

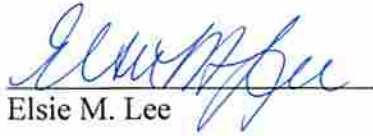
**AGENDA
CITY OF FALLON – CITY COUNCIL
55 West Williams Avenue
Fallon, Nevada
February 10, 2023 – 9:00 a.m.**

The Honorable City Council will meet in a special meeting on February 10, 2023 at 9:00 a.m. in the City Council Chambers, 55 West Williams Avenue, Fallon, Nevada.

Items on the agenda may be taken out of order. The Council may combine two or more agenda items for consideration. The Council may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. Unless otherwise allowed by the City Council, public comments by an individual will be limited to three minutes.

1. Pledge of Allegiance to the Flag.
2. Certification of Compliance with Posting Requirements.
3. Public Comments: General in nature, not relative to any agenda items.
No action may be taken on a matter raised under this item until the matter has been specifically included on an agenda as an item upon which action will be taken. **(For discussion only)**
4. Consideration and possible action to determine the City of Fallon’s options and participation in the Utah Associated Municipal Power Systems (UAMPS) Carbon Free Power Project (CFPP). The three options are to continue in the project, reduce the City of Fallon’s entitlement share, or withdrawal from the project. **(For Possible Action)**
5. Public Comments **(For discussion only)**
6. Council and Staff Reports **(For discussion only)**
7. Executive Session (closed):
 - Discuss Litigation Matters **(For discussion only)** (NRS 241 et.seq.)
 - Negotiations with Operating Engineers Local Union No. 3 **(For discussion only)**
 - Negotiations with Fallon Peace Officers Association **(For discussion only)**

This agenda has been posted on or before 9:00 a.m. on February 7, 2023 at City Hall, District Court Building, Churchill County Office Complex, Churchill County Public Library and posted to the City’s website (<https://fallonnevada.gov>) and the State of Nevada public notice website (<https://notice.nv.gov/>). Members of the public may request the supporting material for this meeting by contacting Elsie M. Lee, Deputy City Clerk, City Clerk’s Office, City Hall, 55 West Williams Avenue, Fallon, Nevada, 775-423-5104. The supporting material for this meeting is also available to the public on the City’s website (<https://fallonnevada.gov>) and the State of Nevada public notice website (<https://notice.nv.gov/>).



Elsie M. Lee

NOTICE TO PERSONS WITH DISABILITIES: Reasonable effort will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Please call the City Clerk's Office at 775-423-5104 in advance so that arrangements may be conveniently made.

February 10, 2023

Agenda Item 4

Consideration and possible action to determine the City of Fallon's options and participation in the Utah Associated Municipal Power Systems (UAMPS) Carbon Free Power Project (CFPP). The three options are to continue in the project, reduce the City of Fallon's entitlement share, or withdrawal from the project. **(For Possible Action)**

Incorporated 1908

**CITY OF FALLON
REQUEST FOR COUNCIL ACTION**

Agenda Item No. 4

DATE SUBMITTED: February 6, 2023

AGENDA DATE REQUESTED: February 10, 2023

TO: The Honorable City Council

FROM: Sean Richardson, City Clerk/Treasurer & Trent deBraga, Deputy City Attorney

SUBJECT TITLE: Consideration and possible action to determine the City of Fallon's options and participation in the Utah Associated Municipal Power Systems (UAMPS) Carbon Free Power Project (CFPP). The three options are to continue in the project, reduce the City of Fallon's entitlement share, or withdrawal from the project. **(For Possible Action)**

TYPE OF ACTION REQUESTED: (Check One)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Formal Action/Motion | <input type="checkbox"/> Other – Review & Discussion |

RECOMMENDED COUNCIL ACTION: Motion to approve Resolution 23-01, Continuation Resolution, for the City of Fallon's 2,000 KW entitlement share under the Carbon Free Power Project power sales contract for phase 1B of the licensing period for the CFPP; and related matters.

DISCUSSION: Due to an economic competitive test failure, an amendment to the Carbon Free Power Project Budget and Plan of Finance is necessary. Members of UAMPS participating in the Carbon Free Power Project have three options. The City of Fallon can: 1) continue its participation in the CFPP; 2) reduce its entitlement share in the CFPP; or 3) withdraw from the CFPP. After considering the risks and rewards associated with the CFPP, staff recommends continuing forward with the CFPP at its 2,000 KW entitlement share.

FISCAL IMPACT: Dependent on option

FUNDING SOURCE: Electric Fund

PREPARED BY: Sean Richardson, Clerk/Treasurer & Trent deBraga, Deputy City Attorney

FORM OF CONTINUATION RESOLUTION

RESOLUTION No. _____

A RESOLUTION APPROVING THE CONTINUATION OF THE PARTICIPANT'S ENTITLEMENT SHARE UNDER THE CARBON FREE POWER PROJECT POWER SALES CONTRACT FOR PHASE 1B OF THE LICENSING PERIOD FOR THE CARBON FREE POWER PROJECT; AND RELATED MATTERS.

