

1 [Approving Settlement of Unlitigated Claim Against the City by Comcast.]

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3 **Resolution approving settlement of an unlitigated claim made by Comcast Cable**
4 **Communications, LLC against the City and County of San Francisco.**

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6 WHEREAS, In 2006, the State of California enacted the Digital Infrastructure and
7 Video Competition Act (“DIVCA”) (Cal. Pub. Util. Code, § 5800, et seq.); and

8 WHEREAS, In DIVCA the State of California granted the California Public Utilities
9 Commission (“CPUC”) exclusive right to grant video franchises; and

10 WHEREAS, As allowed under DIVCA, Comcast Cable Communications, LLC
11 (“Comcast”) elected to abrogate its cable franchise with the City and County of San
12 Francisco (“City”); and

13 WHEREAS, Since January 2, 2008, Comcast has been providing video services in
14 San Francisco under a franchise issued by the CPUC; and

15 WHEREAS, Under DIVCA, the City may establish by ordinance a fee to be paid by
16 state video franchise holders providing services in San Francisco to support the City’s public,
17 educational and governmental access channel facilities (“PEG Fee”) (Cal. Pub. Util. Code, §
18 5870(n)); and

19 WHEREAS, On March 3, 2009, the Board of Supervisors introduced an ordinance that
20 would establish a PEG Fee in the amount of three percent (3%) of a state franchise holder’s
21 gross revenues from providing state video services in San Francisco; and

22 WHEREAS, Comcast informed the City that Comcast believed the PEG Fee proposed
23 in the ordinance would violate DIVCA, and Comcast expressed its intention to pursue legal
24 action against the City on this basis; and

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1 WHEREAS, In Ordinance 99-09, the City established a PEG Fee in the amount of one
2 and one-fifteenth percent (1.15%) of a state video franchise holder's annual gross revenues
3 from providing state video services in San Francisco; and

4 WHEREAS, Comcast is willing to resolve this matter by entering into the Settlement
5 Agreement on file with the Clerk of the Board of Supervisors in File No. , which is hereby
6 declared to be a part of this resolution as if set forth fully herein; now, therefore, be it

7 RESOLVED, That pursuant to Section 10.22 of the San Francisco Administrative Code,
8 the Board of Supervisors authorizes the City Attorney and the Department of Technology to
9 settle the unlitigated claim made by Comcast against the City on the terms and conditions
10 contained in the Settlement Agreement.

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12 APPROVED:
13 DENNIS J. HERRERA
14 City Attorney

RECOMMENDED:
DEPARTMENT OF TECHNOLOGY

15 By: _____
16 William K. Sanders
17 Deputy City Attorney

By: _____
Chris A. Vein
Director and Chief Information Officer