

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 19.1**  
(ID # 12409)

**MEETING DATE:**

Tuesday, May 05, 2020


**FROM:** RIVERSIDE COUNTY INFORMATION TECHNOLOGY:

**SUBJECT:** RIVERSIDE COUNTY INFORMATION TECHNOLOGY (RCIT) AND TRANSPORTATION LAND MANAGEMENT AGENCY/TRANSPORTATION (TLMA): Public Hearing and Adoption of Ordinance No. 946, Regulating Holders of State Video Franchises Granted by the Public Utilities Commission Pursuant to the Digital Infrastructure and Video Competition Act of 2006; CEQA Exempt; All Districts. [Total Cost- \$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Conduct the public hearing regarding the adoption of Ordinance No. 946, an ordinance of the County of Riverside Regulating Holders of State Video Franchises granted by the Public Utilities Commission Pursuant to the Digital Infrastructure and Video Competition Act of 2006;
2. Find that the adoption of Ordinance No. 946 is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15061(b)(3) , "Common Sense" exemption;
3. Adopt Ordinance No. 946, Regulating Holders of State Video Franchises granted by the Public Utilities Commission Pursuant to the Digital Infrastructure and Video Competition Act of 2006;

**ACTION: Policy**

  
Dave Rogers, Assistant County Executive Officer / CIO

4/22/2020

  
Patricia Romo, Director of Transportation

4/23/2020

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and Ordinance No. 946 is adopted as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: May 5, 2020  
xc: RCIT, COB

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

4. Direct the Clerk of the Board to publish the ordinance within fifteen (15) days pursuant to Section 25124 of the Government Code; and
5. Direct the Clerk of the Board to file the attached Notice of Exemption with the County Clerk within five (5) days after adoption of Ordinance No. 946.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	N/A

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On October 2, 2018 (Agenda item 3.8), the Board of Supervisors approved the initiation of the ordinance establishing local regulations applicable to state video franchise holders, also known as Ordinance No. 946 ("Ordinance"). Historically, cable franchises were issued and regulated at the local level in California. However, the California Legislature enacted the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA"), which went into effect on January 1, 2007. Under DIVCA, the Legislature created a new regulatory framework for cable and video franchising in California that essentially shifted franchising authority away from local government to the State level. Under this new regulatory framework, only the California Public Utilities Commission ("CPUC") may issue video franchises under DIVCA, and as locally granted franchises expire, the video service provider operating under a local franchise must obtain a State DIVCA franchise to continue to serve the local community.

For that reason, AT&T and Spectrum are now operating under a DIVCA franchise in the unincorporated areas of the County of Riverside. Frontier Communications, formerly known as Verizon California, entered into a Cable Franchise Agreement with the County on November 14, 2006 (Item 9.4) and continues to operate under its local franchise with the County, which does not expire until 2021. Zito West Holding, LLC d/b/a Zito Media (formerly known as USA Communications) and NPG Cable, LLC d/b/a Suddenlink Communications ("Suddenlink") also have DIVCA franchises to operate in the unincorporated areas of the County of Riverside.

Although the CPUC now has most of the regulatory authority over the holders of state video franchises under DIVCA, DIVCA preserves some local government regulatory authority, including the collection of franchise and "PEG" fees, right-of-way management, and enforcement of state and federal customer service requirements. This regulatory authority is addressed in Ordinance No. 946. In particular, the Ordinance will enable the County to collect a



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fee from the state video franchise holders to support Public, Educational, and Governmental ("PEG") channel facilities.

Agenda item 3.8 also approved the PEG Channel Plan which laid out the introduction and purpose of RivCoTV. RivCoTV is currently broadcasting local programming on AT&T channel 99 and Frontier channel 36. To finish fully implementing the County's PEG program, this approved Ordinance will be sent to state video franchise holders operating in the unincorporated areas of the County.

On April 21, 2020 (Agenda item 3.19), the Board of Supervisors introduced Ordinance No. 946 in regular session. Staff recommends the adoption of Ordinance No. 946, which has been approved as to form by County Counsel.

The adoption of Ordinance No. 946 is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3), the "Common Sense" exemption. In accordance with CEQA, the use of the Common Sense Exemption is based on the "general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment." The use of this exemption is appropriate if "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The adoption of Ordinance No. 946 pertains to the regulation of holders of State Video Franchises granted by the Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act of 2006. It can be seen with certainty that there is no possibility that the ordinance may have significant effect on the environment. Approval of proposed Riverside County Ordinance No. 946 does not approve any development project. The proposed ordinance would not individually or cumulatively result in the possibility of creating significant effects on the environment and not direct or reasonably foreseeable indirect environmental impact would occur. Therefore, the use of the Common Sense exemption is appropriate for this project.

**Impact on Residents and Businesses**

The fees collected will be used to improve transparency and communication with the public by improving access to meetings that are held in the board chambers.

**Additional Fiscal Information**

RCIT estimates the County will receive approximately \$2.6 million in franchise fee revenue and \$520,000 in PEG fee revenue per fiscal year from Spectrum, AT&T, Frontier, Zito Media, and Suddenlink combined. The PEG fees are mandated to be used to better the program of the PEG channel, assisting with transparency and ease of use.

**ATTACHMENTS:**

1. Ordinance No. 946
2. Notice of Exemption

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA

*Venus Brambila*

Venus Brambila

4/27/2020



Gregory F. Priamos, Director County Counsel

4/24/2020





1 PEG fee, as established by Section 6 of this ordinance, is not a levy, charge, or exaction imposed by a local  
2 government so as to constitute a local tax within the meaning of the California Constitution, and therefore,  
3 does not require voter approval.

4 g. The development of cable, video, and telecommunications services and systems may  
5 provide significant benefits for, and have substantial impacts upon, the residents of the County, and because  
6 of the complex and rapidly changing technology associated with cable, video, and telecommunications  
7 services and systems, the public convenience, safety, and general welfare is best served by the County's  
8 exercise of its regulatory powers.

9 Section 2. PURPOSE. The purpose of this ordinance is to implement within the unincorporated  
10 areas of the County the provisions of DIVCA and the rules and regulations promulgated thereunder that are  
11 applicable to the County under DIVCA. This ordinance is applicable to all video service providers who are  
12 eligible for, and have been awarded, a state video franchise under the California Public Utilities Code  
13 section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), to provide cable or  
14 video services in any unincorporated area of the County.

15 Section 3. AUTHORITY. This ordinance is adopted pursuant to the California Public Utilities  
16 Code section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), which authorizes  
17 counties to adopt ordinances regulating holders of state franchises.

18 Section 4. RIGHTS RESERVED. The rights reserved to the County under this ordinance are  
19 in addition to all other rights of the County whether reserved by this ordinance, or authorized by other  
20 applicable law, including any other County ordinance, and no action, proceeding, or exercise of a right shall  
21 affect any other rights which may be held by the County.