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WHEREAS, the entity named below (the "*Participant*") is a member of Utah Associated Municipal Power Systems ("*UAMPS*") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action, as amended (the "*Joint Action Agreement*");

WHEREAS, the Participant has previously approved, executed and delivered the Carbon Free Power Sales Contract dated as of April 1, 2018 (the "*Power Sales Contract*") with UAMPS, with a current Entitlement Share and a current Development Cost Share shown on Schedule I attached hereto (initially capitalized terms used and not defined herein have the meanings assigned to them in the Power Sales Contract);

WHEREAS, at the direction of the Project Management Committee, UAMPS has delivered a notice dated January 4, 2023 (the "*UAMPS Notice*") to the Participant of (a) the delivery of the Class 3 Project Cost Estimate for the Project and the results of the related run of the economic competitiveness test, (b) the proposed adoption of an amendment to the Budget and Plan of Finance for the Project (the "*Amended BPF*"), and (c) the Participant's right to deliver a Notice of Withdrawal or a Notice of Reduction or to continue with its current Entitlement Share in the Project during the term of the Amended BPF, with any such withdrawal, reduction or continuation to be effective immediately before the Amended BPF takes effect;

WHEREAS, the Amended BPF is expected to be in effect from approximately March 1, 2023 until approximately January 31, 2024 (such period is referred to herein as "*Phase 1B of the Licensing Period*") and pursuant to the Power Sales Contract, the Participant will have the additional right to deliver a Notice of Withdrawal or a Notice of Reduction or to continue with its current Entitlement Share in the Project at the end of Phase 1B of the Licensing Period; and

WHEREAS, the Governing Body has determined that the Participant should continue with its current Entitlement Share during Phase 1B of the Licensing Period;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Participant, as follows:

Section 1. Continuation of Entitlement Share for Phase 1B of the Licensing Period. (a) The Participant hereby authorizes and approves maintaining and continuing its current Entitlement Share in the Project as shown on Schedule I attached hereto. The Participant acknowledges and agrees that Schedule I shows its correct Entitlement Share and its correct Development Cost Share as of the date hereof.

(b) The Participant acknowledges that its Development Cost Share for Phase 1B of the Licensing Period (as shown on the attached Schedule I) would, by operation of the provisions of the Power Sales Contract, increase if other Participants determine to withdraw from the Project or reduce their Entitlement Shares as provided in the UAMPS Notice. Upon receipt of notice from UAMPS of any such withdrawals or reductions, the Participant's Representative is hereby authorized by and on behalf of the Participant, and is hereby delegated full authority, to give notice to UAMPS of the Participant's election to (i) reduce its current Entitlement Share in such amount as shall be necessary to maintain its current Development Cost Share or (ii) maintain its current Entitlement Share, which will result in an increase in its current Development Cost Share, *provided that* the Participant's current Development Cost Share may not be increased by more than ten percent without the approval of the Governing Body.

Section 2. Miscellaneous; Effective Date. (a) All prior resolutions that conflict with the provisions of this resolution respecting the Participant's Entitlement Share or Development Cost Share are, to the extent of such conflict, hereby repealed.

(b) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED this ____ day of _____, 2023.

CITY OF FALLON

By _____
Mayor

ATTEST:

City Clerk/Treasurer

[SEAL]

FORM OF REDUCTION RESOLUTION

RESOLUTION No. _____

A RESOLUTION APPROVING THE REDUCTION OF THE PARTICIPANT'S ENTITLEMENT SHARE UNDER THE CARBON FREE POWER PROJECT POWER SALES CONTRACT; AND RELATED MATTERS.

******* ***** *******

WHEREAS, the entity named below (the "*Participant*") is a member of Utah Associated Municipal Power Systems ("*UAMPS*") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action, as amended (the "*Joint Action Agreement*");

WHEREAS, the Participant has previously approved, executed and delivered the Carbon Free Power Sales Contract dated as of April 1, 2018 (the "*Power Sales Contract*") with UAMPS, with a current Entitlement Share and a current Development Cost Share shown on Schedule I attached hereto (initially capitalized terms used and not defined herein have the meanings assigned to them in the Power Sales Contract);

WHEREAS, at the direction of the Project Management Committee, UAMPS has delivered a notice dated January 4, 2023 (the "*UAMPS Notice*") to the Participant of (a) the delivery of the Class 3 Project Cost Estimate for the Project and the results of the related run of the economic competitiveness test, (b) the proposed adoption of an amendment to the Budget and Plan of Finance for the Project (the "*Amended BPF*"), and (c) the Participant's right to deliver a Notice of Withdrawal or a Notice of Reduction or to continue with its current Entitlement Share in the Project during the term of the Amended BPF, with any such withdrawal, reduction or continuation to be effective immediately before the Amended BPF takes effect;

