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Monthly Parking Contracts - conflicting language

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Plaza of the Rockies SCMC LLC - 2008-present - no attachments.pdf CO Interstate Gas Co - 2013-2023.pdf

Good morning Lisa,

I met with Jeff Greene last week and was discussing the contracts with large groups for parking in the garage (monthly parkers) and the language that I felt was problematic and inconsistent. I brought the attached 2 examples of contracts: Colorado Interstate Gas (aka Kinder Morgan) and Plaza of the Rockies.

The issue at hand is in the specific language in both contracts that is inconsistent and likely will cause issues if the rate changes being proposed to Council in April 2019 are approved. I know I asked you to look at these previously for other reasons, and that is when Marc suggested the Kinder Morgan was likely part of a larger economic package/arrangement. I have learned that it was part of a package to keep them in the downtown area. Obviously Jeff and the Mayor do not want to harm this relationship, so I am looking for a solution.

The Co. Inter. Gas parking contract states on top of page 2, the City will not increase or decrease the monthly fees for the initial term of the Agreement (thru June 2023). The rate is therefore fixed at \$50 per card per month until then.

The Plaza contract states in Section 5, ...that in no event will the City charge Grantee more than the prevailing rate charged to any other general public user of the garage excluding City and COS Utilities employees and vehicles.

There is the conflict. Jeff was thinking we could argue that we have a contract with Kinder Morgan and need to abide by the rate guarantee for the remaining term. I pointed out that we have a contract with Plaza also, and the language therein is consistent with other contracts Greg Warnke made with other organizations. Kinder Morgan has about 300 monthly parkers, and the other groups (including City and CSU) have about 1,200.

The Mayor has asked me to present my rate proposal to City Council at the second meeting in April, and this will include increases to the monthly parkers. If approved, I will have to either hold the rate for Kinder Morgan or increase the rates for them as with all other monthly parkers. The expected effective date is July 1, 2019.

The Kinder Morgan agreement, and all the others, do have language that states the City Council acting in its legislative capacity may terminate the Agreement upon a finding that termination is necessary for

the health, safety, or welfare of the City of Colorado Springs' citizens. One could argue that this is applicable to maintain the necessary financial health of the Parking Enterprise Fund and to not disproportionately charge one group of users over another, or to subsidize one group at the expense of the others. Regardless of whether Kinder Morgan pays \$50 or the current monthly rate, I