

FOR BOARD ACTION

Agenda Item # 3

Meeting Date:

5/14/13

SUBJECT: Retirement / Resignation Incentive Program
Power Resources Division at Silver Lake Plant

PREPARED BY: Walter D. Schlink
Director of Power Resources and Customer Relations

ITEM DESCRIPTION:

At the August 7, 2012 RPU Board meeting, the Board directed staff to develop, implement and execute a plan to decommission the Silver Lake Power Plant by December 31, 2015 or sooner. The direction was based on the 2012 Infrastructure Plan Update that had been presented to the Board. Decommissioning in this instance is the cessation of electric power production.

RPU has committed to being fair, compassionate and respectful throughout the decommissioning process.

At the December 18, 2012 RPU Board meeting, staff reported progress on a number of topics including staffing levels and personnel. A significant amount of the potential savings that will be realized by the SLP decommissioning has been identified as due to reduced staffing levels at SLP.


In addition to the attrition program that has been in place prior to the Board's August 7, 2012 decision, staff is recommending a program for Board approval that would reduce staff by 34 full time employees. Up to 19 of the reductions would be through a program of incentives for employees that will reach PERA eligibility by December 31, 2015. The average years of service to the City of the PERA eligible employee group exceeds 30 years of service.

The program developed by the Staff includes a schedule of reorganization and staff reductions to be implemented over the 2013 – 2015 period. The schedule proposed will allow the City to realize the financial benefit of reduced salaries and benefits through incremental implementation. The program will conclude with the staffing level being appropriate to operate and maintain the remaining generation fleet and steam supply system on a 24hour, 7 day per week basis.

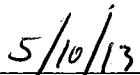
Attached you will find two documents.

- City of Rochester and Rochester Public Utilities 2013–15 Early Retirement / Resignation Incentive Program for Retirement Eligible Employees at the Silver Lake Plant
- City of Rochester and Rochester Public Utilities 2013-15 Early Retirement / Resignation Incentive Program Participation Agreement and General Release Form

These documents provide the details related to eligibility and the terms & conditions of the program as well as the agreement that will be executed between the employee and the City.



General Manager



Date

ROCHESTER PUBLIC UTILITIES

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If all 19 eligible employees would decide to participate in the program there will be an associated expense of \$847,691 which is offset by an avoided unemployment obligation of \$463,000 for a net expense of \$384,091.

Annual savings in salaries and benefits estimated by reducing staff will be \$614,000 in 2013; \$2,452,000 in 2014 and \$2,659,000 in 2015. These benefits are directly tied to the program of incremental staff reduction over the 2012-15 decommissioning period and are in addition to the saving presented in the 2012 Infrastructure Plan Update estimates.

This program also provides an important operational benefit to the utility and the City by helping control the rate at which staff may separate and provides some level of information on which positions may be available in our efforts to retain qualified staff.

The program proposed by staff is supported by senior City management and has been reviewed by outside council as well as the City Attorney.

FOR CAPITAL PURCHASES/BIDS/MAJOR PROJECTS:

This program is not a budgeted item. It is proposed to be funded by drawdown of the appropriate financial reserves in accordance with utility policy.

The expenses incurred by implementation of the incentive program are offset by significant savings as previously described.

UTILITY BOARD ACTION REQUESTED:

Staff recommends that the Board approve the Retirement / Resignation Incentive Program as described in the attachments as well as approve funding through RPU reserves.

Staff requests RPU Board recommendation for approval to the Council.

General Manager

Date

**CITY OF ROCHESTER AND ROCHESTER PUBLIC UTILITIES
2013-15 EARLY RETIREMENT/RESIGNATION INCENTIVE PROGRAM
FOR RETIREMENT ELIGIBLE EMPLOYEES AT THE SILVER LAKE PLANT**

The Early Retirement/Resignation Incentive Program is a one-time offer being made available to employees in the Power Resources Division at the Silver Lake Plant who meet specific eligibility requirements. Participation in the program is voluntary.

EMPLOYEE ELIGIBILITY

- Must currently be assigned as a regular, full-time employee working in the Power Resource Division of Rochester Public Utilities at the Silver Lake Plant who have not yet submitted written notification of their intent to separate employment with the City/RPU.
- Must satisfy the eligibility requirements to receive a retirement annuity from the Public Employees Retirement Association (PERA) of Minnesota (age 55 for most) by December 31, 2015.
- Must sign a Participation Agreement and General Release Form and submit it to Linda Hillenbrand, Human Resources Department between July 15, 2013 and September 4, 2013.

Participating employees will be required to continue to comply with City and Rochester Public Utilities policies and procedures until time of their employment separation.

Under federal law, where an employer is excluding individuals in certain locations and/or job titles from an incentive program, the employer must provide the ages and job titles of the persons who were excluded, as well as the ages and job titles of employees who were included. The federal government requires this so that employees will be in a position to evaluate whether or not to sign a release of federal age discrimination claims. A list is available by contacting the Human Resource Department.

EARLY RETIREMENT/RESIGNATION INCENTIVE PROVISIONS

Incentive Payment

The Employer will pay a lump-sum amount equal to one week of base wages (calculated at the rate of pay in effect at time of separation) for each full year of employment (rounded up to the nearest whole number) with the City of Rochester to each participating employee. Discussions will occur with bargaining unit representatives which may designate incentive funds to be deposited into the Minnesota State Retirement System (MSRS) Health Care Savings Plan for active employees.

Separation Benefits

Participating employees shall receive all separation benefits for which they are otherwise eligible under the applicable collective bargaining agreement.

Important Dates

- The retirement/resignation declaration period will run from July 15, 2013 to September 4, 2013.

- Participating employees shall submit the Participation Agreement and General Release Form to Human Resources no later than September 4, 2013.
- Participating employees who meet the Rule of 90 criteria (in effect on the date the employee signs the Participation Agreement) in 2013, must retire and/or resign between September 5, 2013 and December 31, 2013.
- Participating employees who meet the Rule of 90 criteria (in effect on the date the employee signs the Participation Agreement) between January 1, 2014 and December 31, 2015, must retire and/or resign on or before the end of the month in which they are retirement eligible.
- Participating employees who are PERA eligible but do not meet the Rule of 90 criteria (in effect on the date the employee signs the Participation Agreement), must retire and/or resign between September 5, 2013 and December 31, 2015.
- The lump-sum incentive payment is made in the pay period during, or directly following, the last day of employment.

Eligible employees are encouraged to talk with their family, legal advisor, financial advisor, and/or other relevant parties to make an informed decision relative to participation in the program.

Rescission Period

Once the employee signs the Participation Agreement and General Release Form and submits it to the Human Resources office, the employee will have fifteen (15) calendar days from the date the form is submitted to Human Resources to rescind the election. To rescind the election to participate, an employee must provide written notice to Linda Hillenbrand, Human Resources Director, no later than 4:30 p.m. on the last day of the rescission period.

Other Resources

- For assistance with City benefit options, Human Resource Department:
Christine Soitau 507.328.2564 or Connie Fox 507.328.2560
- Social Security Administration:
800.772.1213 or www.ssa.gov
- Public Employees Retirement Association (PERA):
800.652.9026 or www.mnpera.org.
PERA Retirement Options Video <http://www.screencast.com/t/10iPsCPQ3>
- Nationwide Deferred Compensation Plan:
Thomas S. Jones, Jr. (Group Number 2304), 877.677.3678 or www.nrsforu.com
Jonest4@nationwide.com
- ICMA Deferred Compensation Plan:
Sasha Segalchik (Plan Number 300464), 800.669.7400 or 866.731.1053,
ssegalchik@icma.org
- Minnesota State Retirement System:
651.296.27621 or www.msrs.state.mn.us
- Benesyst Flexible Spending Account:

Questions regarding the provisions of this early retirement incentive program may be directed to Linda Hillenbrand, Human Resource Director at 507.328.2561, lhillenbrand@rochestermn.gov or to Wally Schlink, Director of Power Resources, 507.280.1650, wschlink@rpu.org.

**CITY OF ROCHESTER AND ROCHESTER PUBLIC UTILITIES
2013-15 EARLY RETIREMENT/RESIGNATION INCENTIVE PROGRAM
PARTICIPATION AGREEMENT AND GENERAL RELEASE FORM**

I, (Employee: print or type your name) _____, the under-
signed Employee, voluntarily agree to resign or retire under the 2013-15 Early Retirement/Resignation Incentive Program for Retirement Eligible Employees in the Power Resources Division at the Silver Lake Plant (“Incentive Program”) offered by the City of Rochester and Rochester Public Utilities and to execute this General Release of all Claims (the “Release”). For purposes of this Participation Agreement and General Release, the term “Employer” refers to the City of Rochester and Rochester Public Utilities and includes their past, present and future officers, officials, employees, volunteers, and agents, insurers, representatives, counsel, administrators, or any of them, in both their individual and official capacities.

