

Attachment 1

Reauthorization Ordinance

An Ordinance Reauthorizing the County's
Public, Educational and Governmental
Access Fee on State Video Franchises

ORDINANCE NO. _____**AN ORDINANCE OF THE COUNTY OF SANTA BARBARA, CALIFORNIA, REAUTHORIZING THE PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS FEE ON STATE VIDEO FRANCHISES OPERATING WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF SANTA BARBARA**

WHEREAS, on April 12, 2011, the Board of Supervisors for the County of Santa Barbara (“County”) adopted Ordinance No. 4785 which, among other things, added Sections 43-40 through 43-53 to the Santa Barbara County Code;

WHEREAS, Santa Barbara County Code Chapter 43 imposes a fee on any holder of a state franchise issued pursuant to the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”) operating within the unincorporated area of the County; the fee is one percent (1%) of the state franchisee’s “Gross Revenue,” as defined in DIVCA and the Santa Barbara County Code, and is for the County to use for public, educational, and governmental access (“PEG”) purposes consistent with state and federal law;

WHEREAS, California Public Utilities Code Section 5870(n) regarding PEG fees states that the local entity’s ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise;

WHEREAS, the CPUC issued California Video Franchise Certificate Franchise Number 0003 to CoxCom, Inc. d/b/a Cox Communications, effective April 27, 2007 (“Cox Franchise”), which is set to expire and renew on April 27, 2017;

WHEREAS, the Board of Supervisors wishes to adopt an ordinance expressly re-authorizing the PEG fee in Santa Barbara County Code Chapter 43 for the Cox Franchise, and for other state franchisees operating under DIVCA within the unincorporated area of the County.

NOW THEREFORE, the Board of Supervisors of the County of Santa Barbara ordains as follows:

Section 1: The County’s Ordinance No. 4785 is hereby reauthorized. Such reauthorization expressly includes reauthorization of the County’s PEG fee established in Santa Barbara County Code Chapter 43 to the extent required by California Public Utilities Code Section 5870(n). All state franchisees operating under DIVCA within the unincorporated area of the County, including but not limited to the Cox Franchise, shall continue to collect and remit the PEG fee as required in Santa Barbara County Code Chapter 43, which fee shall remain unchanged and in full effect as to all state franchisees. The Board of Supervisors expressly intends for this ordinance to apply retroactively to the expiration and renewal of the Cox Franchise to the extent such franchise expires prior to the effective date of this ordinance.

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby

declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The Board of Supervisors finds that the introduction and adoption of this ordinance are not a project under the California Environmental Quality Act (“CEQA”) pursuant to Section 15378(b)(5) of the CEQA Guidelines, in that they are administrative activities that will not result in direct or indirect physical changes in the environment.

Section 5: This ordinance shall take effect and be in force thirty (30) days from the date of its passage, and notice shall be published in accordance with Cal. Gov. Code Section 25124.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors on the County of Santa Barbara, State of California, this ____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS

ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
THEO A. FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Deputy

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel