TO: CITY COUNCIL

VIA: CITY ADMINISTRATOR

FROM: DIRECTOR OF FINANCE

DATE: JULY 23, 2019

SUBJECT: SECOND READING OF ORDINANCE NO. O-2019-08 REAUTHORIZING THE PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (PEG) FEE ON STATE VIDEO FRANCHISEES OPERATING WITHIN THE CITY OF PLACENTIA

FISCAL IMPACT: APPROXIMATELY $70,000 ANNUAL PEG RESTRICTED REVENUE

SUMMARY:

On July 9, 2019, the City Council had the first reading of Ordinance No. O-2019-08 reauthorizing the public, educational, and governmental ("PEG") fee on State video franchisees operating within the City of Placentia.

RECOMMENDATION:

It is recommended that the City Council take the following actions:

Waive full reading, by title only, and introduce for first reading Ordinance No. O-2019-08, An Ordinance of the City Council of the City of Placentia, California, reauthorizing the Public, Educational, and Governmental fee on State video franchisees operating within the City of Placentia.

DISCUSSION:

The Digital Infrastructure and Video Competition Act of 2006 (Pub. Util. Code §§ 5800 et seq., "DIVCA") went into effect on January 1, 2007. Public Utilities Code Section 5870(n) ("Section 5870(n)") of DIVCA states that a city may adopt an ordinance establishing a fee on state-franchised video service providers to support public, educational, and governmental ("PEG") channel facilities. In 2008, the City adopted Ordinance No. O-2008-04, establishing a one percent (1%) fee for the support of the PEG channel facilities and activities within the City, which is codified in Section 6.48.00 of the Placentia Municipal Code (PMC). This PEG fee is collected on top of the 5% franchise fee imposed upon video service providers. Ordinance No. O-2008-04 has never been repealed and did not include an expiration date. It is the City’s position that the Ordinance has not expired but continues in full force and effect. However, Charter Communications ("Franchisee") has alleged that the City’s PEG fee has expired and stopped paying the PEG fee.
in December 2017. The attached ordinance reauthorizes the PEG fee codified in Section 6.48.060 of the PMC, which fee shall remain unchanged as to all state-franchised video service providers operating within the City. The ordinance further provides that future reauthorizations of the PEG fee may be conducted via adoption of a resolution instead of an ordinance. In addition, the adoption of this ordinance is declared to not be an admission of fault or a waiver of any claims against the Franchisee for unpaid PEG fees but instead expressly reserves all rights of the City in regards thereto.

The City has issued a letter to Charter Communications demanding payment for unpaid PEG fees for all of 2018 in the amount of $69,484.97, plus interest in the amount of $3,003.84. Interest continues to accrue as the fees remain unpaid. The City will also separately pursue collection of unpaid fees for the first and second quarter of 2019.

FISCAL IMPACT:

The annual estimated revenue is approximately $70,000 in PEG restricted fees. In addition, the City will separately pursue collection of unpaid fees estimated at $90,000 through March 31, 2019.

Prepared by: 

Kim Krause 
Director of Finance

Reviewed and approved:

Damien R. Arrula 
City Administrator

Attachment: 
Ordinance No. O-2019-08