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**Council Meeting Date:** November 14, 2011

**Agenda Item:** 7(d)

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**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Approval of Ordinance No. 613, Extending the Shoreline Water District Right-of-Way Franchise through December 31, 2012
<b>DEPARTMENT:</b>	City Manager's Office
<b>PRESENTED BY:</b>	John Norris, CMO Management Analyst
<b>ACTION:</b>	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion

**PROBLEM/ISSUE STATEMENT:**

Utility providers which use the City's rights-of-way for operation and maintenance of their utility system are required to have a non-exclusive right-of-way franchise with the City. The City's current franchise with the Shoreline Water District, which was granted by Shoreline Ordinance No. 518, expires on December 31, 2011. Given that the City and the Shoreline Water District are continuing to negotiate a renewed right-of-way franchise, proposed Ordinance No. 613 would grant an extended franchise to the Shoreline Water District for an additional twelve months (through December 31, 2012), or until the effective date of a replacement franchise, whichever occurs first.

**RESOURCE/FINANCIAL IMPACT:**

There is no fiscal impact to adopting Ordinance No. 613. Given that franchise fee collections are the only source of revenue tied to franchise issuance/extension and given that the Shoreline Water District will continue to pay the City a franchise fee of 6% of revenues generated from its operations within the City, these fee collections will remain consistent going forward.

**RECOMMENDATION:**

Staff recommends that the City Council adopt Ordinance No. 613, which would grant an extended right-of-way franchise to the Shoreline Water District.

Approved by:

City Manager



City Attorney



**INTRODUCTION:**

Utility providers which use the City's rights-of-way for operation and maintenance of their utility system are required to have a non-exclusive right-of-way franchise with the City. The City's current franchise with the Shoreline Water District, which was granted by Shoreline Ordinance No. 518, expires on December 31, 2011. Given that the City and the Shoreline Water District are continuing to negotiate a renewed right-of-way franchise, proposed Ordinance No. 613 would grant an extended franchise to the Shoreline Water District for an additional twelve months (through December 31, 2012), or until the effective date of a replacement franchise, whichever occurs first.

**BACKGROUND:**

In negotiating a renewed right-of-way franchise with the Shoreline Water District, City staff began working with the existing right-of-way franchise and made initial changes for the District's review. During this initial negotiation phase, the District requested that the City enter into a franchise extension for a short duration of time rather than continue to negotiate a renewed franchise. This request was made due to the District's interest in exploring a proposed merger with the Ronald Wastewater District. The District explained that the Commissioners of both the Shoreline Water District and Ronald Wastewater District would like to present their merger proposal to the City Council sometime this fall/winter, and it would make the most sense to discontinue franchise negotiations until it was determined if the Council would like to act on the merger proposal. Given the City's long-standing Interlocal Operating Agreement to assume the Ronald Wastewater District in 2017, in order to make a merger of these two special purpose districts workable, the City would need to agree to the merger between Ronald Wastewater and Shoreline Water and modify the terms of the Ronald Wastewater Interlocal agreement so that assumption of the Ronald Wastewater District by the City would not occur.

Although it is staff's desire to continue working on a renewed franchise agreement with the Shoreline Water District, staff also felt that the Council should be able to review and respond to the Districts' proposal, and that agreeing to the Shoreline Water District's request to halt franchise negotiations for the time being would be an act of good faith. As well, given that many of the substantive sections of the renewed franchise agreement will likely remain the same as the current agreement, staff also felt that the City was not in an unfavorable position by postponing the negotiation of a longer term renewed franchise. Once Council and City staff have had the opportunity to review and respond to the Districts' merger proposal, if the proposal is not favorable or desirable by the Council, staff will continue to negotiate a longer term renewed right-of-way franchise with the District. If the merger proposal is favorable or desirable to the Council, staff will have to determine what the implications will be on a longer term franchise agreement. This will most likely entail entering into a new franchise agreement with a merged water-sewer district, although this might not happen in the near term.

Once it was agreed to extend the existing franchise, the District proposed that the current franchise be extended for an additional six months. However, staff was not comfortable with this short of an extension, given the timing involved and the necessary

steps that would need to be taken to review the merger proposal and analyze its impacts. City staff recommended a one year extension.

Although staff communicated the desire of a year-long franchise extension to the Water District, the District has been generally unresponsive to staff's correspondence on this matter. Thus, the City Attorney recommended that staff bring forth its recommendation of a year-long franchise extension to the City Council. Although staff did not receive confirmation that the District is amenable to this term length, the District will have 15 days to accept in writing proposed Ordinance No. 613. If the District does not accept the franchise extension, staff has the ability to continue to negotiate with them on a term length that is acceptable. If staff is not able to negotiate a mutually agreeable term length by the time the current franchise expires (December 31, 2011), the current franchise terms will continue to remain in place.

**RESOURCE/FINANCIAL IMPACT:**

There is no fiscal impact to adopting Ordinance No. 613. Given that franchise fee collections are the only source of revenue tied to franchise issuance/extension and given that the Shoreline Water District will continue to pay the City a franchise fee of 6% of revenues generated from its operations within the City, these fee collections will remain consistent going forward.

**RECOMMENDATION:**

Staff recommends that the City Council adopt Ordinance No. 613, which would grant an extended right-of-way franchise to the Shoreline Water District.

**ATTACHMENTS:**

A: Ordinance No. 613, Shoreline Water District Franchise

## **ORDINANCE NO. 613**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, GRANTING SHORELINE WATER DISTRICT A NON-EXCLUSIVE FRANCHISE TO OWN, CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A WATER SYSTEM WITHIN PUBLIC RIGHTS-OF-WAY OF THE CITY OF SHORELINE, WASHINGTON.**

WHEREAS, the City of Shoreline, by Shoreline City Ordinance No. 518, granted the Shoreline Water District a non-exclusive franchise for the operation of a water system within the City right-of-way effective August 1, 2008; and

WHEREAS, the franchise granted to the Shoreline Water District by the City in Ordinance No. 518 expires on December 31, 2011; and

WHEREAS, the City of Shoreline and the Shoreline Water District have been in negotiations on a new franchise agreement; and

WHEREAS, the City and the Shoreline Water District agree additional time is needed to negotiate the terms of a new agreement;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Franchise Extensions.** The franchise granted pursuant to City Ordinance No. 518 is extended through the earlier of December 31, 2012, or the effective date of a replacement franchise (whichever first occurs).

**Section 2. Directions to City Clerk.** The City Clerk is hereby authorized and directed to forward certified copies of this ordinance to the Grantee set forth in this ordinance. The Grantee shall have thirty (30) days from receipt of the certified copy of this ordinance to accept in writing the extension of the franchise granted to the Grantee in this ordinance.

**Section 3. Publication and Effective Date.** In accord with state law, this ordinance shall be published in full and shall take effect five days after passage, publication, and acceptance by the Grantee.

**PASSED BY THE CITY COUNCIL ON NOVEMBER 14, 2011**

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Mayor Keith A. McGlashan

**ATTEST:**

**APPROVED AS TO FORM:**

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Scott Passey, City Clerk

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Ian Sievers, City Attorney

Publication Date: November 15, 2011

Effective Date: November 22, 2011

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