22 Section 5. COMPLIANCE WITH ORDINANCE. Nothing contained in this ordinance exempts  
23 a state franchise holder from compliance with all ordinances, rules, or regulations of the County now in  
24 effect or which may be hereafter adopted which are not inconsistent with this ordinance or California Public  
25 Utilities Code section 5800, et seq., or obligations under any franchise previously issued by the County,  
26 insofar as those may be enforced under California Public Utilities Code section 5800, et seq.

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1           Section 6.     DEFINITIONS. As used in this ordinance, the following terms, phrases, words, and  
2 their derivations shall have the meaning given herein. Unless otherwise expressly stated, words not defined  
3 in this ordinance, including but not limited to “gross revenue”, “cable service”, “video service provider”  
4 and “video service” shall be given the meaning as set forth in the Digital Infrastructure and Video  
5 Competition Act of 2006, California Public Utilities Code section 5800 and following, as amended from  
6 time to time.

7           a.     Applicant. Any person submitting any application required under the California  
8 Public Utilities Code section 5800 and following.

9           b.     Applicable law. All lawfully enacted and applicable federal, state and County laws,  
10 ordinances, codes, rules, regulations, and orders as the same may be amended or adopted from time to time.

11           c.     Board of Supervisors. The Board of Supervisors for the County of Riverside.

12           d.     Clerk of the Board. The Clerk of the Board for the County of Riverside’s Board of  
13 Supervisors, and/or his or her duly appointed designees.

14           e.     Construction. The named actions interpreted broadly, encompassing, among other  
15 things, installation, extension, maintenance, replacement of components, relocation, undergrounding,  
16 grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming.

17           f.     Director of Transportation. The Director of Transportation of the County of  
18 Riverside, California, and/or his or her duly appointed designees.

19           g.     DIVCA. The Digital Infrastructure and Video Competition Act of 2006, California  
20 Public Utilities Code section 5800, et seq., as may be amended from time to time.

21           h.     PEG. Public, educational, or governmental access.

22           i.     RCIT. Riverside County Information Technology Department.

23           j.     State franchise. A franchise issued by the California Public Utilities Commission to  
24 provide cable service or video service, as those terms are defined in DIVCA, within the unincorporated  
25 areas of the County.

26           k.     State franchise holder. A person who holds a state franchise.

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1           Section 7.     STATE FRANCHISE FEES. Any state franchise holder operating within the  
2 unincorporated areas of the County shall pay to the County a state franchise fee equal to five percent (5%)  
3 of that state franchise holder's gross revenues that may be subject to a franchise fee under California Public  
4 Utilities Code section 5860.

5           Section 8.     PEG FEES. Every state franchise holder operating within the unincorporated areas  
6 of the County shall pay a PEG fee in the amount of one percent (1%) of that state franchise holder's gross  
7 revenues.

8           Section 9.     PAYMENT OF FEES. The state franchise fee required pursuant to Section 7, and  
9 the PEG fee required pursuant to Section 8, shall each be paid to the County quarterly, in a manner  
10 consistent with California Public Utilities Code section 5860. The state franchise holder shall deliver to the  
11 County, by check or other means specified by the County, a payment for the state franchise fee and a  
12 separate payment for the PEG fee not later than forty-five (45) days after the end of each calendar quarter.  
13 Each payment made shall be accompanied by a summary explaining the basis for the fees, containing such  
14 information as RCIT may require consistent with DIVCA.

15           Section 10.    AUDITS. The County may audit the business records of the holder of a state  
16 franchise in a manner consistent with California Public Utilities Code section 5860(i).

17           Section 11.    LATE PAYMENTS. In the event a state franchise holder fails to make payments  
18 required by this ordinance on or before the due dates specified in Section 9 of this ordinance, the County  
19 shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of  
20 delinquency, plus one percent (1%), or the maximum rate specified by law.

21           Section 12.    CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS. Each  
22 state franchise holder shall comply with all applicable customer service and consumer protection standards  
23 to the extent consistent with California Public Utilities Code section 5900, including, but not limited to, all  
24 existing and subsequently enacted customer service and consumer protection standards established by state  
25 and federal law and regulation pertaining to the provision of video service.

26           Section 13.    PENALTIES FOR VIOLATIONS OF CUSTOMER SERVICE AND CONSUMER  
27 PROTECTION STANDARDS.

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1 a. The County shall enforce the provisions of Section 13.

2 b. The County shall give the state franchise holder written notice of any alleged material  
3 breach of the customer service consumer protection standards and allow the state franchise holder at least  
4 30 days from receipt of the notice to remedy the specified material breach.

5 c. For material breaches, as defined in California Public Utilities Code section 5900,  
6 that are not remedied by a state franchise holder within the 30-day time period set forth in Section 13(b),  
7 the County may impose the following penalties:

8 1. For the first occurrence of a material breach, a fine of \$500.00 may be  
9 imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.

10 2. For a second material breach of the same nature within 12 months, a fine of  
11 \$1,000.00 may be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each  
12 violation.

13 3. For a third material breach of the same nature within 12 months, a fine of  
14 \$2,500.00 may be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each  
15 violation.

16 d. The penalties herein are in addition to any other remedies provided by law and the  
17 payment of any penalty herein shall not relieve a person of the obligation to correct the violation.

18 e. Any penalties imposed by the County shall be imposed in a manner consistent with  
19 California Public Utilities Code section 5900.

20 f. RCIT is authorized to provide any notices required under California Public Utilities  
21 Code section 5900. RCIT may coordinate with the Public Advocate's Office of the Public Utilities  
22 Commission to protect consumers in the County.

23 g. A state franchise holder may appeal a penalty assessed by RCIT to the Board of  
24 Supervisors within sixty (60) days of the date of the initial penalty notice by filing a written notice of appeal  
25 in duplicate with the Clerk of the Board. The notice shall state clearly the reasons why the penalty should  
26 be overturned. The Board of Supervisors shall hear all evidence and relevant testimony and may uphold,  
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1 modify, or vacate the penalty. The Board of Supervisors' decision on the imposition of the penalty shall be  
2 final and subject to judicial review.

3 Section 14. CONSTRUCTION IN COUNTY RIGHTS-OF-WAY. Except as expressly provided  
4 in this ordinance, a state franchise holder performing work in any County rights-of-way shall comply with  
5 Riverside County Ordinance No. 499 and any other applicable County ordinances and administrative rules  
6 and regulations, as now existing or as hereafter amended.

7 Section 15. PERMITS.

8 a. Prior to commencing any work for which a permit is required by Riverside County  
9 Ordinance No. 499 or any other applicable County ordinance or administrative rule or regulation, a state  
10 franchise holder shall apply for and obtain a permit in accordance with the provisions of said ordinance(s)  
11 or administrative rule(s) or regulation(s), including the payment of all applicable encroachment, permit, and  
12 inspection fees. A permit application is complete when the state franchise holder has complied with all  
13 applicable laws and regulations, including but not limited to Riverside County Ordinance No. 499 or any  
14 other applicable County ordinance or administrative rule or regulation, and all applicable requirements of  
15 Division 13 of the California Public Resources Code, section 21000, and following, (the California  
16 Environmental Quality Act) and preparation of plans and specifications as required by the Director of  
17 Transportation.

18 b. The Director of Transportation shall, in the exercise of reasonable discretion as  
19 permitted by state law, either approve or deny a state franchise holder's application for any permit required  
20 under County ordinance or administrative rule or regulation within sixty (60) days of receiving a complete  
21 permit application from the state franchise holder.

22 c. In the event the Director of Transportation denies a complete permit application from  
23 a state franchise holder that is required under Section 15(a) of this ordinance, the following shall apply:

24 1. If the Director of Transportation denies a state franchise holder's application  
25 for a permit, the Director of Transportation shall, at the time of notifying the applicant of denial, furnish to  
26 the applicant a detailed explanation of the reason or reasons for the denial.

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1                   2.     A state franchise holder that has been denied a permit by final decision of the  
2 Director of Transportation may appeal to the Board of Supervisors by filing a written notice of appeal in  
3 duplicate with the Clerk of the Board within 10 working days of the mailing or posting of the final decision.  
4 The notice shall state clearly the reasons why the denial decision should be overturned. The Board of  
5 Supervisors shall only hear the appeal if the notice is filed and all required fees are paid within the 10-day  
6 appeal period. Once a notice of appeal has been filed, it may be withdrawn by the state franchise holder  
7 prior to the distribution of public hearing notices, but not thereafter.

8                   3.     The Clerk of the Board shall set the hearing of the appeal and shall give notice  
9 of such hearing to the applicant, County Executive Officer, and Board of Supervisors, and by posting in the  
10 manner required for appeals. In addition, the Board of Supervisors may give notice of the hearing in such  
11 other manner as it wishes. The Board may continue from time to time any hearing held by it.

12                   4.     The Director of Transportation shall transmit the entire record concerning the  
13 permit application to the Board of Supervisors.

14                   5.     In rendering its decision on the appeal, the Board of Supervisors shall not  
15 hear or consider any argument or evidence of any kind other than the record of the matter received from the  
16 Director of Transportation, unless the Board of Supervisors is conducting a public hearing on the matter.

17                   d.     The issuance of a permit by the County is not a franchise, and does not grant any  
18 vested rights in any location in the County rights-of-way, or in any particular manner of placement within  
19 the County rights-of-way. A permit to place cabinets and similar appurtenances aboveground may be  
20 revoked and the permittee required to place facilities underground, upon reasonable notice to the permittee  
21 and in accordance with applicable law.

22                   Section 16.   PARTICIPATION WITH OTHER UTILITIES. Each state franchise holder shall  
23 cooperate in the planning, locating, and construction of its network in utility joint trenches or common duct  
24 banks with other communications providers.

25                   Section 17.   UNDERGROUND SERVICES ALERT. Each state franchise holder shall be a  
26 member of the regional notification center for subsurface installations (Underground Services Alert) and  
27 shall field mark, at its sole cost and expense, the locations of its underground network facilities upon  
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1 notification in accordance with the requirements of Section 4216.1 of the California Government Code, and  
2 any other applicable law.

3 Section 18. EMERGENCY ALERT SYSTEMS. Each state franchise holder shall comply with  
4 the emergency alert system requirements of the Federal Communications Commission in order that  
5 emergency messages may be distributed over the state franchise holder's network.

6 Section 19. INTERCONNECTION FOR PEG PROGRAMMING. Each state franchise holder,  
7 and each incumbent cable operator, shall negotiate in good faith to interconnect their networks for the  
8 purpose of providing PEG programming. Interconnection may be accomplished by any means authorized  
9 under Public Utilities Code section 5870(h). Each state franchise holder and incumbent cable operator shall  
10 provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the  
11 interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually  
12 acceptable interconnection agreement, the County may require the incumbent cable operator to allow the  
13 state franchise holder to interconnect its network with the incumbent cable operator's network at a  
14 technically feasible point on the state franchise holder's network as identified by the state franchise holder.  
15 If no technically feasible point for interconnection is available, each state franchise holder will make an  
16 interconnection available to each channel originator providing PEG programming to an incumbent cable  
17 operator, and will provide the facilities necessary for the interconnection. The cost of any interconnection  
18 will be borne by the state franchise holder requesting the interconnection unless otherwise agreed to by the  
19 state franchise holder and the incumbent cable operator.

20 Section 20. ADMINISTRATIVE RESPONSIBILITY. RCIT shall be responsible for the  
21 administration of this ordinance.

22 Section 21. NOTICES. Each state franchise holder or applicant for a state franchise shall file  
23 with the County a copy of all applications or notices that the state franchise holder or applicant is required  
24 to provide to the County under DIVCA. Unless otherwise specified in this ordinance, all notices or other  
25 documentation that a state franchise holder is required to provide to the County under this ordinance or the  
26 California Public Utilities Code shall be provided to both the County Executive Officer and the County  
27 staff person in charge of cable and telecommunications, or their successor or designees.





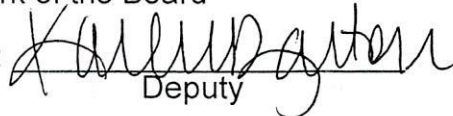
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STATE OF CALIFORNIA        )  
  )  
COUNTY OF RIVERSIDE        )        SS

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on May 5, 2020, the foregoing ordinance consisting of 23 Sections was adopted by the following vote:

AYES:                   Jeffries, Spiegel, Washington, Perez and Hewitt  
NAYS:                   None  
ABSENT:                 None

DATE:        May 5, 2020

KECIA R. HARPER  
Clerk of the Board  
BY:   
Deputy

SEAL





**Reasons why project is exempt:**

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) specifically by the State CEQA Guidelines as identified below. The project will not cause any impacts to scenic resources, historic resources, or unique sensitive environments. Further, no unusual circumstances or potential cumulative impacts would occur that may reasonably create an environmental impact.

Section 15061 (b)(3)- "Common Sense" Exemption. The adoption of Ordinance No. 946 is exempt from CEQA pursuant to State CEQA Guidelines section 15061 (b)(3), the "Common Sense" exemption. In accordance with CEQA, the use of the Common Sense Exemption is based on the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. The use of this exemption is appropriate if it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The adoption of Ordinance No. 946 pertains to the regulation of holders of State Video Franchises granted by the Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act of 2006. It can be seen with certainty that there is no possibility that the ordinance may have significant effect on the environment. Approval of proposed Riverside County Ordinance No. 946 does not approve any development project. The proposed ordinance would not individually or cumulatively result in the possibility of creating significant effects on the environment and not direct or reasonably foreseeable indirect environmental impact would occur. Therefore, the use of the "Common Sense" exemption is appropriate for this project.

