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Staff Report for an Urgency Ordinance to Reauthorize the City’s Public, Educational and Government Fee as Provided in Section 5-7-115 of the San Leandro Municipal Code

RECOMMENDATIONS

Staff recommends that the City Council waive reading, introduce, and adopt the attached urgency ordinance reauthorizing the City’s public, educational, and government (“PEG”) fee as provided in Section 5-7-115 of the San Leandro Municipal Code.

SUMMARY AND BACKGROUND

In accordance with state law, the City imposes a one percent (1%) PEG channel facilities fee on all state-franchised video service providers operating within the City to support PEG programming. State law provides that a city’s PEG fee ordinance must be reauthorized upon expiration of a state franchise. AT&T’s state franchise expires on March 30, 2017.

Under Section 5-7-115 of the San Leandro Municipal Code, the City’s PEG fee is automatically reauthorized unless a franchise holder gives 60-days’ prior written notice to the City that its state franchise will expire. AT&T did not provide the required 60-days’ notice to the City. Therefore, under the City’s Municipal Code, the City’s PEG fee ordinance will be automatically reauthorized when AT&T receives its new or renewed state franchise.

Although staff believes that the City's PEG fee will be automatically reauthorized under the terms of the City's Municipal Code, to account for inherent uncertainty related to the state franchise renewal process, and to ensure continuity in PEG funding if or when AT&T's franchise is renewed, staff recommends that the City Council adopt an urgency ordinance specifically declaring that the City's PEG fee is reauthorized. The urgency ordinance will take effect and be enforced immediately upon the commencement of AT&T's new or renewed state franchise under the Digital Infrastructure and Video Competition Act of 2006.

Approval of the urgency ordinance requires a 4/5 vote and specific findings pursuant to State law. Staff recommends that the City Council adopt the urgency ordinance based upon the following findings and declarations: 1) It is necessary for the immediate preservation of the public peace, health, and safety; 2) Section 5870(n) of the California Public Utilities Code provides that a PEG fee ordinance must be reauthorized upon expiration of an applicable state franchise; 3) AT&T, Inc. operates within the City under a state franchise that expires on March 30, 2017; 4) It is in the public interest to take every measure to ensure that there is no lapse in the collection and remittance of PEG fees, which supports public, educational, and governmental channels, including channels that may provide critical emergency or other public safety-related information and maintaining stable funding for PEG channels is vital to the public peace, health, and safety of the City of San Leandro.