




City of San Gabriel

STAFF REPORT

DATE: January 15, 2019

TO: Honorable Mayor and City Council

FROM: Mark Lazzaretto, City Manager 

BY: Thomas C. Marston, Finance Director 
Rosella Manale, Accountant 

SUBJECT: **An ordinance of the City of San Gabriel Reauthorizing and Readopting the City's Public, Educational, and Governmental Access Support Fee**

SUMMARY

Staff is requesting City Council approval of Reauthorizing and Readopting the City's Public, Educational, and Governmental Access Support Fee.

INTRODUCTION

In accordance with state law, the City imposes a 1% Public, Educational, and Governmental ("PEG") access fee on all state-franchised video service providers operating within the City to support PEG programming facilities.

ANALYSIS

In 2006, the California Legislature adopted the Digital Infrastructure and Video Competition Act ("DIVCA"). DIVCA authorizes cities to adopt an ordinance imposing a fee on state franchise holders to support PEG channel facilities. On November 4, 2008, the Council adopted Ordinance No. 580 C.S. to require state-franchised video service providers to pay the City a PEG fee of 1% of the video service provider's gross revenue attributable to the City. Charter Communications collects the 1% PEG access fee from its subscribers and subsequently remits these fees to the City.

DIVCA also provides that an ordinance adopting a PEG fee "shall expire, and may be reauthorized, upon the expiration of the state franchise." (Pub. Utilities Code §5870, subd. (n).) DIVCA further provides that state franchises expire 10 years after issuance. (Pub. Util. Code §5870, subd. (a).)

Charter Communications' state video franchise expired on January 2, 2018 and was renewed thereafter. In turn, this triggered the expiration of Ordinance No. 580 C.S.

The City uses the funds to cover costs associated with the "Cable Scroll" on the public education channel, which is channel 3 on the Spectrum Cable lineup. The funds are deposited into the General Funds' Franchise Fee Revenue account to be used for that purpose.

In Fiscal Year 2015-16, on a "one-time" basis, \$30,000 was budgeted to fund broadcasting equipment. As this amount is insufficient for the purchase and installation of dedicated broadcast equipment, staff instead began research on alternatives to broadcasting the meetings using an outside vendor. Due to turnover in personnel, this process was not completed. Consequently, the \$30,000 budget has been carried forward and is available in the current fiscal year budget. The City Clerk Department has already begun researching current alternatives in order to formulate a recommendation for Council consideration.

RECOMMENDATION

The City Council is requested to Introduce for first reading by title only Ordinance No. 649 of the City Council of the City of San Gabriel, California reauthorizing the fee on state-franchised video service providers to support public, educational, and governmental channel facilities and; Waive further reading of Ordinance No. 649; and Schedule the second reading and adoption of Ordinance No. 649 for February 5, 2019.

FISCAL IMPACT

There is no fiscal impact.

ATTACHMENTS

Attachment No. 1: Ordinance No. 649

ORDINANCE NO. 649

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA REAUTHORIZING AND READOPTING THE CITY PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS SUPPORT FEE

WHEREAS, Section 5870(n) of the California Public Utilities Code ("Section 5870(n)") was enacted as part of the Digital Infrastructure and Video Competition Act of 2006 and authorized the City of San Gabriel ("City") to adopt an ordinance establishing a fee on state-franchised video service provider to support public, educational, and governmental ("PEG") channel facilities; and

WHEREAS, in 2008 the City Council adopted Ordinance No. 580-C.S. establishing such a fee, which is codified in Section 112.301 of the Municipal Code; and

WHEREAS, Section 5870(n) of the Public Utilities Code states that such an ordinance shall expire, and may be reauthorized, upon the expiration of a state franchise; and

WHEREAS, the first state franchise to include the City expired in January of 2018; and

WHEREAS, the City desires to continue receiving PEG fees.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby reauthorizes the fee on state-franchised video service providers to support public, educational, and governmental channel facilities codified in Section 112.301 of the Municipal Code, the rate and details of which shall remain unchanged and in continuous full effect as to all state-franchised video service providers.

SECTION 2. AUTOMATIC REAUTHORIZATION. Commencing from, and after, the effective date of the ordinance, the City's PEG fee set forth in Ordinance No. 580-C.S. and San Gabriel Municipal Code Section 112.301 shall continue to apply to any new or existing franchisee operating in the City and shall automatically be reauthorized upon the expiration of any existing or future state video franchise held by any state-franchised video service provider operating within the City. This Ordinance shall so renew until such time that the City Council takes formal affirmative action to cease the renewals.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City Council hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local weekly newspaper of general circulation and which is hereby designated for that purpose.

PASSED, APPROVED and ADOPTED this 15th day of January, 2019.

City of San Gabriel, California

BY: _____
JOHN R. HARRINGTON, Mayor

ATTEST:

JULIE NGUYEN, City Clerk

APPROVED AS TO FORM:

KEITH LEMIEUX, City Attorney

CERTIFICATION

I, Sharon F. Clark, Chief City Clerk of the City of San Gabriel, do hereby certify that Ordinance No. 649 was introduced for first reading at a regular meeting on the 15th day of January, 2019. Thereafter, said Ordinance was duly approved and adopted at a regular meeting of said City Council on the 5th day of February, 2019, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Dated:

SHARON F. CLARK, Chief City Clerk