**Lead Agency**

Contact Person: Dave Rogers

Phone Number: 951 955-3700

Signature: 

Title: Asst. County Exec. Officer, CIO Date: 4-23-2020

For County Clerk's Use Only





OFFICE OF THE  
CLERK OF THE BOARD OF SUPERVISORS  
1st FLOOR, COUNTY ADMINISTRATIVE CENTER  
P.O. BOX 1147, 4080 LEMON STREET  
RIVERSIDE, CA 92502-1147  
PHONE: (951) 955-1060 FAX: (951) 955-1071

KECIA R. HARPER  
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR  
Assistant Clerk of the Board

May 13, 2020

PRESS ENTERPRISE  
ATTN: LEGALS  
P.O. BOX 792  
RIVERSIDE, CA 92501

E-MAIL: [legals@pe.com](mailto:legals@pe.com)  
FAX: 951-368-9018

RE: NOTICE OF ADOPTION OF ORDINANCE 946

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Saturday, May 16, 2020**.

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office, **WITH TWO CLIPPINGS OF THE PUBLICATION**.

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

*Hannah Lumanauw*

Board Assistant to:  
KECIA R. HARPER, CLERK OF THE BOARD

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

**ORDINANCE NO. 946**

**AN ORDINANCE OF THE COUNTY OF RIVERSIDE**

**REGULATING HOLDERS OF STATE VIDEO FRANCHISES GRANTED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006**

The Board of Supervisors of the County of Riverside ordains as follows:

**Section 1.** FINDINGS. The Board of Supervisors finds as follows:

- a. In 2006, the Digital Infrastructure and Video Competition Act was signed into law and codified at California Public Utilities Code section 5800, et seq., ("DIVCA").
- b. The State legislature stated the purpose of DIVCA was to increase competition in the provision of video, voice, and broadband services for all Californians through the institution of a state video franchising system.
- c. AT&T, Spectrum, Zito Media, and Suddenlink Communications are currently serving the unincorporated areas of the County of Riverside ("County") under state franchises issued by the California Public Utilities Commission pursuant to DIVCA.
- d. Frontier Communications, formerly known as Verizon California, is servicing the unincorporated areas of the County under a local franchise agreement, which shall continue, unless terminated early in accordance with the franchise and/or DIVCA, until it expires on its own terms on November 30, 2021.
- e. DIVCA also recognizes the continuing need to protect local revenues and control of public rights-of-way by requiring state franchise holders to pay a franchise fee to a county as rent or a toll for the use of that county's rights-of-way and authorizing a county to impose reasonable time, place, and manner restrictions on a state franchisee regarding the conditions under which the franchisee may construct or operate the facilities necessary to provide video, voice, and broadband services.
- f. DIVCA further authorizes a county, by ordinance, to establish a fee to support public, educational, or governmental access channel facilities and to enforce certain state and federal customer service and privacy standards and to charge certain monetary penalties for violations of such standards. The PEG fee, as established by Section 6 of this ordinance, is not a levy, charge, or exaction imposed by a local government so as to constitute a local tax within the meaning of the California Constitution, and therefore, does not require voter approval.
- g. The development of cable, video, and telecommunications services and systems may provide significant benefits for, and have substantial impacts upon, the residents of the County, and because of the complex and rapidly changing technology associated with cable, video, and telecommunications services and systems, the public convenience, safety, and general welfare is best served by the County's exercise of its regulatory powers.

**Section 2.** PURPOSE. The purpose of this ordinance is to implement within the unincorporated areas of the County the provisions of DIVCA and the rules and regulations promulgated thereunder that are applicable to the County under DIVCA. This ordinance is applicable to all video service providers who are eligible for, and have been awarded, a state video franchise under the California Public Utilities Code section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), to provide cable or video services in any unincorporated area of the County.

**Section 3.** AUTHORITY. This ordinance is adopted pursuant to the California Public Utilities Code section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), which authorizes counties to adopt ordinances regulating holders of state franchises.

**Section 4.** RIGHTS RESERVED. The rights reserved to the County under this ordinance are in addition to all other rights of the County whether reserved by this ordinance, or authorized by other applicable law, including any other County ordinance, and no action, proceeding, or exercise of a right shall affect any other rights which may be held by the County.

**Section 5.** COMPLIANCE WITH ORDINANCE. Nothing contained in this ordinance exempts a state franchise holder from compliance with all ordinances, rules, or regulations of the County



now in effect or which may be hereafter adopted which are not inconsistent with this ordinance or California Public Utilities Code section 5800, et seq., or obligations under any franchise previously issued by the County, insofar as those may be enforced under California Public Utilities Code section 5800, et seq.

**Section 6.** **DEFINITIONS.** As used in this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. Unless otherwise expressly stated, words not defined in this ordinance, including but not limited to “gross revenue”, “cable service”, “video service provider” and “video service” shall be given the meaning as set forth in the Digital Infrastructure and Video Competition Act of 2006, California Public Utilities Code section 5800 and following, as amended from time to time.

a. **Applicant.** Any person submitting any application required under the California Public Utilities Code section 5800 and following.

b. **Applicable law.** All lawfully enacted and applicable federal, state and County laws, ordinances, codes, rules, regulations, and orders as the same may be amended or adopted from time to time.

c. **Board of Supervisors.** The Board of Supervisors for the County of Riverside.

d. **Clerk of the Board.** The Clerk of the Board for the County of Riverside’s Board of Supervisors, and/or his or her duly appointed designees.

e. **Construction.** The named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming.

f. **Director of Transportation.** The Director of Transportation of the County of Riverside, California, and/or his or her duly appointed designees.

g. **DIVCA.** The Digital Infrastructure and Video Competition Act of 2006, California Public Utilities Code section 5800, et seq., as may be amended from time to time.

h. **PEG.** Public, educational, or governmental access.

i. **RCIT.** Riverside County Information Technology Department.

j. **State franchise.** A franchise issued by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in DIVCA, within the unincorporated areas of the County.

k. **State franchise holder.** A person who holds a state franchise.

**Section 7.** **STATE FRANCHISE FEES.** Any state franchise holder operating within the unincorporated areas of the County shall pay to the County a state franchise fee equal to five percent (5%) of that state franchise holder’s gross revenues that may be subject to a franchise fee under California Public Utilities Code section 5860.

**Section 8.** **PEG FEES.** Every state franchise holder operating within the unincorporated areas of the County shall pay a PEG fee in the amount of one percent (1%) of that state franchise holder’s gross revenues.

**Section 9.** **PAYMENT OF FEES.** The state franchise fee required pursuant to Section 7, and the PEG fee required pursuant to Section 8, shall each be paid to the County quarterly, in a manner consistent with California Public Utilities Code section 5860. The state franchise holder shall deliver to the County, by check or other means specified by the County, a payment for the state franchise fee and a separate payment for the PEG fee not later than forty-five (45) days after the end of each calendar quarter. Each payment made shall be accompanied by a summary explaining the basis for the fees, containing such information as RCIT may require consistent with DIVCA.

**Section 10.** **AUDITS.** The County may audit the business records of the holder of a state franchise in a manner consistent with California Public Utilities Code section 5860(i).

**Section 11.** **LATE PAYMENTS.** In the event a state franchise holder fails to make payments required by this ordinance on or before the due dates specified in Section 9 of this ordinance, the County shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%), or the maximum rate specified by law.

**Section 12.** **CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.** Each state franchise holder shall comply with all applicable customer service and consumer protection standards to the extent consistent with California Public Utilities Code section 5900, including, but not limited to, all



existing and subsequently enacted customer service and consumer protection standards established by state and federal law and regulation pertaining to the provision of video service.

Section 13. PENALTIES FOR VIOLATIONS OF CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.

- a. The County shall enforce the provisions of Section 13.
- b. The County shall give the state franchise holder written notice of any alleged material breach of the customer service consumer protection standards and allow the state franchise holder at least 30 days from receipt of the notice to remedy the specified material breach.
- c. For material breaches, as defined in California Public Utilities Code section 5900, that are not remedied by a state franchise holder within the 30-day time period set forth in Section 13(b), the County may impose the following penalties:
  1. For the first occurrence of a material breach, a fine of \$500.00 may be imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.
  2. For a second material breach of the same nature within 12 months, a fine of \$1,000.00 may be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each violation.
  3. For a third material breach of the same nature within 12 months, a fine of \$2,500.00 may be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each violation.
- d. The penalties herein are in addition to any other remedies provided by law and the payment of any penalty herein shall not relieve a person of the obligation to correct the violation.
- e. Any penalties imposed by the County shall be imposed in a manner consistent with California Public Utilities Code section 5900.
- f. RCIT is authorized to provide any notices required under California Public Utilities Code section 5900. RCIT may coordinate with the Public Advocate's Office of the Public Utilities Commission to protect consumers in the County.
- g. A state franchise holder may appeal a penalty assessed by RCIT to the Board of Supervisors within sixty (60) days of the date of the initial penalty notice by filing a written notice of appeal in duplicate with the Clerk of the Board. The notice shall state clearly the reasons why the penalty should be overturned. The Board of Supervisors shall hear all evidence and relevant testimony and may uphold, modify, or vacate the penalty. The Board of Supervisors' decision on the imposition of the penalty shall be final and subject to judicial review.

Section 14. CONSTRUCTION IN COUNTY RIGHTS-OF-WAY. Except as expressly provided in this ordinance, a state franchise holder performing work in any County rights-of-way shall comply with Riverside County Ordinance No. 499 and any other applicable County ordinances and administrative rules and regulations, as now existing or as hereafter amended.

Section 15. PERMITS.

- a. Prior to commencing any work for which a permit is required by Riverside County Ordinance No. 499 or any other applicable County ordinance or administrative rule or regulation, a state franchise holder shall apply for and obtain a permit in accordance with the provisions of said ordinance(s) or administrative rule(s) or regulation(s), including the payment of all applicable encroachment, permit, and inspection fees. A permit application is complete when the state franchise holder has complied with all applicable laws and regulations, including but not limited to Riverside County Ordinance No. 499 or any other applicable County ordinance or administrative rule or regulation, and all applicable requirements of Division 13 of the California Public Resources Code, section 21000, and following, (the California Environmental Quality Act) and preparation of plans and specifications as required by the Director of Transportation.
- b. The Director of Transportation shall, in the exercise of reasonable discretion as permitted by state law, either approve or deny a state franchise holder's application for any permit required under County ordinance or administrative rule or regulation within sixty (60) days of receiving a complete permit application from the state franchise holder.



c. In the event the Director of Transportation denies a complete permit application from a state franchise holder that is required under Section 15(a) of this ordinance, the following shall apply:

1. If the Director of Transportation denies a state franchise holder's application for a permit, the Director of Transportation shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial.

2. A state franchise holder that has been denied a permit by final decision of the Director of Transportation may appeal to the Board of Supervisors by filing a written notice of appeal in duplicate with the Clerk of the Board within 10 working days of the mailing or posting of the final decision. The notice shall state clearly the reasons why the denial decision should be overturned. The Board of Supervisors shall only hear the appeal if the notice is filed and all required fees are paid within the 10-day appeal period. Once a notice of appeal has been filed, it may be withdrawn by the state franchise holder prior to the distribution of public hearing notices, but not thereafter.

3. The Clerk of the Board shall set the hearing of the appeal and shall give notice of such hearing to the applicant, County Executive Officer, and Board of Supervisors, and by posting in the manner required for appeals. In addition, the Board of Supervisors may give notice of the hearing in such other manner as it wishes. The Board may continue from time to time any hearing held by it.

4. The Director of Transportation shall transmit the entire record concerning the permit application to the Board of Supervisors.

5. In rendering its decision on the appeal, the Board of Supervisors shall not hear or consider any argument or evidence of any kind other than the record of the matter received from the Director of Transportation, unless the Board of Supervisors is conducting a public hearing on the matter.

d. The issuance of a permit by the County is not a franchise, and does not grant any vested rights in any location in the County rights-of-way, or in any particular manner of placement within the County rights-of-way. A permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place facilities underground, upon reasonable notice to the permittee and in accordance with applicable law.

Section 16. PARTICIPATION WITH OTHER UTILITIES. Each state franchise holder shall cooperate in the planning, locating, and construction of its network in utility joint trenches or common duct banks with other communications providers.

Section 17. UNDERGROUND SERVICES ALERT. Each state franchise holder shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field mark, at its sole cost and expense, the locations of its underground network facilities upon notification in accordance with the requirements of Section 4216.1 of the California Government Code, and any other applicable law.

Section 18. EMERGENCY ALERT SYSTEMS. Each state franchise holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the state franchise holder's network.

Section 19. INTERCONNECTION FOR PEG PROGRAMMING. Each state franchise holder, and each incumbent cable operator, shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under Public Utilities Code section 5870(h). Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the County may require the incumbent cable operator to allow the state franchise holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the state franchise holder. If no technically feasible point for interconnection is available, each state franchise holder will make an interconnection available to each channel originator providing PEG programming to an incumbent cable operator, and will provide the facilities necessary for the interconnection. The cost of any interconnection will be borne by the state franchise holder requesting the interconnection unless otherwise agreed to by the state franchise holder and the incumbent cable operator.

Section 20. ADMINISTRATIVE RESPONSIBILITY. RCIT shall be responsible for the administration of this ordinance.

Section 21. NOTICES. Each state franchise holder or applicant for a state franchise shall file with the County a copy of all applications or notices that the state franchise holder or applicant is required to provide to the County under DIVCA. Unless otherwise specified in this ordinance, all notices or other documentation that a state franchise holder is required to provide to the County under this ordinance or the California Public Utilities Code shall be provided to both the County Executive Officer and the County staff person in charge of cable and telecommunications, or their successor or designees.

