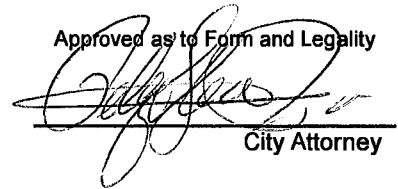


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Legality

  
City Attorney

2018 NOV -1 PM 12:28

## OAKLAND CITY COUNCIL

RESOLUTION NO. 87414 C.M.S.

**A RESOLUTION (1) APPROPRIATING APPROXIMATELY \$3.9 MILLION (A 5-YEAR ESTIMATED TOTAL) IN PUBLIC EDUCATION GOVERNMENT (PEG) FEE FUNDS FOR FY2018-2019 THROUGH THE END OF FY2022-2023 FOR THE CAPITAL EXPENSES OF PUBLIC, EDUCATION AND GOVERNMENT (PEG) CABLE TELEVISION CHANNELS OPERATING IN THE CITY OF OAKLAND; (2) AUTHORIZING APPORTIONMENT OF EQUAL SHARES OF THE PEG FUNDS TO (KTOP), TO THE OAKLAND UNIFIED SCHOOL DISTRICT (KDOL), AND TO THE PERALTA COMMUNITY COLLEGE DISTRICT (PERALTATV) FOR THEIR PEG CHANNEL CABLE AND VIDEO TELEVISION FACILITIES, SUBJECT TO EQUAL REAPPORTIONMENT IN FISCAL YEARS WHEN THERE ARE MORE OR FEWER PEG CHANNELS OPERATING IN OAKLAND; (3) AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE OR AMEND MEMORANDA OF UNDERSTANDING TO EFFECTUATE THE DISTRIBUTION OF SAID FUNDS; AND (4) AMENDING RESOLUTIONS 84050 C.M.S. AND 84701 C.M.S. TO APPROPRIATE \$1,298,523 OF ADDITIONAL PEG FEES RECEIVED FOR FISCAL YEARS 2010-2011 THROUGH 2017-2018 IN THE SAME EQUAL 1/3 MANNER PREVIOUSLY AUTHORIZED**

**WHEREAS**, the City's Cable and Video Franchise Holders (currently Comcast and AT&T), are required to pay to the City, on a quarterly basis, 1% of their gross revenue to be used for the capital expenses (PEG Funds) for Public, Education and Government (PEG) cable and video television facilities, such as those operated by the City through KTOP, by the Oakland Unified School District (KDOL) and the Peralta Community College District (PeraltaTV), collectively referred to as the "PEG Channel Operators", pursuant to the City's Local Cable Franchise ("Local Franchise"), State Video Service Franchises ("SVSF") and State Video Franchise Agreement ("DIVCA"); and

**WHEREAS**, the PEG Fund capital support contribution made by Comcast and AT&T is 1% of their gross revenues, approximately \$760,000.00 annually, sometimes less and sometimes more depending on revenues of the video franchise operators; and

**WHEREAS**, the city is required to distribute PEG Funds among the PEG Channel Operators, including KTOP, KDOL and PCTV, under the City's Cable Franchise, SVSF, and DIVCA; and

**WHEREAS**, through Resolution No. 84050 C.M.S. on October 2, 2013, the Council authorized apportionment in equal shares of the PEG funds to the PEG channels operated by the City of Oakland (KTOP), the Oakland Unified School District (KDOL) and the Peralta Community College District (PCTV), in the amount of \$1.6 million for Fiscal Years 2008-2009

and 2009-2010, and all projected PEG fees of approximately \$700,000 for Fiscal Year 2012-2013; and

**WHEREAS**, staff has determined that of \$1,298,523 in additional PEG Fee revenues been received for the fiscal years covered by Resolution No. 84050, and seeks authority to distribute the additional revenue in the same 1/3 proportion as originally authorized (\$432,841 total each); and

**WHEREAS**, through Resolution No. 84701 C.M.S. on November 7, 2013, the Council authorized apportionment in equal shares of all projected PEG funds to the PEG channels operated by the City of Oakland (KTOP), the Oakland Unified School District (KDOL) and the Peralta Community College District (PeraltaTV) in the amount of \$240,667 per year each (approximately \$722,000 per year total) for Fiscal Years 2013-2014 through 2017-2018; and

**WHEREAS**, staff has determined that of \$1,298,523 in additional PEG Fee revenues been received for the fiscal years covered by Resolution No. 84701 C.M.S., and seeks authority to distribute the additional revenue in the same 1/3 proportion as originally authorized (\$432,841 total each); and

