FRANK T. MARTINEZ
City Clerk

KAREN E. KALFAYAN
Executive Officer

When making inquiries relative to this matter refer to File No.

06-2818

CITY OF LOS ANGELES

CALIFORNIA

ANTONIO R. VILLARAIGOSA
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

CLAUDIA M. DUNN
Chief, Council and Public Services Division

www.cityclerk.lacity.org

December 4, 2006

City Attorney
Information Technology Agency

RE: AMENDING THE LOS ANGELES ADMINISTRATIVE CODE TO ADD PROVISIONS REGARDING NEW VIDEO SERVICE FEES, PENALTIES AND OTHER RELATED MATTERS

At the meeting of the Council held November 29, 2006, the following action was taken:

Attached report adopted	X
Attached motion (-) adopted	
Attached resolution adopted	
FORTHWITH	
Mayor concurred	
To the Mayor FORTHWITH	X
Motion adopted to approve communication recommendation(s)	
Motion adopted to approve committee report recommendation(s)	
Ordinance adopted	X
Ordinance number	178108
Publication date	12-01-06
Effective date	01-01-07
Mayor vetoed	
Mayor approved	11-29-06
Mayor failed to act - deemed approved	
Findings adopted	
Negative Declaration adopted	
Categorically exempt	
Generally exempt	

Frank T. Martinez

City Clerk
vk

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File No. 06-2818

TO THE COUNCIL OF THE CITY OF LOS ANGELES

Your

BUDGET AND FINANCE and INFORMATION TECHNOLOGY AND GENERAL SERVICES Committees

report as follows:

	Yes	No
Public Comments:	X	

BUDGET AND FINANCE and INFORMATION TECHNOLOGY AND GENERAL SERVICES COMMITTEES' REPORT and ORDINANCE relative to amending the Los Angeles Administrative Code (LAAC) to add provisions regarding new video service fees, penalties and other related matters.

Recommendation for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

PRESENT and ADOPT the accompanying ORDINANCE amending the LAAC to add provisions regarding new video service fees, penalties and other related matters.

Fiscal Impact Statement: The City Administrative Officer (CAO) reports there is no General Fund impact at this time. The Information Technology Agency (ITA) advises that approximately the same $24 million in City cable franchise revenues that have been received in the past few years are anticipated in the near term. By ordinance, the existing five-percent cable franchise fees received by the City are divided between the General Fund (sixty percent) and the Telecommunications Development Account (forty percent). Over time, cable franchise revenues deposited in the Telecommunications Fund, Liquidated Damages and Lost Franchise Fees, Telecommunications Development Account are expected to increase as a result of the imposition of a one-percent Public, Educational and Government (PEG) access fee.

The proposed Ordinance provisions are in compliance with City Financial Policies in that they will preserve ongoing revenue from cable franchise fees used to support such activities as L.A. CityView Channel 35, Los Angeles Cable Television Access Corporation (Channel 36), PEG access studios, and the ITA's Cable Television Division. Since revenues may vary in future years, the Office of the CAO will update revenue projections as information becomes available.

SUMMARY

At a joint Budget and Finance/Information Technology and General Services Committee meeting on November 20, 2006, the Committees considered City Attorney and CAO reports and a draft Ordinance relative to the impact of Assembly Bill (AB) 2987, the Digital Infrastructure and Video Competition Act of 2006, on the City's cable television regulatory authority and operations. On August 30, 2006, the State Senate passed AB 2987, which was signed by the Governor on September 29th. The City had opposed this legislation because of the transfer of cable and video franchising authority from local governments to the State. As a consequence of the passage of AB 2987, the City Attorney prepared a report and draft Ordinance, concurred in by the ITA as the cable television administration and enforcement agency for the City. The proposed Ordinance, if adopted, will ensure that the City will have the appropriate legal framework in place to interact with State video franchisees as they receive franchises in 2007, and begin to offer video services to City residents, and help to secure the City's rights and clarify its responsibilities under the provisions of the new State franchising authority.