Section 22. SEVERABILITY. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 23. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

V. Manuel Perez, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on May 05, 2020, the foregoing Ordinance consisting of twenty-three (23) sections was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez, and Hewitt  
NAYS: None  
ABSENT: None

Kecia R. Harper, Clerk of the Board  
By: Hannah Lumanauw, Board Assistant



**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.19  
(ID # 12218)

**MEETING DATE:**

Tuesday, April 21, 2020

**FROM:** RIVERSIDE COUNTY INFORMATION TECHNOLOGY:

**SUBJECT:** RIVERSIDE COUNTY INFORMATION TECHNOLOGY (RCIT): Introduction of and Setting for Public Hearing Ordinance No. 946, Regulating Holders of State Video Franchises Granted by the Public Utilities Commission Pursuant to the Digital Infrastructure and Video Competition Act of 2006; Approval of the Spectrum Enterprise Service Agreement, Service Level Agreement, and Customer Service Order with Charter Communications Operating, LLC for three years, All Districts. [Total Cost- Not to Exceed \$30,000, RCIT RivCoTV Budget – 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Introduce, read title and waive further reading of Ordinance No. 946, an Ordinance of the County of Riverside Regulating Holders of State Video Franchises Granted by the Public Utilities Commission Pursuant to the Digital Infrastructure and Video Competition Act of 2006;
2. Set a public hearing on May 5, 2020 on adoption of Ordinance No. 946;
3. Direct the Clerk of the Board to give notice pursuant to Government Code section 6062a for Adoption of Ordinance No. 946;


**ACTION:** Policy

  
Dave Rogers, Assistant County Executive Officer / CIO 4/7/2020


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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and Ordinance No. 946 is approved as introduced with waiver of the reading and is set for hearing on Tuesday, May 5, 2020 at 9:30 a.m. or as soon as possible thereafter.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: April 21, 2020  
xc: 

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

4. Approve the attached Spectrum Enterprise Service Agreement, Service Level Agreement, and Customer Service Order with Charter Communications Operating, LLC for three years, not to exceed a total aggregate of \$30,000; and authorize the Chairman of the Board to sign three (3) copies of the same on behalf of the County; and
5. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: sign amendments that that exercise the options of the Agreement including modifications of the Statement of Work that stay within the intent of the Agreement and sign amendments that do not increase the compensation more than 10% of the total contract amount.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 4,410	\$ 7,680	\$ 30,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: RCIT RivCoTV Budget – 100%</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	19/20 – 22/23

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On October 2, 2018 (Agenda item 3.8), the Board of Supervisors approved the initiation of the ordinance establishing local regulations applicable to state video franchise holders, also known as Ordinance No. 946 (“Ordinance”). Historically, cable franchises were issued and regulated at the local level in California. However, the California Legislature enacted the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”), which went into effect on January 1, 2007. Under DIVCA, the Legislature created a new regulatory scheme for cable and video franchising in California that essentially shifted franchising authority away from local government to the State level. Under this new regulatory scheme, only the California Public Utilities Commission (“CPUC”) may issue video franchises under DIVCA, and as locally granted franchises expire, the video service provider operating under a local franchise must obtain a State DIVCA franchise to continue to serve the local community.

For that reason, AT&T and Spectrum are now operating under a DIVCA franchise in the unincorporated areas of the County of Riverside. Frontier Communications, formerly known as Verizon California, entered into a Cable Franchise Agreement with the County on November 14, 2006 (Item 9.4) and continues to operate under its local franchise with the County, which does not expire until 2021. Zito West Holding, LLC d/b/a Zito Media (formerly known as USA Communications) and NPG Cable, LLC d/b/a Suddenlink Communications (“Suddenlink”) also have DIVCA franchises to operate in the unincorporated areas of the County of Riverside.



**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

Although the CPUC now has most of the regulatory authority over the holders of state video franchises under DIVCA, DIVCA preserves some local government regulatory authority, including the collection of franchise and "PEG" fees, right-of-way management, and enforcement of state and federal customer service requirements. This regulatory authority is addressed in Ordinance No. 946. In particular, the Ordinance will enable the County to collect a fee from the state video franchise holders to support Public, Educational, and Governmental ("PEG") channel facilities.

Agenda item 3.8 also approved the PEG Channel Plan which laid out the introduction and purpose of RivCoTV. RivCoTV is currently broadcasting local programming on AT&T channel 99 and Frontier channel 36. To finish fully implementing the County's PEG program, this approved Ordinance will be sent to state video franchise holders operating in the unincorporated areas of the County.

Also, upon approval of this item by the Board, the County of Riverside will enter into an agreement with Spectrum for the installation of an audio/video encoder as well as two 20 MBPS internet connections. These connections are required of the County by Spectrum for the transfer of the digital signal to their video distribution center. Once the hardware is installed, the County of Riverside will be able to broadcast its programming to the largest group of customers in the unincorporated area. As a result, most customers in the unincorporated areas will be able to access all the legislative meetings that take place in the County board chambers as well as the other programming provided to RivCoTV for playback.

Staff recommends the introduction of, and setting public hearing for, Ordinance No. 946 and approval of the Spectrum Enterprise Service Agreement, Service Level Agreement, and Customer Service Order with Charter Communications Operating, LLC ("Spectrum") for hardware and internet connections for the PEG program. County Counsel has approved the Ordinance and said agreements as to form. If this item is approved, a subsequent Form 11 will be recommended to the Board on the May 5, 2020 agenda to adopt Ordinance No. 946.

**Impact on Residents and Businesses**

There is no negative impact on residents.

**Additional Fiscal Information**

Description:	FY 19/20	FY 20/21	FY 21/22	FY 22/23	Total
<b>One-time Cost:</b>					
Ethernet Switch and installation service 4080 Lemon St.	\$ 1,725	\$ 0	\$ 0	\$ 0	\$ 1,725
Ethernet installation at 7337 Central Ave.	\$ 125	\$ 0	\$ 0	\$ 0	\$ 125
<b>Annual Cost:</b>					
20 MBPS Optical Ethernet monthly	\$ 2,560	\$ 7,680	\$ 7,680	\$ 5120	\$ 23,040

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

service for two locations: (4080 Lemon St & 7337 Central Ave)					
Applicable Government Taxes (billed at time of invoice)	Estimated not to exceed				\$ 5,110
Total Not to Exceed					\$ 30,000

**Contract History and Price Reasonableness**

Approximately 10 years ago, the County initiated communications with Spectrum (then Charter Communications) regarding implementing a PEG program. The discussion revealed that the cost to run a PEG channel would not be fully offset by the PEG fees estimated to be received. At the time, making it cost-prohibitive to operate the channel(s). Subsequently, as a result of recent discussions with Spectrum, the County has discovered that operating the PEG channel would no longer be cost-prohibitive due to Spectrum's requirement to use Spectrum installed hardware and internet connections at a cost far less than previously discussed. Therefore, the hardware and internet connections costs would be considerably less than what the County expects to receive from Spectrum for PEG fees. Combined with the estimated PEG fees from the other state video franchise holders, the County PEG program will improve its existing programming, increasing its visibility and access for its customers.

