation of the Authority proposed in the Resolution (Exhibit A hereto) adopted by the Authority's Board on February 25, 2022, is hereby adopted and the authorization set forth in Bill No. 100163-AA, as previously amended by Bill No. 181007, is amended to include such approval.

SECTION 2. The Authority or its representative is hereby authorized and directed to prepare and file with the Secretary of the Commonwealth of Pennsylvania such Articles of Amendment and other documents related to the amendments to the Articles of Incorporation of the Authority as are necessary to satisfy the procedural requirements of the Act in connection therewith. The amendments to the Authority's Articles of Incorporation adopted by this Ordinance shall take effect upon the successful completion of the execution and verification, advertisement, and filing requirements imposed by Section 5605 of the Act. The officers and other representatives of the City are hereby authorized and directed to cooperate with the Authority, as appropriate, in carrying out the foregoing actions and satisfying the procedural requirements of the Act in connection with such amendments to the Articles of Incorporation of the Authority.

SECTION 3. This Ordinance shall be construed consistent with giving full force and effect to Bill No. 100163-AA, as previously amended by Bill No. 181007, and the intent thereof to expand upon the responsibilities, purposes and powers of the Authority.

SECTION 4. This Ordinance shall take effect immediately.

## RESOLUTION 022522-01: AUTHORIZING AN AMENDMENT TO THE AUTHORITY'S ARTICLES OF INCORPORATION

ADOPTED FEBRUARY 25, 2022

**WHEREAS**, The Philadelphia Energy Authority (“Authority”) was organized by The City of Philadelphia (“City”) pursuant to the terms of the Municipality Authorities Act, the Act of June 19, 2001, P.L. 287, No. 22, as amended (“Act”), in accordance with Bill No. 100163-AA, an Ordinance of the City (“2010 Ordinance”); and

**WHEREAS**, the Act provides that Amendments to the Articles of Incorporation of the Authority are to be proposed by resolution of the Board of the Authority (“Board”) which Amendments are then to be submitted to the City for approval; and

**WHEREAS**, the City in Bill No. 181007, an Ordinance of the City (“Amending Ordinance”), determined that it was desirable to expand upon the responsibilities, purposes and powers of the Authority and amended the 2010 Ordinance in order that the Authority be provided additional powers and purposes to finance energy storage and/or generation projects and energy efficiency projects, promote a vital clean energy sector of the Philadelphia economy and increased employment in the sector by undertaking efforts to strengthen the markets for energy efficiency and energy storage and generation projects, and have all of the powers set forth in the Act that are necessary or convenient for the Authority to carry out its purposes and responsibilities; and

**WHEREAS**, no formal amendment to the Authority’s Articles of Incorporation was previously made in connection with such expansion of the responsibilities, purposes and powers of the Authority pursuant to the Amending Ordinance; and

**WHEREAS**, the Board has determined that in anticipation of undertaking certain financings and for greater clarity in connection with the Authority’s entrance into the bond and/or other credit markets, it is in the best interest of the Authority to set forth formally in its Articles of Incorporation an express provision reflecting the intent and purposes of the 2010 Ordinance and the Amending Ordinance; and it is further

**RESOLVED**, that the following provision shall be formally added to the Authority’s Articles of Incorporation as a new section (f):

“(f) The Authority’s purposes and responsibilities shall be limited to actions for and concerning (i) the development, facilitation and/or financing of energy storage and/or generation projects, (ii) the development, facilitation and/or financing of energy efficiency projects, (iii) the purchase or facilitation of energy supply and energy services on behalf of the City of Philadelphia, government agencies, institutions and businesses, as well as the education of consumers regarding choices available in the marketplace, and (iv) the promotion of a vital clean energy sector of the Philadelphia economy and increased employment in the sector by undertaking efforts to

strengthen the markets for energy efficiency and energy storage and generation projects. The Authority shall have and may exercise all of the powers set forth in the Municipality Authorities Act, 53 Pa. C.S. § 5601 *et seq.*, that are necessary or convenient for carrying out its purposes and responsibilities.”

and existing Section (f) shall be renumbered as Section (g);

**FURTHER RESOLVED**, that any forms of amendment prescribed by the Secretary of the Commonwealth of Pennsylvania in order to amend the Articles of Incorporation of the Authority are hereby adopted and approved consistent with the terms of the amendment to the Articles of Incorporation of the Authority set forth above in this Resolution; and it is further

**RESOLVED**, that the Chair, the Secretary, the Treasurer and the President and CEO (each, an “Authorized Officer” and collectively, the “Authorized Officers”) be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Authority, to submit this proposed amendment to the governing authority of the City, to execute and deliver all such certificates, instruments and other documents, and to take or cause to be taken any and all such further actions, in each case as any such Authorized Officer of the Authority may determine to be necessary, advisable or desirable to carry out fully the purpose and intent of this Resolution, including, without limitation, the incurrence and payment of fees and expenses; and it is further

**RESOLVED**, that any and all actions previously taken by the Authority or any of its directors or officers in connection with the actions contemplated by this Resolution be, and each of them hereby is, ratified confirmed and approved in all respects as and for the acts and deeds of the Authority.

Respectfully Submitted,



Secretary of the Board of Directors

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## EXHIBIT A

(February 25, 2022 Resolution of the Authority)

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 23, 2022. The Bill was Signed by the Mayor on August 31, 2022.



Michael A. Decker  
Chief Clerk of the City Council