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OAKLAND

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Approved as to Form and Legality

Oakland City Attorney's Office

Revised

OAKLAND CITY COUNCIL

Resolution No. 82988 C.M.S.

Introduced by Councilmember _____

RESOLUTION APPROPRIATING FUNDS PAID BY CABLE AND VIDEO FRANCHISEES, COMCAST AND AT&T, ("PEG FUNDS") FOR THE CAPITAL EXPENSES OF PUBLIC, EDUCATION, AND GOVERNMENT CHANNELS ("PEG") OPERATED BY THE CITY OF OAKLAND ("KTOP"), OAKLAND UNIFIED SCHOOL DISTRICT ("KDOL") AND PERALTA COMMUNITY COLLEGE DISTRICT ("PERALTA TV"), AND AUTHORIZING GRANTS OF PROPORTIONATE SHARES OF THE PEG FUNDS TO THE CITY, OAKLAND UNIFIED SCHOOL DISTRICT AND THE PERALTA COMMUNITY COLLEGE DISTRICT FOR THEIR CABLE AND VIDEO TELEVISION FACILITIES

WHEREAS, the City's Cable and Video service providers, Comcast and AT&T, are required to pay to the City, on a quarterly basis, 1% of their gross revenue 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, and by the Oakland Unified School District ("KDOL") and the Peralta Community College District ("PERALTA TV"), 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 approximately \$600,000.00 annually, sometimes less and sometimes more; and

WHEREAS, the City is required to distribute PEG Funds among the PEG Channel operators, including itself, under the City's Cable Franchise, SVSF and DIVCA; and

WHEREAS, staff seeks an ongoing, annual appropriation for the next two fiscal years 2010/2011 and 2011/2012 of PEG Funds to a Public, Education and Government fiscal account in order to fund capital improvements of all current PEG operators: KTOP, KDOL and PERALTA TV cable a video television facilities; and

WHEREAS, staff seeks authorization for grants of the PEG funds to KDOL and PERALTA TV of two-thirds (approximately \$400,000.00), or one-third (approximately \$200,000.00), each; and

WHEREAS, the City wishes to enter into a Memorandum of Understanding ("MOU") with PERALTA TV and KDOL to memorialize the PEG grant allocation, use of the funds and City's administrative functions in connection with the grant; and

WHEREAS, the Department of Information Technology will be the lead Agency in coordinating the MOUs with, and distribution of funds to, KDOL and PERALTA TV, and will administer all PEG Funds for the PEG channels; and

WHEREAS, in the event a fourth PEG channel is created, the City, KTOP, KDOL and PERALTA TV agree to a reallocation of a portion of the their grant distribution to provide for an equal grant distribution of PEG Funds among four PEG Channel operators; and

WHEREAS, the term of the MOU will commence when KDOL and PERALTA TV execute the MOU and will continue to July 1, 2012; now, therefore, be it

RESOLVED: That the City Council authorizes the appropriation of PEG Funds to Public, Education and Government fiscal Fund 2999 Account 41613 Project P350210, Fund 2999 Account 24213 Project G383410, Fund 2999 Account 24213 Project G383510 to be used for capital improvements of all current PEG Channel operators, including without limitation KTOP, KDOL and PERALTA TV; and be it

FURTHER RESOLVED: That the PEG Fund appropriation shall occur for the next two fiscal years 2010/2011 and 2011/2012; and be it

FURTHER RESOLVED: That the City Council authorizes a grant of one-third (1/3) of all PEG Fund contributions annually, or approximately \$200,000.00, each, to KTOP, KDOL and to PERALTA TV, to be paid from the PEG funds; and be it

FURTHER RESOLVED: That the City Administrator shall enter into Memorandums Of Understanding (MOU) with up to three non-City PEG operators to memorialize the PEG Fund grant amount, terms and conditions of the PEG fund grants; and be it

FURTHER RESOLVED: That the City Administrator is authorized to revise PEG Fund grant amounts without return to Council to (i) adjust grant amounts to reflect a proportionate share of annual 1% PEG Fund contributions in any given year, and (ii) to reallocate grant funds to reflect equal shares among four PEG operators in the event a fourth PEG channel is created; and be it

FURTHER RESOLVED: That the City Attorney will review the agreements authorized hereunder for form and legality; and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized to approve any subsequent amendments to or extensions of said agreements with the exception of those related to an increase in total PEG funds allocated to PERALTA TV and KDOL, provided that such amendments or extensions shall be approved for form and legality by the City Attorney and a copy shall be kept on file with the City Clerk; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 21 2010


PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, ~~BRUNNER~~, KAPLAN, KERNIGHAN, NADEL, QUAN, ~~REID~~, AND ~~WILLIAMS~~ - 5

NOES - Brunner, De La Fuente - 2

ABSENT - Reid - 1

ABSTENTION - 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California