



**DATE:** March 21, 2017

**CATEGORY:** Consent

**DEPT.:** City Manager's Office

**TITLE:** **Introduce Ordinance Reauthorizing and Readopting the City's Public, Educational, and Governmental Access Support Fee**

### **RECOMMENDATION**

Introduce an Ordinance Amending Chapter 37 of the Mountain View City Code, Reauthorizing and Readopting the City's Public, Educational, and Governmental Access Support Fee, to be read in title only, further reading waived, and set second reading for March 28, 2017 (Attachment 1 to the Council report).

### **BACKGROUND**

Assembly Bill 2987, the Digital Infrastructure and Video Competition Act, which enacted Public Utilities Code Sections 5800-5970 (DIVCA), went into effect on January 1, 2007. DIVCA established a new framework for the regulation of cable television; replacing local franchising with a State franchising system administered by the California Public Utilities Commission (CPUC). Local jurisdictions retain the authority to pass ordinances that allow them to monitor customer service performance as well as impose and collect fees for the provision of Public, Educational, and Governmental (PEG) access channels. Public Utilities Code Section 5870(n) provides that if, on December 31, 2006, a local entity is imposing a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. This Section further provides that the ordinance shall expire, and may be reauthorized, upon the expiration of the State franchise.

### **ANALYSIS**

On April 22, 2008, the Mountain View City Council adopted Ordinance No. 4.08, amending Chapter 37 of the Mountain View City Code. The amended Chapter 37 brought the City Code into conformity with DIVCA and required State franchise holders operating in the City to pay PEG fees at a rate of one and thirty-seven one-hundredths percent (1.37%) of gross revenues. AT&T's current franchise with the

CPUC expires on March 30, 2017. The City's existing ordinance will expire unless an ordinance reauthorizing and readopting Chapter 37 of the Mountain View City Code is adopted. This action is necessary to continue the PEG access support fee. The ordinance also contains provisions which address future expirations of other video franchise holders in the City, and provides for automatic reauthorization and readoption in an effort to avoid the need to repeatedly amend the ordinance upon expiration of each franchise.

### **FISCAL IMPACT**

This ordinance reauthorizes Chapter 37 of the Mountain View City Code, and reaffirms that State franchise holders operating in Mountain View must to pay a PEG access support fee of one and thirty-seven one-hundredths percent (1.37%) of gross revenues. Fiscal Years 2013-14 through 2015-16, the City collected an average of \$248,237 per year in PEG fees. The City uses PEG funds for PEG-related capital costs and provides PEG funds to KMVT for use in accordance with DIVCA.

### **ALTERNATIVES**

If the City does not adopt this ordinance, the 1.37 percent PEG access fee will expire March 30, 2017. The City will lose approximately \$248,000 annually in PEG fees.

### **PUBLIC NOTICING**

Agenda posting and a copy of report was provided to AT&T and Comcast.

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ASR-MEG/KC/7/CAM  
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Attachment: 1. Ordinance