

## FOR BOARD ACTION

Agenda Item # 7.

Meeting Date:

10/25/05

**SUBJECT:** Steam Sales Agreement between the City of Rochester and the Franklin Heating Station – Addendum No. 1

**PREPARED BY:** Wally Schlink, Director of Power Resources

### ITEM DESCRIPTION:


Background: At the September 25, 2001 Utility Board meeting the Board approved an agreement between the City and the Franklin Heating Station (the Mayo Foundation) for the sale of steam and recovery of capital expense from the Silver Lake Power Plant.

Due to the time that has passed before implementation and some minor changes to the terms that we believe will be beneficial to the parties, it is appropriate that we make some changes to the original document through an addendum process. Changes include effective dates, notification provisions, and updates as a result of project delays.

Attached is a copy of Addendum No. 1 to the agreement which has been reviewed by staff and the Franklin Heating / Mayo staff and is recommendation for approval.

### UTILITY BOARD ACTION REQUESTED:

Staff recommends that the Utility Board approve Addendum No. 1 to the Steam Sales Agreement between the City of Rochester and the Franklin Heating Station, and request the Mayor and City Clerk to execute the Addendum.

  
General Manager

  
Date

**ROCHESTER PUBLIC UTILITIES**

**ADDENDUM NO. 1**  
**To the**  
**STEAM SALES AGREEMENT**  
**Between**  
**THE CITY OF ROCHESTER**  
**And**  
**THE FRANKLIN HEATING STATION**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the Franklin Heating Station (Mayo) and the City of Rochester Minnesota, a Minnesota municipal corporation, acting through its Public Utility Board (RPU). Both Mayo and RPU are sometimes hereinafter referred to individually as a "Party" and collectively as "Parties".

**WITNESS**

**WHEREAS** the City is the owner and operator of Silver Lake Plant (SLP), a steam producing facility;

**WHEREAS** Mayo requires steam for various purposes on their Rochester, Minnesota campus; and

**WHEREAS**, on January 8, 2002, the Parties have entered into an agreement for the purchase by Mayo from the City, and the sale by the City to Mayo, of steam from the SLP as provided herein, and:

**WHERE AS**, due to the delays in construction and operation of the facilities the parties have agreed that changes in the agreement are necessary as provided herein:

**NOW THEREFORE**, in consideration of the premises and mutual agreements and covenants contained herein, the legal sufficiency of which is hereby acknowledged, the Parties agree to revisions to the 2002 Agreement as follows:

**ARTICLE I**  
**DEFINITIONS**

Contract Capacity – Pounds (lbs) of firm deliverable steam per hour (lbs/hr) nominated by Mayo for a contract year. Contract Capacity is nominated steam flow at the Point of Delivery which included process usage.

Make-up Water – Water that meets quality standards specified for make-up water that is added by RPU to the Condensate Return from Mayo such that the total water returned to SLP boilers is equal to the steam delivered. The quantity (lbs) of make-up water provided and charged will be as calculated.

## **ARTICLE IV**

### **CONTRACT TERMS**

**4.01 Initial Contract Capacity.** The City hereby agrees to sell and supply and Mayo hereby agrees to purchase and receive fifty thousand (50,000) pounds of steam per hour on or about November 1, 2005, for the duration of this Agreement, unless such Contract Capacity is subsequently changed as provided in Article 4.02.

**4.07 Forecasts.** Forecasts of monthly steam usage for the following eighteen (18) months shall be submitted by Mayo to RPU on a quarterly basis, with the first forecast due July 1, 2005. Such forecasts will be used by RPU in the procurement of boiler fuel and will not be used for purposes of scheduling steam delivery. Mayo will make every effort to submit forecasts that are +/- 10% of ultimate steam schedules.

