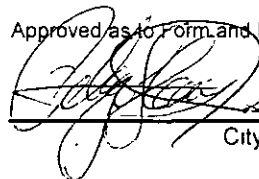


REVISED
11-6-13

Approved as to Form and Legality

FILED
OFFICE OF THE CITY CLERK
OAKLAND


11/4/13
City Attorney

2013 NOV -7 PM 1:30

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION (1) APPROPRIATING APPROXIMATELY \$3.2 MILLION TOTAL ESTIMATED IN PUBLIC EDUCATION GOVERNMENT (PEG) FUNDS FOR FISCAL YEAR 2013-14 THROUGH FISCAL YEAR 2017-2018, FROM FUNDS 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; (2) AUTHORIZING APPORTIONMENT OF EQUAL SHARES OF THE PEG FUNDS TO PEG CHANNELS OF THE CITY OF OAKLAND (KTOP), THE OAKLAND UNIFIED SCHOOL DISTRICT (KDOL) AND THE PERALTA COMMUNITY COLLEGE DISTRICT (PERALTA TV) FOR THEIR PEG CHANNEL CABLE AND VIDEO TELEVISION FACILITIES, SUBJECT TO EQUAL REAPPORTIONMENT IN FISCAL YEARS WHEN THERE ARE FEWER OR MORE PEG CHANNELS OPERATING IN OAKLAND; AND (3) AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A MEMORANDA OF UNDERSTANDING TO EFFECTUATE THE DISTRIBUTION OF SAID FUNDS.

WHEREAS, the City's Cable and Video Franchise Holders, 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 ("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 1% of their gross revenues, approximately \$ 722,000.00 annually, sometimes less and sometimes more depending on AT&T and Comcast's revenues; and

WHEREAS, the City is required to distribute PEG Funds among the PEG Channel Operators, including KTOP, under the City's Cable Franchise, SVSF and DVICA; 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 (PERALTA TV), in the amount of \$1.6 million for Fiscal Years 2008-09 and 2009-10, and all projected PEG fees of approximately \$700,000 for Fiscal Year 2012-13; and

WHEREAS, the City entered into a Memorandum of Understanding (“MOU”) with Oakland Unified School District and Peralta Community College District whereby those entities agreed to the terms of Oakland City Council Resolution No. 84050 C.M.S.; and

WHEREAS, staff now seeks authorization for apportionment and appropriation of PEG Funds for fiscal years 2013-2014 through 2017-2018, to a Public, Education and Government fiscal account in order to fund capital improvements of all current and then existing PEG Channel operators: KTOP, KDOL and PERALTA TV of one-third (1/3) each, (approximately \$240,667 per year to each said PEG Channel); and

WHEREAS, the City wishes to enter into an 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 in connection with the PEG Funds as resolved below; and

WHEREAS, the City’s Department of Information Technology will be the lead Agency in coordinating the MOUs with, and distribution of funds to PEG Channels operating in 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, 2018; now, therefore be it

RESOLVED, That the City Council authorizes the appropriation, as specified below, of PEG Funds to Public, Education and Government fiscal Fund 2999 Account 41613 Project P350210 (KTOP), Fund 2999 Account 24213 Project G383410 (KDOL) and Fund 2999 Account 24213 Project G383510 (PERALTA TV) to be used for capital expenses of all current PEG Channel Operators; and be it

FURTHER RESOLVED, That, for the Fiscal Years July 1, 2013 - June 30, 2014 through July 1, 2017 - June 30, 2018, all PEG Funds received for those Fiscal Year shall be appropriated and apportioned equally between PEG Channels KTOP, KDOL and PERALTA TV (approximately \$240,667 each per year), subject to equal reapportionment in fiscal years when there are fewer or more PEG Channels operating in Oakland; and be it

FURTHER RESOLVED, That the City Administrator 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, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF
and PRESIDENT KERNIGAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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