



Legislation Text

File #: 17-133, Version: 1

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

WHEREAS, the City Council previously adopted Section 5-7-115 of the San Leandro Municipal Code ("SLMC"), which imposes a public, educational, and governmental ("PEG") fee on state cable franchisees operating within the City as authorized in the Digital Infrastructure and Video Competition Act of 2006; and

WHEREAS, Section 5870(n) of the California Public Utilities Code states that a PEG fee ordinance must be reauthorized upon expiration of an applicable state franchise; and

WHEREAS, SLMC Section 5-7-115(c) provides that, notwithstanding Section 5870(n) of the California Public Utilities Code, upon the expiration of any state franchise, the City's PEG fee is automatically reauthorized unless the franchise holder has given the City 60-days' written notice prior to the expiration of its state franchise that the City's fee authorization will expire; and

WHEREAS, AT&T, Inc. operates within the City under a state franchise that expires on March 30, 2017; and

WHEREAS, the City received no timely written notice from AT&T, Inc. of the expiration of its state franchise pursuant to SLMC Section 5-7-115(c); and

WHEREAS, therefore, pursuant to the provisions of Section 5-7-115(c), the City's PEG fee is automatically reauthorized with regard to AT&T, Inc.; and

WHEREAS, notwithstanding the automatic reauthorization of the City's PEG fee as described above, the City Council wishes to adopt an ordinance expressly declaring that the City's PEG fee is reauthorized.

NOW, THEREFORE, the City Council of the City of San Leandro does hereby ordain as follows:

Section 1. PEG Fee Reauthorization. The City's PEG channel facilities fee authorized in Section 5-7-115 of the San Leandro Municipal Code is hereby reauthorized to the extent required by Section 5870(n) of the California Public Utilities Code. All state franchisees operating within the City shall continue to collect and remit the PEG channel facilities fee as required in SLMC Section 5-7-115.

Section 2. No Change to Municipal Code. Section 5-7-115 of the San Leandro Municipal Code shall remain unchanged and in full force and effect.

Section 3. Urgency Findings and Declaration. The City Council finds and declares that this Ordinance must be adopted as an urgency matter because it is necessary for the immediate preservation of the public peace, health, and safety. The following facts and circumstances support such necessity: Section 5870(n) of the California Public Utilities Code states that a PEG fee ordinance must be reauthorized upon expiration of an applicable state franchise. AT&T, Inc. operates within the City under a state franchise that expires on March 30, 2017. Although SLMC Section 5-7-115 provides for continuity in PEG funding, it is in the public interest to take every measure to ensure that there is no lapse in the collection and remission of PEG fees, which supports public, educational, and governmental channels, including channels that may provide critical emergency or other public safety-related information. Maintaining stable funding for PEG channels is therefore vital to the public peace, health, and safety of the City of San Leandro. Without the enactment of this Ordinance as provided herein, a lapse in the collection and remittance of the PEG fee could potentially occur, endangering the stability of PEG program funding within the City.

Based on said findings, facts and circumstances, the City Council finds that this Ordinance should be adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety, and that it is necessary that this Ordinance should go into effect as described below.

Section 4. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

Section 5. Publication and Effective Date. Following adoption by at least a four-fifths vote of the City Council, this Ordinance shall 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. The City Clerk shall cause this ordinance to be published or posted in at least three (3) public places in the City in accordance with Section 36933 of the Government Code of the State of California.