

URGENCY ORDINANCE NO. 18-1803U

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY COUNCIL OF THE CITY OF CARSON,
CALIFORNIA REAUTHORIZING THE CITY'S PUBLIC,
EDUCATIONAL, OR GOVERNMENTAL CHANNEL FEE**

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

WHEREAS, in 2008, the City adopted Ordinance Number 08-1398, which added a Division 2 (State Franchises) of Chapter 6 of Title VI of the Carson Municipal Code to establish a PEG Fee; 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, Ordinance No. 08-1398 does not include an expiration date and was intended to apply to all current and future state-franchised video service providers in the City; and

WHEREAS, there are currently two state-franchised video services providers operating in the City, AT&T and Charter, and both the AT&T and Charter state franchises have expired and since been renewed by the state; and

WHEREAS, Government Code Sections 36934 and 36937 expressly authorize the City Council to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety by a four-fifths vote of the City Council; and

WHEREAS, this Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety of the City within the meaning of Government Code section 36937 due to the timelines detailed above concerning the expiration and reauthorization of the state franchises, and due to the fact that the PEG Fee is used for, among other things, public education and governmental outreach (including PEG emergency and public safety broadcasts); and

WHEREAS, this uncodified ordinance will expressly reauthorize the PEG Fee charged by the City to telecommunication companies to support public, educational and government channel facilities, and is also intended to create an express evergreen renewal of the City's PEG Fee until such time that the City Council takes action to cease such reauthorizations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON,
CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:**

SECTION 1. FINDINGS. The above recitals are true and correct and incorporated fully herein.

SECTION 2. REAUTHORIZATION. The City of Carson hereby reauthorizes, to the extent required by California Public Utilities Code section 5870(n), the PEG Fee adopted by Ordinance No. 08-1398 and codified at Division 2 of Chapter 6 of Title VI of the Carson Municipal Code. The PEG Fee shall remain unchanged and in full effect as to all state-franchised video service providers.

SECTION 3. AUTOMATIC REAUTHORIZATION. Commencing from, and after, the effective date of this Ordinance, the City's PEG fee in Ordinance No. 08-1398, and codified in Division 2 of Chapter 6 of Title VI of the Carson Municipal Code, shall automatically be reauthorized, to the extent required by California Public Utilities Code section 5870(n), upon the expiration of any existing or future Video Franchise Certificate Franchise(s) held by any state-franchised video service provider operating within the City. The Ordinance shall so renew upon the future expiration of Video Franchise Certificate Franchise(s) until such time that the City Council takes formal affirmative action to cease the renewals (which action may be taken at any time and without notice, except as required by the Ralph M. Brown Act, California Government Code 54950 *et seq.*).

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. CEQA EXEMPTION. Adoption of this uncodified Ordinance is exempt from the California Environmental Quality Act under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility the amendment may have a significant effect on the environment.

SECTION 6. EFFECTIVE DATE. This ordinance shall be in full force and effect immediately upon its adoption by at least four-fifths vote of the City Council pursuant to Government Code sections 36934 and 36937.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED AND ADOPTED on the ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ALBERT ROBLES, Mayor

ATTEST:

DONESIA GAUSE, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney