

**SECOND REVISED AND RESTATED BY-LAWS**

**OF**

**THE FLORIDA MUNICIPAL POWER AGENCY**

**A Separate Legal Entity Created Pursuant to Section 163.01 and Pursuant to Part II,  
Chapter 361, Florida Statutes, and Exercising Powers Granted by either Provision**

**ARTICLE I**

**AUTHORITY**

These Second Revised and Restated By-Laws of the Florida Municipal Power Agency (By-Laws) are hereby adopted by the Board of Directors pursuant to and in accordance with Article III, Section 7, of the Interlocal Agreement Creating the Florida Municipal Power Agency ( the Interlocal Agreement). References in these By-Laws are gender neutral. Any conflict between these By-Laws and the Interlocal Agreement will be governed by the Interlocal Agreement. Except as otherwise specifically provided herein these By-Laws do not govern the Executive Committee.

**ARTICLE II**

**RULES OF ORDER**

*Roberts Rules of Order Newly Revised* (RRONR) shall govern the procedure of all meetings of the Florida Municipal Power Agency (hereinafter, Agency or FMPA) and of its committees, except as otherwise provided for (i) in these By-Laws or (ii) any rules of procedure adopted by the Agency or any of its committees. The Board of Directors and every committee of the Agency, at its discretion, may adopt rules of procedure to govern the conduct

of meetings, and to the extent there is a conflict between such adopted rules of procedure and RRONR, such adopted rules of procedure shall control.

### **ARTICLE III**

#### **ELECTIONS**

Section 1.     Nominating Committee. Each year not less than sixty (60) days prior to that year's annual meeting of the Board of Directors, a nominating committee composed of three directors shall be appointed by the Board of Directors. Not less than ninety (90) days prior to each annual meeting of the Board of Directors, Agency staff shall provide to the Chairman of the Agency a list of FMPA's members divided into three groups (representing small, medium and large sized members, with no group having more than one (1) FMPA member more than another group) based upon the kWh Sales (retail) information as last reported by each FMPA member to the Florida Municipal Electric Association, Inc., or as otherwise determined by Agency staff. The Board of Directors shall appoint one director from each group of FMPA members, as presented by Agency staff, to serve on the nominating committee. The directors appointed to serve on the nominating committee shall serve until the earlier of a director's resignation from the nominating committee or until a replacement director is appointed by the Board. If at anytime a member of the nominating committee ceases to be a director of the Agency, that individual will be deemed to have resigned effective as of his or her cessation as a director.

Section 2.     Election of Officers. At least thirty (30) days prior to the annual meeting of the Agency, the nominating committee shall submit to the FMPA Board of

Directors its written report with the directors recommended by the committee for the elective offices of the Agency to be filled. No member of the nominating committee shall be eligible to be recommended by the committee for any elective office of the Agency.

The nominating committee shall also meet and nominate a director(s) to fill any vacancy(ies) for any elective office of the Agency upon the death, resignation or removal of any elected officer.

Except as provided in Article III, section 5 hereof, all elected officers of the Agency shall be elected at the annual meeting of the Agency.

Section 3. Nominations from the Floor. Nominations for each elected officer of the Agency shall also be permitted from the floor at the annual meeting or any meeting at which an election is held, and any person so nominated shall be considered a nominee if his or her nomination is seconded. If there is more than one individual nominated for any office the election shall be by roll-call ballot.

Section 4. Terms. Each elected officer shall be elected for a term of one year. The Chairman shall be limited to serving no more than six (6) consecutive one year terms.

Section 5. Resignation and Removal of Officers. Any officer of the Agency who dies, or is no longer an FMFA director, or for forty-five (45) days is unable to perform his duties due to ill health, as determined by the Board of Directors, shall be deemed to have submitted his resignation as an officer of the Agency. Any elected officer of the Agency, excluding officers of the Executive Committee, may be removed by the Board of Directors upon its determination that the best interests of the Agency so require. Upon the death,

resignation or removal of any elected officer of the Agency, the Board of Directors may elect a new officer to serve until the next annual meeting of the Board of Directors.