A. Resignation or Retirement.

By signing this Participation Agreement and General Release, I will voluntarily separate from employment with the Employer and will either resign or retire on or before (Employee: insert date) _____, 20 ____ in exchange for the payments and benefits provided under the Incentive Program. I understand that by participating in the Incentive Program and signing this Participation Agreement and General Release, I may not return to employment in any permanent position with the Rochester Public Utilities. I further understand that if I accept another position with the Employer prior to my separation date, regardless of the starting date of the position, I will not be eligible for and will not receive any incentive payment under this Incentive Program. My estimated date of resignation or retirement is: (Employee: insert date) _____.

B. Benefits Paid Under the Incentive Program

I understand that the following benefits will be paid to me after I sign this Participation Agreement and General Release, do not rescind it, resign or retire on or before (Employee: insert

date) _____, 20____, and do not accept another position with the Employer prior to my separation date.

(1) Payment by the Employer of a lump-sum amount equal to one week of base wages (calculated at my rate of pay in effect at the time of separation) for each full year of my employment (rounded up to the nearest whole number) with the City of Rochester.

(2) Payment by the Employer, to me, of any separation benefits to which I am otherwise entitled under the collective bargaining agreement applicable to me.

C. My Acknowledgment of the Consideration and Purpose of the General Release

I received the Incentive Program materials authorized by the City of Rochester and Rochester Public Utilities on _____ and reviewed them. These materials include descriptions of who is eligible for the Incentive Program and the time limitations under the Incentive Program. The Employer encouraged me to seek counsel from a financial advisor and lawyer before signing this Participation Agreement and General Release.

I have at least forty-five (45) calendar days to consider whether to sign this Participation Agreement and General Release. I understand that I may knowingly and voluntarily agree to waive the forty-five (45) calendar day consideration period by electing to sign the Participation Agreement and General Release before the forty-five (45) calendar days have passed. The Employer encouraged me to take my time and carefully evaluate my circumstances before deciding if signing this Participation Agreement and General Release is the right thing for me to do.

D. What I am Releasing

In consideration for the payments and benefits under the Incentive Program, I fully release and discharge the Employer from any and all claims, charges, complaints, and liabilities of any kind, known or unknown (each a "Claim"). I understand that by releasing the Employer from each and every Claim, I am releasing all of my rights to bring any Claim against the Employer based on any action, decision, or event occurring prior to my signing this Participation Agreement and General Release, including without limitation, the terms and conditions of my employment with the

Employer and the ending of my employment. Except as permitted by law, I will not commence any proceeding relating to any Claim, and if the law permits me to commence such a proceeding, I agree that I may not seek or recover any monetary damages or other relief as a result of any such proceeding.

My release includes any Claim based upon THE AGE DISCRIMINATION IN EMPLOYMENT ACT, 29 U.S.C. § 621, et seq.; federal, state, or local employment discrimination laws, regulations, or requirements, including, but not limited to, Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, et seq.; the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.; and the Minnesota Human Rights Act, Minn. Stat. Ch. 363A; any other statute, ordinance, or regulation; any contract, quasi-contract, or promissory estoppel; any tort, including wrongful discharge, misrepresentation, fraud, infliction of emotional distress, or defamation; or any other legal or equitable theory.

I also release and waive any rights and claims I may have under the Veterans Preference Act, Minn. Stat. § 197.46; the Employer's policies and procedures; and the collective bargaining agreement applicable to me, if any.

E. What I am Not Releasing

I am not releasing any claims for post-termination benefits, such as retirement benefits, under the provisions of any applicable policy or collective bargaining agreement. I also am not waiving any rights I have with regard to events that occur after the date I sign this Participation Agreement and General Release.

F. If I Want to Rescind this Participation Agreement and General Release

I understand that I have fifteen (15) calendar days from the day I sign this Participation Agreement and General Release in which to change my mind and rescind it. In order for this rescission to be effective, it must be in writing and delivered to Linda Hillenbrand, Director of Human Resources, within fifteen (15) calendar days from the date I sign this agreement. I understand that my delivery of a written rescission can be either by hand by 4:30 p.m. on the last day of



RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the Common Council of the said City is requested to authorize the Silver Lake Plant Retirement/Resignation Incentive Program as described in the following documents:

- City of Rochester and Rochester Public Utilities 2013–15 Early Retirement / Resignation Incentive Program for Retirement Eligible Employees at the Silver Lake Plant
- City of Rochester and Rochester Public Utilities 2013-15 Early Retirement / Resignation Incentive Program Participation Agreement and General Release Form

BE IT FURTHER RESOLVED by the Public Utility Board to fund the Silver Lake Plant Retirement/Resignation Incentive Program through appropriate RPU reserves in accordance with utility policy.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 14th day of May, 2013.

President

Secretary