**Attachments:**

1. Ordinance No. 946.
2. Spectrum Enterprise Service Agreement, Service Level Agreement, and Customer Service Order

  
Teresa Summers, Director of Purchasing 4/8/2020

  
Gregory P. Priamos, Director County Counsel 4/9/2020





CALL (951) 368-9222  
EMAIL legals@pe.com

# THE PRESS-ENTERPRISE

DATE	ORDER NUMBER	PONumber	PRODUCT	SIZE	Amount
5/16/20	0011384438		PE Riverside	4 x 433 Li	2,251.60
<p>Invoice text: Ord. Notice 946</p>					
<p>Placed by: Hannah Lumanauw</p>					<p><b>BALANCE DUE</b> 2,251.60</p>
<p><b>SALES/CONTACT INFORMATION</b></p>			<p><b>ADVERTISER INFORMATION</b></p>		
<p>Nick Eller 951-368-9229</p>		<p>BILLING DATE 05/16/2020</p>	<p>BILLED ACCOUNT NUMBER 5209148</p>	<p>ADVERTISER/CLIENT NUMBER 5209148</p>	<p>ADVERTISER/CLIENT NAME BOARD OF SUPERVISORS</p>

RCIT  
5/5/2020 19.1

## Legal Advertising Memo Invoice



THE PRESS-ENTERPRISE  
Legal Advertising Memo Invoice

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR REMITTANCE

ADVERTISER/CLIENT NAME		
BOARD OF SUPERVISORS		
BILLING DATE	BILLED ACCOUNT NUMBER	ADVERTISER/CLIENT NUMBER
05/16/2020	5209148	5209148
BALANCE DUE	ORDER NUMBER	TERMS OF PAYMENT
2,251.60	0011384438	DUE UPON RECEIPT

BILLING ACCOUNT NAME AND ADDRESS

REMITTANCE ADDRESS

BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE  
'PO BOX 1147'  
RIVERSIDE, CA 92502

CALIFORNIA NEWSPAPER PARTNERSHIP  
dba The Press-Enterprise  
PO Box 65210  
Colorado Springs, CO 80962-5210



# THE PRESS-ENTERPRISE

1825 Chicago Ave, Suite 100  
Riverside, CA 92507  
951-684-1200  
951-368-9018 FAX

**PROOF OF PUBLICATION  
(2010, 2015.5 C.C.P)**

Publication(s): The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc.: Ord. Notice 946 /

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

**05/16/2020**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: May 16, 2020  
At: Riverside, California

  
Legal Advertising Representative, The Press-Enterprise

BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE  
PO BOX 1147  
RIVERSIDE, CA 92502

Ad Number: 0011384438-01

P.O. Number:

Ad Copy:

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA

**ORDINANCE NO. 946  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
REGULATING HOLDERS OF STATE VIDEO FRANCHISES  
GRANTED BY THE PUBLIC UTILITIES COMMISSION  
PURSUANT TO THE DIGITAL INFRASTRUCTURE AND VIDEO  
COMPETITION ACT OF 2006**

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. FINDINGS. The Board of Supervisors finds as follows:  
a. In 2006, the Digital Infrastructure and Video Competition Act was signed into law and codified at California Public Utilities Code section 5800, et seq., ("DIVCA").

b. The State legislature stated the purpose of DIVCA was to increase competition in the provision of video, voice, and broadband services for all Californians through the institution of a state video franchising system.

c. AT&T, Spectrum, Zito Media, and Suddenlink Communications are currently serving the unincorporated areas of the County of Riverside ("County") under state franchises issued by the California Public Utilities Commission pursuant to DIVCA.

d. Frontier Communications, formerly known as Verizon California, is servicing the unincorporated areas of the County under a local franchise agreement, which shall continue, unless terminated early in accordance with the franchise and/or DIVCA, until it expires on its own terms on November 30, 2021.

e. DIVCA also recognizes the continuing need to protect local revenues and control of public rights-of-way by requiring state franchise holders to pay a franchise fee to a county as rent or a toll for the use of that county's rights-of-way and authorizing a county to impose reasonable time, place, and manner restrictions on a state franchisee regarding the conditions under which the franchisee may construct or operate the facilities necessary to provide video, voice, and broadband services.

f. DIVCA further authorizes a county, by ordinance, to establish a fee to support public, educational, or governmental access channel facilities and to enforce certain state and federal customer service and privacy standards and to charge certain monetary penalties for violations of such standards. The PEG fee, as established by Section 6 of this ordinance, is not a levy, charge, or exaction imposed by a local government so as to constitute a local tax within the meaning of the California Constitution, and therefore, does not require voter approval.

g. The development of cable, video, and telecommunications services and systems may provide significant benefits for, and have substantial impacts upon, the residents of the County, and because of the complex and rapidly changing technology associated with cable, video, and telecommunications services and systems, the public convenience, safety, and general welfare is best served by the County's exercise of its regulatory powers.

Section 2. PURPOSE. The purpose of this ordinance is to implement within the unincorporated areas of the County the provisions of DIVCA and the rules and regulations promulgated thereunder that are applicable to the County under DIVCA. This ordinance is applicable to all video service providers who are eligible for, and have been awarded, a state video franchise under the California Public Utilities Code section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), to provide cable or video services in any unincorporated area of the County.

Section 3. AUTHORITY. This ordinance is adopted pursuant to the California Public Utilities Code section 5800, et seq. (the Digital Infrastructure and Video Competition Act of 2006), which authorizes counties to adopt ordinances regulating holders of state franchises.

Section 4. RIGHTS RESERVED. The rights reserved to the County under this ordinance are in addition to all other rights of the County whether reserved by this ordinance, or authorized by other applicable law, including any other County ordinance, and no action, proceeding, or exercise of a right shall affect any other rights which may be held by the County.

Section 5. COMPLIANCE WITH ORDINANCE. Nothing contained in this ordinance exempts a state franchise holder from compliance with all ordinances, rules, or regulations of the County now in effect or which may be hereafter adopted which are not inconsistent with this ordinance or California Public Utilities Code section 5800, et seq., or obligations under any franchise previously issued by the County, insofar as those may be enforced under California Public Utilities Code section 5800, et seq.

Section 6. DEFINITIONS. As used in this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. Unless otherwise expressly stated, words not defined in this ordinance, including but not limited to "gross revenue", "cable service", "video service provider" and "video service" shall be given the meaning as set forth in the Digital Infrastructure and Video Competition Act of 2006, California Public Utilities Code section 5800 and following, as amended from time to time.

a. Applicant. Any person submitting any application required under the California Public Utilities Code section 5800 and following.

b. Applicable law. All lawfully enacted and applicable federal, state and County laws, ordinances, codes, rules, regulations, and orders as the same may be amended or adopted from time to time.

c. Board of Supervisors. The Board of Supervisors for the County of Riverside.

d. Clerk of the Board. The Clerk of the Board for the County of Riverside's Board of Supervisors, and/or his or her duly appointed designees.

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f. Director of Transportation. The Director of Transportation of the County of Riverside, California, and/or his or her duly appointed designees.

