

CITY COUNCIL AGENDA TOPIC

Resolution authorizing the City Manager, or designee, to accept a new, non-exclusive franchise from the Town of Beaux Arts Village for the purpose of operating water utilities within the Town's public rights-of-way.

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Utilities Department

EXECUTIVE SUMMARY**ACTION**

This Resolution authorizes the City Manager, or designee, to accept a new, non-exclusive franchise from the Town of Beaux Arts Village for the continued operation of the City's water utilities within the Town's public rights-of-way.

The Department expects the new franchise will improve coordination between the City, Town, and other third parties with respect to installation, operation, maintenance, repair, and/or relocation of utilities in public rights-of-way and avoid issues that arise when multiple parties share common corridors, thereby improving levels of service to customers.

RECOMMENDATION

Move to adopt Resolution No. 10552.

BACKGROUND/ANALYSIS

Local governments have broad authority to manage and regulate the use of the public rights-of-way (ROWs) located within their respective jurisdiction. This includes the ability to grant/deny permission to private corporations and public agencies to use/occupy ROWs under such terms and conditions as the local government deems appropriate.

In providing vital services to customers in Bellevue and the surrounding communities, the City and the Utilities Department rely heavily on the availability of ROWs for the placement of water and wastewater infrastructure (e.g., pipes, pumps, mains, maintenance holes, meters, etc.). In constructing, maintaining, and replacing this infrastructure, the City works hard to minimize any interference to the use of its and the surrounding communities' streets and sidewalks for safe public travel. In furtherance of that goal, the City constructs, maintains, and replaces its facilities located in ROWs consistent with any franchise that it has received from the neighboring jurisdictions.

A franchise is basically a contract between a city or town and the public or private utility provider who needs to use ROWs to deliver services to its customers. Local governments regularly require and convey franchises to public agencies -- granting them the right to use their ROWs for installation, maintenance, and repair of their facilities. However, no law requires a city or town to enter into contracts with a utility provider so that it can operate needed facilities within their respective jurisdictions.

Typically, modern franchises cover a wide range of topics. For example: permitting procedures; coordination of capital projects; notification, communication, and record sharing requirements; insurance and indemnification; term/durations of franchises; and any applicable costs, fees, or tax arrangements. Sometimes a city's or town's road projects impact utilities located in the ROW; sometimes a utility provider needs to replace underground pipes and said projects need to be coordinated with the local jurisdiction to minimize costs and inconvenience to the public who use the streets for safe travel; and sometimes a water or sewer main breaks and the local jurisdiction needs to have a good understanding of who to contact within the utility to handle the emergency. A good franchise agreement contains provisions covering such situations, so that all involved know their rights and responsibilities, which can help avoid disagreements and litigation.

The City does not have any water customers in the Town of Beaux Arts Village. However, it does own and operate a water transmission main that passes through the Town, which is needed to provide water service to Bellevue customers and a backup emergency water supply to the Town. This water main has existed in place for 50+ years and the City plans to perform needed replacement in 2026. While designing the replacement project, the City and Town discovered that there was no prior franchise agreement supporting the water transmission main. Thus, the City and the Town negotiated the recommended franchise agreement to facilitate the replacement project and ensure that the parties had all necessary agreements in place related to the transmission main. This franchise agreement is based on the updated agreement recently executed with the Town of Yarrow Point (approved last February). The franchise agreement will require payment of a new franchise fee, consistent with applicable laws.

The recommended franchise agreement (Attachment A) includes a number of provisions consistent with modern franchising. Similar to the franchise agreement with the Town of Yarrow Point approved last February, these provisions are expected to facilitate better planning, coordination, and communications between the City and the Town for the benefit of utility customers in the greater service area.

On October 14, the Town of Beaux Arts Village adopted Ordinance No. 482, which prescribes the terms and conditions of the new franchise. The Town provided a certified copy of the ordinance to the City on October 22. Pursuant to said ordinance, the City has 30 days (set to expire on November 22) to accept the franchise. If the City refuses to accept the franchise, the City will not have the requisite permission to occupy/use ROWs within the Town for its utility facilities.

POLICY & FISCAL IMPACTS

Policy Impact

RCW 35.27.370(12) – The Town of Beaux Arts has authority to grant franchises or permits to use and occupy public rights-of-way.

RCW 35.27.330 – Any franchise granted by the Town of Beaux Arts must be passed by appropriate legislation.

Chapters 35.67 and 35.92 RCW – Authorize the City to provide water services outside its corporate city limits.

BCC 3.41.010 – The Utilities Department is responsible for, among other things, performing all functions relating to regulation and administration of public utilities.

Fiscal Impact

To provide fair compensation for use of the Franchise Area, the Town shall assess a \$20,676 annual Franchise Fee to be paid in quarterly installments and increased annually by the percentage change in the Consumer Price Index for the Seattle-Tacoma-Bellevue Area.

OPTIONS

1. Adopt the resolution authorizing the City Manager, or designee, to accept a new, non-exclusive franchise from the Town of Beaux Arts Village for the purpose of operating water utilities within the Town's public rights-of-way.
2. Do not adopt the Resolution and provide alternative direction to staff.

ATTACHMENTS

A. Town of Beaux Arts Village Ordinance No. 482
Proposed Resolution No. 10552

AVAILABLE IN COUNCIL LIBRARY

N/A