



## Cog Tax Incentive Agreement Update

**From: Mayor Ken Jaray**

**To: City Council, Malcolm Fleming**

**October 23, 2018**

On June 26<sup>th</sup> City Council by a 6-1 vote adopted an ordinance and executed a tax incentive agreement with the Cog Railway. It provided for a 50-year agreement with increasing caps on the amount of excise tax the Cog will pay over 50 years. It also provided for two \$500,000 payments to the City in 2018 and 2019 to cover anticipated tax revenues if the Cog were to be running. The City agreed to waive Use Tax on building materials for the initial Cog rebuild. The Cog would initially pay \$500,000 for parking facilities and transportation management.

In late June several residents expressed concerns about the agreement. Two filed suit against the City asking for a court interpretation of Manitou Springs City Charter and the Colorado Constitution. Both provide that contracts entered into by the city are not subject to referendum which is what the Plaintiffs were attempting to do. It is anticipated that when the City Council rescinds the June 26<sup>th</sup> agreement that this lawsuit will be moot.

City Council and the Mayor responded by reaching out to the proponents of the lawsuit and others who had concerns about the initial agreement. There have been both small and large group meetings over the past 3.5 months to hear concerns and positive suggestions. Here's what we've heard and how we responded:

1. Provide documentation from the Cog concerning the request and documenting the need:
  - City Council Obtained a letter from Gary Pierson, CEO Oklahoma Publishing Co. on behalf of the Cog Railway providing an explanation of the incentive agreement request and financial need. It is available at [www.manitouspringsgov.com](http://www.manitouspringsgov.com)
2. Obtain a third-party opinion about the economic considerations of the agreement:
  - City Council Obtained an opinion letter from Summit Economics available at [www.manitouspringsgov.com](http://www.manitouspringsgov.com)
3. Address the Incline issues along with the COG:
  - Mayor Jaray Initiated conversations with Mayor Suthers, Jeff Greene, Karen Palus and others from Colorado Springs to discuss Incline impacts and solutions. These conversations resulted in the funding of a comprehensive mobility study jointly funded by the Cog, Colorado Springs, and Manitou Springs. The scope of work can be found at [www.manitouspringsgov.com](http://www.manitouspringsgov.com) These conversations are ongoing and should provide a road map for moving forward.
4. The agreement does not provide for increases in ticket prices or ridership

- City Council will consider rescinding the initial agreement and adopting a new agreement which does consider ticket prices and ridership. The proposed agreement now provides for the elimination of any incentive payment to the Cog for riders over 375,000. In other words, the Cog will pay the full 5% excise tax on all riders above 375,000. It also provides for incentive payments to the Cog based on a maximum tax payment of \$500,00-\$557,000 for years 1-26 and a minimum tax payment of 3.8% for years 26-50. In addition, the Cog will make \$1,250,000 million in payments to the city to cover anticipated tax revenues if the Cog were to be running. The City will waive all use tax. The Cog will initially also pay \$500,000 for parking facilities, and transportation management.

	Initial Agreement	Proposed Agreement	Difference
Additional tax revenue	\$29.7 M	\$34-68 M	\$4.3-38.3 M
Incentive payments	\$11.9-47.4 M	\$7.5-9.5 M	\$4.4-37.9 M
Cash from Cog	\$1.0 M	\$1.25 M	\$250,000
Traffic and parking	\$500,000	\$500,000	Actual costs to be determined

\* Actual dollars without discount

\*\*Based upon assumptions of low and high ticket prices and use over 50 years

\*\*\*Full spreadsheets available at [www.manitouspringsgov.com](http://www.manitouspringsgov.com)

5. The agreement is too long:

- The City Council has asked for a shorter agreement. The Cog has responded that the length of the agreement is based upon three primary factors (1) the initial investment of approximately \$95 million with cash breakeven in 15-20 years. (2) Subsequent investment in new 3 rail cars in 15-20 years costing \$10-11 million each in today's dollars (3) significant building and maintenance risk on Pikes Peak.

6. Not enough public process:

- The City held public meetings concerning the COG on October 2<sup>nd</sup>, and 9<sup>th</sup>. Approximately 70 people attended both meetings. In addition, City Council heard directly from citizens about their concerns with the agreement at the Oct. 2<sup>nd</sup> Council meeting. There have been numerous other phone calls, small meetings, e-mails etc. exchanging thoughts and suggestions. The overwhelming feedback at the recent public meeting was that participants felt heard, valued, and respected.

The City of Manitou Springs is very grateful for citizen's concerns and willingness to come together with positive changes, and the Cog's willingness to address these through a new agreement.

It is anticipated that City Council will consider rescinding the June 26<sup>th</sup> Ordinance and Agreement and adopting a new Ordinance and Agreement on November 7<sup>th</sup> (Wed. due to Election Day). Second reading will be Nov. 21<sup>st</sup>.

To review documents related to the Cog Agreement – [www.manitouspringgov.com](http://www.manitouspringgov.com)