

ORDINANCE

AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO APPROVING A NEW TAX INCENTIVE PROGRAM AGREEMENT WITH THE MANITOU SPRINGS AND PIKES PEAK COG RAILWAY

WHEREAS, on June 26, 2018, on second reading, via Ordinance 1318, the City Council approved a tax incentive program agreement (the “Agreement”) with the Manitou Springs and Pikes Peak Cog Railway Company (“Owner”), the purpose of which was to provide an incentive needed for repairs and rehabilitation necessary for Owner to resume and continue to operate the cog railway and related facilities in the City (collectively, the “Cog Railway”) and to preserve a vital source of revenue for the City;

WHEREAS, after completion of a financial analysis of the Agreement and alternative incentive options, additional public participation, and further discussions with Owner, the City and Owner have agreed upon modified terms for the City to incentivize Owner to repair and rehabilitate its infrastructure so that the Cog Railway will resume and continue to operate;

WHEREAS, the Cog Railway is a major tourist attraction in the City, which is a source of substantial tax revenue for the City, serves as a draw for visitors to the City, provides employment opportunities within the City, benefits other businesses in the City, and contributes to the historic character of the City;

WHEREAS, the City Council finds that the Cog Railway requires substantial and expensive maintenance, repairs, and upgrades of its facilities to resume and continue operating;

WHEREAS, the City Council finds that the continued operation of the Cog Railway is vital to health and welfare of the City and its residents and businesses, without which the City’s governmental operations would be jeopardized due to reduced revenue, the City would experience less tourist visits, there would be less employment opportunities, and there would be less customers for other businesses within the City;

WHEREAS, the City Council finds and determines that the incentive provided in the new incentive agreement approved by this Ordinance is necessary for Owner to undertake the work needed to continue to operate the Cog Railway and that without such incentive the risk that Owner will not continue to operate the Cog Railway is substantially increased; and

WHEREAS, the City Council wishes to memorialize all aspects of the City’s new agreement with the Owner regarding a tax incentive program, which is required to ensure the continued operation of the Cog Railway in a manner that benefits the City, its residents, and its businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: The agreement attached hereto as **Exhibit A** is hereby approved and the Mayor is authorized to execute the same. Approval of the Agreement and authorization for the Mayor to execute the Agreement is conditional upon its execution by the Mayor and Owner on or before November 30, 2018. Failure of either party to execute the Agreement by such date shall render the approval and authorization set forth herein null and void. Execution after such date by either Party shall be of no effect.

Section 2: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 4: This ordinance shall take effect five (5) days after final approval on second reading and publication.

Passed on first reading and ordered published this 7th day of November, 2018.

/s/ Donna Kast
City Clerk Donna Kast

A Public Hearing on this ordinance will be held at the November 20, 2018, City Council meeting. The Council Meeting will be held at 6:00 p.m. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: November 8, 2018 (in full)
City's Official Website and City Hall

Passed on second reading and adopted by City Council this 20th day of November, 2018.

/s/ Ken Jaray
Mayor Ken Jaray

Attest: /s/ Donna Kast
City Clerk Donna Kast

Published: November 21, 2018 (in full)
City's Official Website and City Hall