The CAO reports that having the appropriate legal framework in place on or before January 1, 2007, is vital to the City's interest for the following reasons:

- it allows the City to impose a fee, in addition to the standard five percent of a franchisee's gross revenues ("franchise fee"), of one percent of gross revenues from franchisees for the purpose of PEG access. This PEG fee will allow the City to begin funding and operating studios and other PEG resources in the City or contracting with other entities such as non-profit organizations to fund and operate those services for use by the public for the creation of "community-based communications" in 2007 and 2008;
- it assists in preserving the City's rights and ability to obtain from current franchisees in-kind services such as public access studios and free cable and internet access for City buildings, libraries, and schools, at least until January 1, 2009;
- it helps to ensure that state video franchise holders provide PEG channel capacity on their networks equal in number to the greatest number of PEG channels that are active and provided by a current franchisee (e.g., Time Warner, Cox Communications, and Charter Communications) under the terms of a City franchise agreement in effect as of January 1, 2007. Additionally, state franchise holders are required to negotiate in good faith with current City franchisees to interconnect their separate networks to enable PEG channel delivery as long as the interconnection is technically feasible. If not technically feasible, the state franchise holder must pay for providing a direct interconnection to the originator of the channel.

The CAO further reports that in fiscal years 2006-07 and 2007-08, the City expects to receive approximately the same cable franchise revenues as in the past few years: $24 million. Sometime between 2007 and 2009, cable franchise revenues may increase with the imposition of one percent PEG payments. As part of the original City franchise agreements, cable providers were required to pay PEG costs as part of their franchise obligations. When those City agreements expired in 2003, PEG payments concluded.

The City Attorney's report explains in detail the various provisions of the Digital Infrastructure and Video Competition Act of 2006, and the impact of those provisions on City operations. Essentially, after January 1, 2007, the California Public Utilities Commission (PUC) will become the sole authority for granting new video franchises in the state. Nonetheless, the City will retain some of its prior authority over current and future franchisees. The City Attorney reports that under the new law, the PUC will begin granting state video franchises no later than April 1, 2007. Geographically, the areas covered by state video franchises can be specified by the applicants, do not have to respect current City video franchise areas, and may cross city and county boundaries. A holder of a state franchise must pay five percent of gross revenue to the City for all subscribers within City limits. Additionally, if the City passes an appropriate ordinance, an additional one percent of gross revenue can be received by the City for PEG purposes. The City's current franchise authority will continue, without change, until January 1, 2008. Until that date, the City may grant, extend, renew or otherwise modify any of its existing franchise agreements, and it may grant new franchise agreements to new market entrants. After January 1, 2008, a new market participant wishing to provide video service must apply for a state franchise with the PUC. The City can, however, continue to modify, renew or extend existing City video franchises after that date, whether they are expired or not. As the City is not the franchising authority for state video franchise holders, the City's ultimate ability to monitor and ensure the compliance of those franchise holders is less than with its own franchisees.

The proposed Ordinance accomplishes the following:

- specifies that the City will continue to claim the five percent franchise fee and impose an additional one percent fee on video services for PEG purposes; authorizes the ITA to conduct financial audits of state franchise holders within the City similar to what is done for current City franchise holders;

- authorizes the ITA to assess penalties against video service providers operating within the City for non-compliance with state and federal customer service standards;
- allows affected franchise holders operating within the City to appeal an assessed penalty to the Board of Information Technology Commissioners whose determination will be considered final;
- specifies how the City must be notified by a state video franchise applicant when applying for or amending a state franchise;
- authorizes the ITA to file appropriate comments with the PUC when notified of an application for or amendment of a state franchise;
- extends the City's current franchise agreements until January 2, 2008, on the same terms and conditions as currently in effect.

On November 20, 2006, the joint Budget and Finance and Information Technology and General Services Committees recommended to present and adopt the accompanying Ordinance amending the Los Angeles Administrative Code to add provisions regarding new video service fees, penalties and other related matters. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,

BUDGET AND FINANCE COMMITTEE

MEMBER	VOTE
PARKS:	YES
GREUEL:	ABSENT
SMITH:	YES
ROSENDAHL:	ABSENT
HUIZAR:	YES

INFORMATION TECHNOLOGY AND GENERAL SERVICES COMMITTEE

MEMBER	VOTE
CARDENAS:	YES
PARKS:	YES
HAHN:	ABSENT

LB
#062818
11/21/06

Attachment

REPT & ORD

ADOPTED

NOV 29 2006

LOS ANGELES CITY COUNCIL

TO THE MAYOR FORTHWITH