## **ARTICLE IV**

### **OFFICERS**

Section 1.     Designation of Officers. The elected officers of FMPA shall be the Chairman, Vice-Chairman, Secretary and Treasurer. They shall serve without compensation; however, said officers shall be entitled to reimbursement for just and reasonable travel or other expenses in carrying out their duties. The non-elected officers of FMPA shall be the General Manager and the General Counsel.

Section 2.     Chairman. The Chairman shall preside at all meetings of the Board of Directors at which he or she is present; shall appoint all committees not otherwise provided for in these By-Laws or by contract; shall ensure that the policies and procedures of FMPA are established and followed; and shall have such other powers and duties as the Board of Directors and/or the Executive Committee may from time to time delegate. The Chairman may participate as an *ex officio* member of any committee appointed pursuant to this Article IV, section 2 or any advisory committee appointed by the Chairman pursuant to Article VI, section 4; provided, however, the Chairman as an *ex officio* member of a committee shall not be entitled to vote on any committee action.

Section 3.     Vice Chairman. The Vice Chairman shall have such powers and perform such duties as may be assigned by the Board of Directors, the Executive Committee, or the Chairman. In the absence of the Chairman, or in the event of the Chairman's inability

to act, the Vice Chairman shall have and exercise all powers and duties of the Chairman.

Section 4.     Additional Vice Chairmen. Pursuant to Article IV of the Interlocal Agreement, the Board of Directors may appoint one or more additional Vice Chairmen in its discretion. If at anytime there is more than one Vice Chairman, the elected Vice Chairman is and shall be deemed to be the First Vice Chairman.

Section 5.     Secretary. The Secretary shall have general oversight responsibility to ensure that all books, documents, and papers of the Agency are kept in accordance with standard record keeping practices for utilities, and as may also be required by law, rule or regulation. The Secretary shall have general oversight responsibility to arrange for the safekeeping of the Agency Seal, to ensure that appropriate records are maintained containing the names, alphabetically arranged, of all persons who are directors of the Agency, showing their business address, and to provide for all books of the Agency to be open for public inspection. The Secretary may sign with the Chairman or Vice-Chairman of the Board of Directors, in the name and on behalf of the Agency, any contracts or agreements authorized by the Board of Directors and/or the Executive Committee; and when authorized or ordered by the Board of Directors and/or the Executive Committee, the Secretary may affix the Seal of the Agency. In general, the Secretary shall perform all duties incident to the office of Secretary, subject to the control of the Board of Directors and/or the Executive Committee, and shall do and perform such other duties as may be assigned by the Board of Directors and/or the Executive Committee.

Section 6.     Assistant Secretary(ies). The General Manager shall serve as the Assistant Secretary, and shall perform such duties of the Secretary as set forth herein and as shall be designated to the Assistant Secretary by the Board of Directors, the Executive Committee, or the Secretary. Pursuant to Article IV of the Interlocal Agreement, the Board of Directors may appoint one or more additional Assistant Secretaries in its discretion. If at anytime there is more than one Assistant Secretary, the General Manager is and shall be deemed to be the First Assistant Secretary.

Section 7.     Treasurer. The Treasurer shall have general oversight responsibility to ensure that all funds, property and securities of the Agency and its projects are properly kept in accordance with good utility and financial practice, and as may also be required by law, rule or regulation. Together with such other officers or staff of the Agency, if any, as may be designated by the Board of Directors and/or the Executive Committee, the Treasurer shall sign, or cause to be signed, all bonds, checks, bills of exchange, promissory notes, or other obligations of the Agency. The Treasurer shall have general oversight responsibility to require that full and accurate records of all transactions of the Agency and its projects be kept in accordance with acceptable accounting practice which shall be a primary responsibility of the CFO, and shall render, or cause the CFO to render, to the Board of Directors and Executive Committee, at regular meetings or such other times as they may determine, statements of the financial condition and reports of the financial transactions of the Agency. The Treasurer shall, in general, perform all the duties incident to the office of Treasurer, subject to control by the Board of Directors and the Executive Committee, and the Treasurer

shall do and perform such other duties as may be assigned by the Board of Directors and/or the Executive Committee.

Section 8.     Assistant Treasurer(s). The CFO shall serve as the Assistant Treasurer and shall perform such duties of the Treasurer as delegated to him or her by the Board of Directors, the Executive Committee, or the Treasurer. Pursuant to Article IV of the Interlocal Agreement, the Board of Directors may appoint one or more additional Assistant Treasurers in its discretion. If at anytime there is more than one Assistant Treasurer, the CFO is and shall be deemed to be the First Assistant Treasurer.

Section 9.     General Manager. The Board of Directors shall hire and establish the conditions of employment for the General Manager, who shall be the Chief Executive Officer of FMPA, and who shall be responsible for the planning, the operation, the financing, the budgeting, the administration, and the day-to-day activities of FMPA. The General Manager shall develop and provide policy advice to the Board of Directors and the Executive Committee. The General Manager shall also have the responsibility to carry out the policies, procedures and programs that have been approved by the Board of Directors and/or the Executive Committee. The General Manager, upon authorization by the Board of Directors or the Executive Committee, may execute contracts on behalf of FMPA and affix the Seal of the Agency. The General Manager shall have the responsibility of hiring and establishing the conditions of employment for all employees of the Agency, except for the General Counsel and employees in the office of the General Counsel. In the event of the death or resignation of the General Manager, the Chairman shall appoint an Interim General Manager, whose

appointment shall be effective upon ratification by the Board of Directors, who shall perform such duties of the General Manager as may be designated by the Chairman, until such time as a new General Manager shall be hired by the Board of Directors.

Section 10. General Counsel. The Board of Directors shall hire and establish the conditions of employment for the General Counsel, who shall be licensed to practice law in the State of Florida. The General Counsel shall be the Chief Legal Officer of the Agency, and shall be responsible for the preparation, review and approval of all contracts and legal documents of the Agency. The General Counsel shall interpret and answer all questions concerning these By-Laws and the Interlocal Agreement creating the Florida Municipal Power Agency. The General Counsel shall be responsible for the administration of the legal affairs of FMPA and all day-to-day legal matters of FMPA, and shall oversee all litigation and regulatory proceedings. The General Counsel shall have the responsibility of hiring all employees of the office of General Counsel. The General Counsel shall communicate with the General Manager, the Board of Directors and the Executive Committee, and provide advice and counsel to the General Manager, the Board of Directors and the Executive Committee. The General Counsel shall keep the General Manager, the Board of Directors and the Executive Committee fully informed of the legal affairs of FMPA, and perform such duties as may be assigned by the General Manager, the Board of Directors, and the Executive Committee. In the event of the death or resignation of the General Counsel, the Chairman shall appoint an Interim General Counsel, whose appointment shall be effective upon ratification by the Board of Directors, who shall perform such duties of the General Counsel as



may be designated by the Chairman until such time as a new General Counsel shall be hired by the Board of Directors.

## **ARTICLE V**

### **MEMBERS**

Section 1.     New FMPA Members - Qualifications. The Board of Directors, to the extent authorized in these By-Laws and applicable statutes, may permit any public agency operating a municipal electric system within the State of Florida, which is not a member of the Agency, to become a new member of the Agency. The Board of Directors shall determine what conditions, if any, shall be met by the proposed new member.

Section 2.     Members in Good Standing. In the event any member of the Agency fails to pay any assessment, contract amount, fee or dues to FMPA within thirty (30) days of the due date, the FMPA member shall be notified in writing of its failure to timely pay said amount. In the event the assessment, contract amount, fee or dues remain unpaid sixty (60) days after notice, then, upon written notice by the Chairman, said FMPA member shall no longer be a member in good standing and shall forfeit all rights to vote, hold office, or otherwise participate in the activities of the Agency. However, said failure to be a member in good standing shall in no way abrogate any assessment, contract obligation, fees or dues of that FMPA member.

A member who has been found not to be in good standing may reinstate its membership by payment of all past-due sums owed to FMPA. However, this reinstatement

shall not entitle said member to reclaim any office or position on the Executive Committee that may have been forfeited.

Section 3.     Directing Agency Staff. FMPA members may only direct the decision-making of Agency staff on matters of Agency policy through the General Manager and/or the General Counsel as appropriate. Nothing in this Article IV, section 11 shall prevent any FMPA member from contacting staff for advice and/or information.

## **ARTICLE VI**

### **BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE; POWERS AND**

#### **DUTIES**

Section 1.     The Board of Directors. The Board of Directors is composed of one director from each FMPA member, as provided for in Article III, Section 1, of the Interlocal Agreement.

Section 2.     Executive Committee. The Executive Committee shall be composed of such persons and exercise such power and authority as provided for in or required by the Interlocal Agreement. In the event of a conflict between these By-Laws and the Executive Committee By-Laws, these By-Laws shall control.

Section 3.     Contracts. Except as limited herein, and within the constraints of the budget of FMPA, the Executive Committee and/or the Board of Directors, as appropriate, may authorize any officer, employee or agent of FMPA to enter into any contract, or execute and deliver any instrument in the name of and on behalf of the Agency or the All-Requirements Power Supply Project, as appropriate, and such authority may be general or confined to a

specific instance; and unless so authorized by the Executive Committee and/or the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Agency by contract or engagement, or to pledge its credit, or render it liable pecuniarily for any purpose or to any amount.

Section 4.     Advisory Committees. The Chairman may appoint from among the FMPA members, or from among such persons as the Chairman may see fit, one or more advisory committees, and at any time may appoint additional members thereto. The members of any such committee shall serve at the pleasure of the Chairman. Such advisory committees shall advise and aid the officers of the Agency in all matters designated by the Chairman. Each such committee may, subject to the approval of the Chairman, prescribe rules and regulations for the call and conduct of meetings of the committee and other matters relating to its procedure.

Any FMPA member may be represented by more than one individual on any advisory committee or other committee appointed by the Chairman pursuant to Article IV, section 2 of these By-Laws; provided, however, if an FMPA member is represented by more than one individual, such FMPA member must designate in writing which of its individual representatives is the voting member for such committee. Only the designated voting representative shall be entitled to cast a vote on committee actions. There shall be no alternates to any member of an advisory committee or other committee appointed by the Chairman pursuant to Article IV, section 2.

The members of any advisory committee shall not receive any salary for their services but, by prior approval of the Board of Directors, they may receive a just and reasonable sum for their actual expenses.

Section 5. Agents and Representatives. The Executive Committee may appoint such agents and representatives of the Agency with such powers and to perform such acts or duties on behalf of the Agency as the Executive Committee may see fit, consistent with the Interlocal Agreement, these By-Laws, and to the extent authorized or permitted by law.

Section 6. Investments. The Agency upon resolution of the Board of Directors, or the Executive Committee on behalf of the All-Requirements Power Supply Project, shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Directors or the Executive Committee, without being restricted to the class of investments which an FMPA member is permitted by law to make; provided, however, that no action shall be taken by or on behalf of the Agency not strictly serving the purposes of the Agency as defined in the By-Laws and the Interlocal Agreement.

Section 7. Annual Budget. As provided in the Interlocal Agreement, the Board of Directors shall, prior to September 1 each year, approve and adopt an annual budget for FMPA's projects, except for the All-Requirements Power Supply Project, for the succeeding fiscal year. As a part of the Board of Director's approval and adoption of an annual budget for FMPA's projects, the Board of Directors shall allocate the percentage of the general Agency budget (not associated with any project) to each project, including the All-Requirements

Power Supply Project. Prior to the Board of Directors adoption of the annual budget for FMPA's projects each year, the Executive Committee shall approve and adopt the All-Requirements Power Supply Project annual budget and the general Agency annual budget (not associated with any project) for the succeeding fiscal year. The budget for FMPA's projects (excluding the All-Requirements Power Supply Project budget) may be amended by the Board of Directors at any duly called meeting of the Board of Directors. The Executive Committee may also amend the All-Requirements Power Supply Project budget and the general Agency budget at any duly called meeting of the Executive Committee.

Section 8. Additional Powers. The Board of Directors shall, by general resolution, delegate to the Executive Committee such additional powers as they may see fit, it being the general intent of these By-Laws and the Interlocal Agreement that the Executive Committee govern and manage the business and affairs of the All-Requirements Power Supply Project, and the Board of Directors govern and manage the business and affairs of the other projects of the Agency.

Section 9. Executive Committee Officers. The number, term of service and officers of the Executive Committee shall be as set forth in the Executive Committee By-Laws

Section 10. Directors' Expenses. The Board of Directors and/or Executive Committee may advance or reimburse the expenses of any director who, under the direction of the Board, its officers or the Executive Committee, performs any special service.

Section 11. Quorum. A quorum exists at any meeting of the Board of Directors when a majority of the total votes of the Board of Directors is present at such meeting.

Directors may participate in any meeting of the Board of Directors by means of conference telephone, video conference or other communications equipment by means of which all persons attending such meeting can hear each other. During any such meeting, one or more Directors, may, but need not, be together in one location. Participation in such a meeting of the Board of Directors shall constitute presence in person at the meeting. If a quorum exists, a majority vote of the quorum shall be necessary to take any action, except upon such matters requiring a vote of greater than a majority pursuant to the Interlocal Agreement or these By-Laws. Upon request by one member, a vote shall be by roll call. Quorum and voting for the Executive Committee shall be as set forth in the Executive Committee By-Laws.

Section 12. Set Agenda. At any meeting of the Board of Directors or any committee, the Board of Directors or such committee shall by vote set the agenda (including adding or removing agenda items as requested by any director or committee member) for the meeting prior to taking up any up any action item.

Section 13. Exercise of Agency Powers. All powers granted to the Agency by the Interlocal Agreement and Florida law, including the power of eminent domain, may be exercised by the Board of Directors and/or the Executive Committee; provided, however, only in regard to the All-Requirements Power Supply Project may such powers be exercised by the Executive Committee.

## **ARTICLE VII**

### **CONTRACTS AND SERVICES**

The directors, officers and staff of the Agency may not have any personal interest, directly or indirectly, in any contract or business transaction relating to or incidental to the operations of the Agency.

## **ARTICLE VIII**

### **ANNUAL REPORT**

On or before the annual meeting, the Chairman and General Manager shall present and file with the minutes of the Agency a full and accurate report of the operation of the Agency during the preceding fiscal year, a statement of the assets and liabilities of the Agency as of the end of such year, and any other information having a significant bearing on the condition and operation of the Agency.

## **ARTICLE IX**

### **INDEMNIFICATION OF OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES.**

Each director, officer, and employee of the Agency, whether or not then in office or then employed, and personal estate, shall be indemnified by the Agency against all costs and expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceeding in which they may be involved or to which they may be made a party by reason of their being or having been such director, officer, or employee, except in relation to matters as to which they shall be finally adjudged in such action, suit or proceeding

to be liable for willful or wanton negligence or misconduct in the performance of duty. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the costs of litigation, but only if the Agency is advised in writing by the General Counsel that, in the opinion of the General Counsel, the person indemnified did not commit willful or wanton negligence or misconduct. The foregoing right of indemnification shall not be exclusive of other rights to which they may be entitled as a matter of law or by agreement.

The Agency may, from time to time, purchase one or more insurance agreements, policies or bonds to fulfill its obligation or obligations hereunder, and any and all such coverages provided by, or contained in any such insurance agreement, policy or bonds, shall be primary. The Agency's obligation to indemnify shall not arise unless the payment of any cost, expense or liability is not covered by such insurance agreement, policy or bonds, subject to the terms herein.

## **ARTICLE X**

### **JOINT PROJECTS OF THE AGENCY**

In the event the Agency desires to undertake any project on behalf of any two or more of the members of the Agency, a written proposal of the objectives, plans and scope of the project, setting forth the estimated maximum cost, will be provided to each potential participating FMPA member. No FMPA member shall incur any liability, responsibility or obligation for any project or action taken by the Agency until it enters into a contract with the Agency for participation in such project.