WHEREAS, the Amended BPF is expected to be in effect from approximately March 1, 2023 until approximately January 31, 2024 (such period is referred to herein as "*Phase 1B of the Licensing Period*") and pursuant to the Power Sales Contract, the Participant will have the additional right to deliver a Notice of Withdrawal or a Notice of Reduction or to continue with its current Entitlement Share in the Project at the end of Phase 1B of the Licensing Period; and

WHEREAS, the Governing Body has determined that the Participant should reduce its Entitlement Share under the Power Sales Contract, and such reduction shall be effective immediately before the effective date of the Amended BPF;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Participant, as follows:

Section 1. Reduction of Entitlement Share. (a). The Participant hereby elects to reduce its Entitlement Share under the Power Sales Contract to the amount shown in the Notice of Reduction attached hereto, and the Participant's Representative is authorized and directed to execute and deliver to UAMPS such Notice of Reduction. The Participant acknowledges and agrees that it shall remain responsible for the payment of its Development Cost Share (as shown on Schedule I attached hereto) of the net Development Costs of the Project that are incurred up to (but not including) the effective date of the Amended BPF.

(b) The Participant acknowledges that the reduction in its Development Cost Share for Phase 1B of the Licensing Period may not be proportional to the reduction in its Entitlement Share if other Participants to determine to withdraw from the Project or reduce their Entitlement Shares as provided in the UAMPS Notice. Upon receipt of notice from UAMPS of any such withdrawals or reductions, the Participant's Representative is hereby authorized by and on behalf of the Participant, and is hereby delegated full authority, to give notice to UAMPS of the Participant's election to (i) further reduce its current Entitlement Share in such amount as shall be necessary to achieve a reduction in its Development Cost Share that is proportional to the reduction in its Entitlement Share or (ii) maintain its election to reduce its Entitlement Share in the amount shown in the attached Notice of Reduction, which will result in a reduced decrease in its Development Cost Share for Phase 1B of the Licensing Period.

Section 2. Miscellaneous; Effective Date. (a) All prior resolutions that conflict with the provisions of this resolution respecting the Participant's Entitlement Share or Development Cost Share are, to the extent of such conflict, hereby repealed.

(b) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED this ____ day of _____, 2023.

CITY OF FALLON

By _____
Mayor

ATTEST:

City Clerk/Treasurer

[SEAL]

FORM OF WITHDRAWAL RESOLUTION

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE PARTICIPANT'S WITHDRAWAL FROM
THE CARBON FREE POWER PROJECT; AND RELATED MATTERS.**

******* ***** *******

WHEREAS, the entity named below (the "*Participant*") is a member of Utah Associated Municipal Power Systems ("*UAMPS*") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action, as amended (the "*Joint Action Agreement*");

WHEREAS, the Participant has previously approved, executed and delivered the Carbon Free Power Sales Contract dated as of April 1, 2018 (the "*Power Sales Contract*") with UAMPS, with a current Entitlement Share and a current Development Cost Share shown on Schedule I attached hereto (initially capitalized terms used and not defined herein have the meanings assigned to them in the Power Sales Contract);

WHEREAS, at the direction of the Project Management Committee, UAMPS has delivered a notice dated January 4, 2023 (the "*UAMPS Notice*") to the Participant of (a) the delivery of the Class 3 Project Cost Estimate for the Project and the results of the related run of the economic competitiveness test, (b) the proposed adoption of an amendment to the Budget and Plan of Finance for the Project (the "*Amended BPF*"), and (c) the Participant's right to deliver a Notice of Withdrawal or a Notice of Reduction or to continue with its current Entitlement Share in the Project during the term of the amended BPF, with any such withdrawal, reduction or continuation to be effective immediately before the Amended BPF takes effect;

WHEREAS, in addition to the UAMPS Notice, UAMPS has provided additional information to the Participant with respect to the Amended BPF and related matters, including the estimated amount that the Participant would be required to pay to UAMPS in respect of its Development Cost Share (as in effect from time to time) of the net Development Costs of the Project;

WHEREAS, the Governing Body has determined that the Participant should withdraw from the Project, and such withdrawal shall be effective immediately before the effective date of the Amended BPF;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Participant, as follows:

Section 1. Withdrawal from the Project. The Participant hereby elects to withdraw from the Project and the Participant's Representative is authorized and directed to execute and deliver to UAMPS the Notice of Withdrawal in the form attached hereto. The Participant acknowledges and agrees that it shall (i) remain responsible for the payment of its Development Cost Share (as shown on Schedule I attached hereto) of the net Development Costs of the Project that are incurred up to (but not including) the effective date of the Amended BPF, and (ii) within twelve months of the effective date of its withdrawal, pay to UAMPS its Development Cost Share (as in effect from time to time) of the net Development Costs of the Project, together with any interest expense on such amounts and any other charges incurred by UAMPS under the Financing Documents.

Section 2. Miscellaneous; Effective Date. (a) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(b) This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED this ____ day of _____, 2023.

CITY OF FALLON

By _____
Mayor

ATTEST:

City Clerk/Treasurer

[SEAL]