## **ARTICLE V**

### **BILLINGS AND PAYMENTS**

**5.01 Billings, Payments and Disputes.** Following the first month of initial commercial service, RPU shall, by the tenth 10<sup>th</sup> of each month, invoice Mayo for services rendered during the previous month. This bill shall itemize charges as provided in Article 5.02. Payment shall be made by the last day of the month. When the due date falls on a Saturday, Sunday or a federal holiday, the due date will be the next business day thereafter. If any bill is not paid when due, it shall become delinquent and shall bear interest from the date due until the date upon which payment of the unpaid balance of the billed amount and accrued interest is paid in full, using for each day the lowest daily prime rate of interest published on that day in the money rates section of the Wall Street Journal. Disputed bills shall be paid in full when due and adjusted subsequent to settlement of the dispute. The remedies under this Article are not in lieu of other remedies available at law or equity.

## **ARTICLE VI**

### **PRICING**

**6.01 Initial Prices.** The initial amounts for RPU's fees and prices as defined herein are set forth in Exhibit B. These fees and prices shall become effective November 1, 2005, and shall continue in effect through December 31, 2005.

**6.02 Cost Adjustments.** Effective January 1, 2006, and each year thereafter, the Fixed O&M Price will be increased or decreased by the Annual Cost Adjustment. The Contract Fuel Price and the Variable O&M Price will be adjusted annually beginning January 1, 2006, per the provisions stated herein. RPU will submit a preliminary revised Exhibit B to Mayo by October 1 for the following Contract Year and a final revised Exhibit B by January 10.

**ARTICLE VII**  
**GENERAL PROVISIONS**

**7.08 Notices.** Any notices, demands, or requests required or authorized by the Agreement shall be deemed properly given if mailed postage prepaid to:

Director of Power Resources  
Rochester Public Utilities  
4000 East River Road NE  
Rochester, Minnesota 55906-2813

on behalf of Rochester Public Utilities and to:

Chief Engineer  
Franklin Heating Station  
119 3<sup>rd</sup> Street SW  
Rochester, Minnesota 55902

on behalf of Mayo. Either Party may change its address or the position to which notices are to be sent by providing written notice.

**EXHIBIT B**

Applicable investment and prices for charges to Mayo for services provided by RPU under the provisions of the "Steam Sales Agreement Between the City of Rochester and the Mayo Foundation," effective November 1, 2005.

Effective 2005

Mayo's Initial Capital Investment:	\$ <u>6,113,255</u> (estimated)
RPU's Initial Capital Investment:	\$ <u>6,786,491</u> (estimated)
Fixed O&M Price:	\$ <u>1,254.93</u> per mlb of Contract Capacity
Capacity Variable O&M Price:	\$ <u>0.444</u> per billing unit
Contract Fuel Price:	\$ <u>3.82</u> per billing unit
Make-up Water Price:	\$ <u>0.471</u> per billing unit

Estimated 2006

Mayo's Initial Capital Investment:	\$ <u>6,113,255</u> (estimated)
RPU's Initial Capital Investment:	\$ <u>6,786,491</u> (estimated)
Fixed O&M Price:	\$ <u>1,300.48</u> (est.) per mlb of Contract Capacity
Capacity Variable O&M Price:	\$ <u>0.493</u> (est.) per billing unit
Contract Fuel Price:	\$ <u>4.08</u> (est.) per billing unit
Make-up Water Price:	\$ <u>0.4843</u> (est.) per billing unit

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed the day and year first above written.

**MAYO**

\_\_\_\_\_  
**Franklin Heating Station Chief Engineer**

\_\_\_\_\_  
**Mayo Utility Management Committee Chairperson**

**Dated:** \_\_\_\_\_

**ROCHESTER PUBLIC UTILITIES**

\_\_\_\_\_  
**General Manager**

**CITY OF ROCHESTER**

\_\_\_\_\_  
**Mayor**

**Attest:**

\_\_\_\_\_  
**City Clerk**

**Reviewed By:**

\_\_\_\_\_  
**City Attorney**



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve Addendum No. 1 to the Steam Sales Agreement between the City of Rochester and the Franklin Heating Station and to request the Mayor and the City Clerk to execute the Addendum.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 25<sup>th</sup> day of October, 2005.

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President

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Secretary