## ARTICLE XI

### MEETINGS; ELECTRONIC TELECONFERENCING; NOTICES; RECESS AND ADJOURNMENT; AND MINUTES.

Section 1.     Meetings. One regular meeting of the Board of Directors shall be held annually and other regular meetings may be held as scheduled by the Board of Directors. Special meetings of the Board shall be held upon the call of the Chairman or any two or more directors. The Executive Committee shall meet as provided for in the Executive Committee By-Laws. Advisory and other committees shall meet as scheduled by the Chairman, the Board of Directors and/or the Executive Committee, or by a call of the committee chairman.

Section 2.     Electronic Teleconferencing. To the extent not prohibited by law, meetings of the Board of Directors, the Executive Committee, and advisory and other committees may be conducted by electronic teleconferencing, so long as the telephonic meeting is properly noticed and appropriate access is provided to the public in order to allow the public to attend the meeting.

Section 3.     Notices. Public notice must be given for all meetings and workshops of the Agency and any of its committees. All meetings and workshops of the Board of Directors and the Agency's committees shall be held in accordance with the requirements of Florida law, including Section 286.011, Florida Statutes, as amended (the Sunshine Law). The Secretary or an Assistant Secretary or, in case of his or her death, absence, incapacity or refusal, any officer shall give notice of any regular or special meeting of the Board of Directors to each director (1) in person, by telephone, by electronic messaging (including email), by facsimile, or by written notice by mail at least twenty-four (24) hours prior to such

meeting (unless an emergency requires a shorter notice) ; or (2) by written notice by mail at least seventy-two (72) hours before such meeting. Without effecting the requirements of the previous sentence, it is hereby declared to be the preference of the Board of Directors that efforts be made to allow that all regular and special meetings be noticed to each director not less than three (3) business days prior to the meeting date. Notice of the annual meeting of the Board of Directors shall be at least one (1) month prior to said meeting. Notice of a Board of Directors meeting need not be given to any director if the director executes a written waiver of notice before the meeting, or if the director attends the meeting without protesting. Notices for Executive Committee meetings shall be as provided for in the Executive Committee By-Laws. Notices for advisory and other committee meetings shall be provided to each committee member no less than twenty-four (24) hours prior to any meeting.

The notice of any special meeting must include an agenda listing each item to be considered at said special meeting.

Section 4. Recess and Adjournment. The Chairman of the Board of Directors may recess any meeting to a time and place specified by the Chairman during a duly called meeting. A quorum need not be present for the Chairman to recess a meeting. When a regular or special meeting is recessed as provided in this section, the resulting meeting is a regular meeting for all purposes.

The Chairman may adjourn any regular or special meeting of the Board of Directors and such adjournment shall conclude such meeting. A quorum need not be present for the Chairman to adjourn any meeting.

Section 5.     Minutes. Minutes of all publicly noticed Board of Directors and committee meetings and workshops must be reduced to writing and submitted to the Board of Directors or the appropriate committee for ratification and approval. If any committee ceases to exist at anytime, and there are still meeting minutes of such committee yet to be approved, those minutes shall be reduced to writing by Agency staff as draft minutes and kept in the permanent records of the Agency and distributed to the former committee members, to the extent possible, for comment; any comments submitted by former committee members shall be kept with the draft minutes in the permanent records of the Agency.

## **ARTICLE XII**

### **AMENDMENTS**

When a quorum exists at any meeting of the Board of Directors as specified in Article III, Section 3(d) of the Interlocal Agreement, these By-Laws may be amended by a two-thirds (2/3) vote of such quorum of the Board of Directors at any meeting thereof. A copy of all proposed amendments to be considered at any meeting of the Board of Directors shall be provided to each director not less than ten (10) days prior to the meeting at which any proposed amendment shall be submitted to a vote.

IN WITNESS WHEREOF, the Board of Directors adopted these By-Laws this 24th day of May, 2007.

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JAMES C. WELSH  
Chairman  
Board of Directors

**CERTIFICATION**

THE UNDERSIGNED does hereby certify that:

I am the duly elected and acting Secretary or Assistant Secretary of Florida Municipal Power Agency, and, that the foregoing By-Laws constitute the Second Revised and Restated By-Laws of FMPA, as duly approved and adopted at a meeting of the Board of Directors thereof, held on the 24th day of May, 2007.

IN WITNESS THEREOF, I have hereunto subscribed my name this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Secretary or Assistant Secretary

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Print Name