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be amended from time to time.

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Section 10. AUDITS. The County may audit the business records of the holder of a state franchise in a manner consistent with California Public Utilities Code section 5860(i).

Section 11. LATE PAYMENTS. In the event a state franchise holder fails to make payments required by this ordinance on or before the due dates specified in Section 9 of this ordinance, the County shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%), or the maximum rate specified by law.

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a. The County shall enforce the provisions of Section 13.

b. The County shall give the state franchise holder written notice of any alleged material breach of the customer service consumer protection standards and allow the state franchise holder at least 30 days from receipt of the notice to remedy the specified material breach.

c. For material breaches, as defined in California Public Utilities Code section 5900, that are not remedied by a state franchise holder within the 30-day time period set forth in Section 13(b), the County may impose the following penalties:

1. For the first occurrence of a material breach, a fine of \$500.00 may be imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.

2. For a second material breach of the same nature within 12 months, a fine of \$1,000.00 may be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each violation.

3. For a third material breach of the same nature within 12 months, a fine of \$2,500.00 may be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each violation.

d. The penalties herein are in addition to any other remedies provided by law and the payment of any penalty herein shall not relieve a person of the obligation to correct the violation.

e. Any penalties imposed by the County shall be imposed in a manner consistent with California Public Utilities Code section 5900.

f. RCIT is authorized to provide any notices required under California Public Utilities Code section 5900. RCIT may coordinate with the Public Advocate's Office of the Public Utilities Commission to protect consumers in the County.

g. A state franchise holder may appeal a penalty assessed by RCIT to the Board of Supervisors within sixty (60) days of the date of the initial penalty notice by filing a written notice of appeal in duplicate with the Clerk of the Board. The notice shall state clearly the reasons why the penalty should be overturned. The Board of Supervisors shall hear all evidence and relevant testimony and may uphold, modify, or vacate the penalty. The Board of Supervisors' decision on the imposition of the penalty shall be final and subject to judicial review.

Section 14. CONSTRUCTION IN COUNTY RIGHTS-OF-WAY. Except as expressly provided in this ordinance, a state franchise holder performing work in any County rights-of-way shall comply with Riverside County Ordinance No. 499 and any other applicable County ordinances and administrative rules and regulations, as now existing or as hereafter amended.

Section 15. PERMITS.

a. Prior to commencing any work for which a permit is required by Riverside County Ordinance No. 499 or any other applicable County ordinance or administrative rule or regulation, a state franchise holder shall apply for and obtain a permit in accordance with the provisions of said ordinance(s) or administrative rule(s) or regulation(s), including the payment of all applicable encroachment, permit, and inspection fees. A permit application is complete when the state franchise holder has complied with all applicable laws and regulations, including but not limited to Riverside County Ordinance No. 499 or any other applicable County ordinance or administrative rule or regulation, and all applicable requirements of Division 13 of the California Public Resources Code, section 21000, and following, (the California Environmental Quality Act) and preparation of plans and specifications as required by the Director of Transportation.

b. The Director of Transportation shall, in the exercise of



reasonable discretion as permitted by state law, either approve or deny a state franchise holder's application for any permit required under County ordinance or administrative rule or regulation within sixty (60) days of receiving a complete permit application from the state franchise holder.

c. In the event the Director of Transportation denies a complete permit application from a state franchise holder that is required under Section 15(a) of this ordinance, the following shall apply:

1. If the Director of Transportation denies a state franchise holder's application for a permit, the Director of Transportation shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial.

2. A state franchise holder that has been denied a permit by final decision of the Director of Transportation may appeal to the Board of Supervisors by filing a written notice of appeal in duplicate with the Clerk of the Board within 10 working days of the mailing or posting of the final decision. The notice shall state clearly the reasons why the denial decision should be overturned. The Board of Supervisors shall only hear the appeal if the notice is filed and all required fees are paid within the 10-day appeal period. Once a notice of appeal has been filed, it may be withdrawn by the state franchise holder prior to the distribution of public hearing notices, but not thereafter.

3. The Clerk of the Board shall set the hearing of the appeal and shall give notice of such hearing to the applicant, County Executive Officer, and Board of Supervisors, and by posting in the manner required for appeals. In addition, the Board of Supervisors may give notice of the hearing in such other manner as it wishes. The Board may continue from time to time any hearing held by it.

4. The Director of Transportation shall transmit the entire record concerning the permit application to the Board of Supervisors.

5. In rendering its decision on the appeal, the Board of Supervisors shall not hear or consider any argument or evidence of any kind other than the record of the matter received from the Director of Transportation, unless the Board of Supervisors is conducting a public hearing on the matter.

d. The issuance of a permit by the County is not a franchise, and does not grant any vested rights in any location in the County rights-of-way, or in any particular manner of placement within the County rights-of-way. A permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place facilities underground, upon reasonable notice to the permittee and in accordance with applicable law.

Section 16. PARTICIPATION WITH OTHER UTILITIES. Each state franchise holder shall cooperate in the planning, locating, and construction of its network in utility joint trenches or common duct banks with other communications providers.

Section 17. UNDERGROUND SERVICES ALERT. Each state franchise holder shall be a member of the regional notification center for subsurface installations (Underground Services Alert) and shall field mark, at its sole cost and expense, the locations of its underground network facilities upon notification in accordance with the requirements of Section 4216.1 of the California Government Code, and any other applicable law.

Section 18. EMERGENCY ALERT SYSTEMS. Each state franchise holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the state franchise holder's network.

Section 19. INTERCONNECTION FOR PEG PROGRAMMING. Each state franchise holder, and each incumbent cable operator, shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under Public Utilities Code section 5870(h). Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the County may require the incumbent cable operator to allow the state franchise holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the state franchise holder. If no technically feasible point for interconnection is available, each state franchise holder will make an interconnection available to each channel originator providing PEG programming to an incumbent cable operator, and will provide the facilities necessary for the interconnection. The cost of any interconnection will be borne by the state franchise holder requesting the interconnection unless otherwise agreed to by the state franchise holder and the incumbent cable operator.

Section 20. ADMINISTRATIVE RESPONSIBILITY. RCIT shall be responsible for the administration of this ordinance.

Section 21. NOTICES. Each state franchise holder or applicant for a state franchise shall file with the County a copy of all applications or notices that the state franchise holder or applicant is required to provide to the County under DIVCA. Unless otherwise specified in this ordinance, all notices or other documentation that a state franchise holder is required to provide to the County under this ordinance or the California Public Utilities Code shall be provided to both the County Executive Officer and the County staff person in charge of cable and telecommunications, or their successor or designees.

Section 22. SEVERABILITY. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 23. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

V. Manuel Perez, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on May 05, 2020, the foregoing Ordinance consisting of twenty-three (23) sections was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez, and Hewitt



NAYS: None  
ABSENT: None

Kecia R. Harper, Clerk of the Board  
By: Hannah Lumanauw, Board Assistant