**WHEREAS**, staff seeks to appropriate \$1,298,523 of unappropriated fees collected in fiscal years 2010-2018 from fees paid by cable and video franchise holders Comcast and AT&T, ("PEG funds"), for the capital expenses of public, education, and government ("PEG") cable television channels operating in the City of Oakland, authorizing apportionment of equal shares (\$432,841) to PEG Channels KTOP, KDOL, PeraltaTV) for their PEG channel cable and video television facilities; and

**WHEREAS**, staff projects that the City will receive approximately \$780,000 in PEG Fee revenues each year for Fiscal Years 2018-2019 through 2022-2023, and recommends that said revenue be divided equally between the three PEG channels currently operating within Oakland (KTOP, KDOL, and PeraltaTV); and

**WHEREAS**, staff also seeks authorization for apportionment and appropriation of PEG Funds for Fiscal Years 2018-2019 through 2022-2023, to a Public, Education and Government fiscal account to fund capital improvements of all current and then existing PEG Channel operators: KTOP, KDOL and PeraltaTV of one-third (1/3) each, (approximately \$260,000.00 per year to each said PEG Channel); and

**WHEREAS**, the City wishes to enter into or amend any MOU with Oakland Unified School District and Peralta Community College District to memorialize the PEG Funds apportionment, use of the funds, and City's administrative functions with the PEG Funds as resolved below; and

**WHEREAS**, the Office of the Oakland City Clerk will be the lead Agency in coordinating the MOUs with and distribution of funds to PEG Channels operating in the City of Oakland, and will administer all PEG Funds for the PEG Channels; and

**WHEREAS**, the term of the MOU will commence when the City, Oakland Unified School District, and Peralta Community College District execute the MOU and will continue to June 30, 2023; now, therefore be it

**RESOLVED**, that the City Council authorizes the appropriation, as specified below, of PEG Funds to Public, Educational and Government fiscal fund 2999, Account 41613, Project 1000447 (formerly P350210) (KTOP); Fund 2999, Account 24213, Project 1000444 (formerly G383410) (KDOL); and Fund 2999, Account 24213, Project 1000443 (formerly G383510) (PeraltaTV) to be used for capital expenses of all current PEG Channel Operators; and be it

**FURTHER RESOLVED**, that Resolution No. 84050 is hereby amended to authorize appropriation and apportionment of \$432,841 each to PEG Channel Operators KTOP, KDOL, and PeraltaTV from PEG Funds received in Fiscal Years 2008-2009 and 2009-2010, and 2012-2013; and be it

**FURTHER RESOLVED**, that Resolution No. 84701 is hereby amended to authorize appropriation and apportionment of \$432,841 each to PEG Channel Operators KTOP, KDOL, and PeraltaTV from PEG Funds received in Fiscal Years 2013-2014 through 2017-2018; and be it

**FURTHER RESOLVED**, that for fiscal years 2018-2019 through 2022-2023 all PEG Funds received for those Fiscal Years shall be appropriated and apportioned equally between the PEG Channels operating in Oakland each Fiscal Year (currently: KTOP, KDOL and PeraltaTV (approximately \$260,000.00 each per year), subject to equal reapportionment in Fiscal Years when there are fewer or more PEG Channels operating in Oakland and when totals are adjusted for trued up totals from the previous fiscal year; and be it

**FURTHER RESOLVED**, that the City Administrator, or her designee, is authorized to execute or amend Memoranda of Understanding (MOU) with all participating PEG Channel Operators to memorialize the PEG Fund apportionment, and terms and conditions of the PEG Fund payments consistent with this Resolution; and be it

**FURTHER RESOLVED**, that the City Attorney will review the agreements authorized hereunder for form and legality and a copy shall be kept on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 27, 2018

**PASSED BY THE FOLLOWING VOTE:**

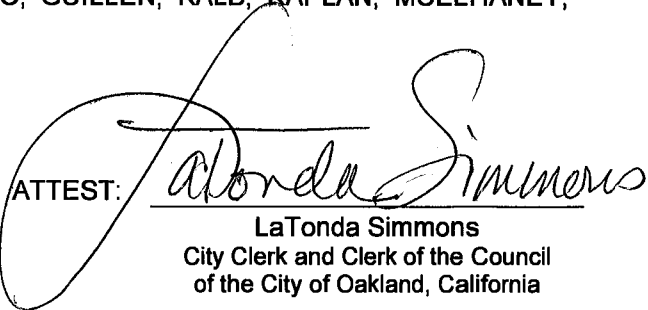
AYES - ~~XXXXXX~~, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, MCELHANEY, AND PRESIDENT REID -7

NOES -

ABSENT -

ABSTENTION -

Excused - Brooks - 1

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California