  
Deputy City AttorneyFILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2014 MAY -1 PM 3:18

**OAKLAND CITY COUNCIL  
ORDINANCE No. 13233 C.M.S.**

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**AN ORDINANCE (1) RESTRICTING EXPENDITURE OF TWO PERCENT (2%) OF THE FIVE PERCENT (5%) CABLE FRANCHISE FEE REVENUES TO FUND KTOP-TV 10 AND CABLE-RELATED ACTIVITIES, AND (2) DIRECTING THAT SAID 2% BE SEGREGATED IN THE TELECOMMUNICATIONS RESERVE FUND (FUND 1760)**

**WHEREAS**, KTOP-TV 10 is the City of Oakland's government access cable television station charged with the responsibility to provide gavel-to-gavel coverage of legislative meetings and broadcasting community-oriented television programming; and

**WHEREAS**, Ordinance No. 10399 C.M.S., adopted by the City Council in 1983, required cable franchisees to pay an annual franchise fee of five percent (5%) of gross revenues and specified that two percent (2%) of the franchise fee should be placed in a separate Telecommunications Account, now referred to as the Telecommunications Reserve Fund or Fund 1760; and

**WHEREAS**, according to Ordinance No. 10399, the two percent (2%) "shall be designated for cable-related nonregulatory activities, including, but not limited to, funding public, educational and government access programming" and

**WHEREAS**, the Telecommunications Reserve Fund is the primary source of funding for KTOP and cable-related activities, allocating about \$1.5 million to the KTOP budget each fiscal year; and

**WHEREAS**, the 5% Cable Franchise Fee was codified as Oakland Municipal Code section 5.16.540 on December 6, 2005, through the passage of Ordinance No. 12729 C.M.S. and remains in effect; and

**WHEREAS**, in January 2008, City Council passed Ordinance No. 12861 C.M.S., which superseded Ordinance No. 10399 C.M.S. and eliminated the requirement to segregate 2% of the 5% Cable Franchise Fee into the Telecommunication Reserve Fund, as well

as eliminated the restriction on the use of the 2% revenues, and thereby eliminated a dedicated funding source for KTOP and cable-related activities; and

**WHEREAS**, on December 10, 2013, the City Council was informed that Ordinance 12861 C.M.S. removed the prior restriction on 2% of the 5% Cable Franchise Fee, and then the Council passed a motion directing staff to prepare legislation that would reinstate a restriction on 2% of the 5% Cable Franchise Fee to provide a dedicated funding source for KTOP and cable-related activities; now therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1** – (a) Henceforth, of the five-percent (5%) fee imposed on gross revenues of Cable System Operators by Oakland Municipal Code section 5.16.540 (Cable Franchise Fee), two-percent (2%) of those gross revenues shall be restricted for expenditures on KTOP Television and cable-related nonregulatory activities, including, but not limited to, funding public, educational, and government access programming; and

(b) The two-percent (2%) of gross revenues mentioned directly above shall be placed into the Telecommunications Reserve Fund, also known as Fund 1760.

**Section 2.**–The City Council finds and determines that the adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”), including under section 15061(b)(3) of the State CEQA Guidelines, and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

**Section 3** – If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

**Section 4**– This Ordinance shall become effective July 1, 2014.

**Section 5** – This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

JUN 17

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2014

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, ~~SCHAAF~~  
and PRESIDENT KERNIGHAN, - 7

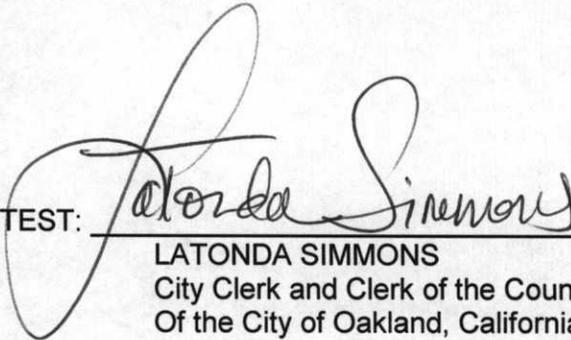
NOES – 1 - Schaaf

ABSENT – 0

ABSTENTION – 0

Introduction Date  
May 20, 2014

ATTEST:

  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
Of the City of Oakland, California

*Date of  
Attestation*

*June 23, 2014*

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OAKLAND

2014 JUN -3 PM 2:12

## NOTICE & DIGEST

**AN ORDINANCE (1) RESTRICTING EXPENDITURE OF TWO PERCENT (2%) OF THE FIVE PERCENT (5%) CABLE FRANCHISE FEE REVENUES TO FUND KTOP-TV 10 AND CABLE-RELATED ACTIVITIES, AND (2) DIRECTING THAT SAID 2% BE SEGREGATED IN THE TELECOMMUNICATIONS RESERVE FUND (FUND 1760)**

This Ordinance creates a restriction on part of the revenue the City receives as Cable Franchise Fees pursuant to Oakland Municipal Code section 5.16.540. The Cable Franchise Fee is 5% of gross revenues of a Cable System Operator. 2% of those 5% on gross revenues collected after the effective date of this Ordinance will be restricted for use to fund KTOP-TV 10, the City's Public Access television station, and other cable-related activities, and will be segregated in Fund 1760.