

Parks, Recreation & Cultural Services

PR&CS Administration, 1401 Recreation Way, Colorado Springs, CO 80905



Agenda TOPS Working Committee

Wednesday, December 7, 2022

7:30 a.m.

1401 Recreation Way

How to call in to the meeting for citizens:

Please dial +1 (720) 617-3426 Conference ID: 981 347 320#

How to comment:

- *For Citizen Discussion concerning items that are not on the agenda please email your comments to PRCS-TOPSWorkingCommittee-SMB@coloradosprings.gov in advance of the meeting.*
- *For Agenda Items - Before the meeting, those who wish to comment should submit their name, telephone number, and the topic or agenda item for comment to PRCS-TOPSWorkingCommittee-SMB@coloradosprings.gov. If you are a participant in Microsoft TEAMS please use the chat function to indicate you would like to comment. If you have joined the meeting via conference call, please listen for your opportunity to comment. You will be called upon to comment using the last four digits of your telephone number. Please limit your comment to three minutes.*

Agenda Preview

Board Chair

Announcements

Staff and Committee

Approval of Minutes

Committee

Citizen Discussion

Citizens

Action Items

Presentation Items

Acquisition on Corral Bluffs
TOPS Ballot Measure Update

Britt Haley
Britt Haley

Citizen Discussion

Citizens

Executive Session

Britt Haley

In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(a), (b) and (e), the TOPS Working Committee, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed involves consultation with the City Attorney, discussing strategy for negotiations and instructing negotiators regarding future potential Parks real estate acquisitions.

The Chair shall poll the TOPS Working Committee members, and, upon consent of two-thirds of the members present,

may conduct a Closed Executive Session. In the event any Committee member is participating electronically or telephonically in the Closed Executive Session, each Committee member participating in the Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the Closed Executive Session is present or able to hear the matters discussed as part of the Closed Executive Session. If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Adjournment

COLORADO SPRINGS PARKS, RECREATION AND CULTURAL SERVICES DEPARTMENT

TOPS WORKING COMMITTEE

Date: December 7, 2022

Item Number: Presentation Item # 1

Item Name: Proposed acquisition of approximately 5.74 acres as an addition to the Corral Bluffs Open Space

SUMMARY:

Since 1996, when the City's first Open Space Plan was adopted, the City of Colorado Springs has prioritized and worked to acquire property in and around the Corral Bluffs area for its special open space values. This item provides the opportunity for the TOPS program to make a strategic acquisition of approximately 5.74 acres of property, for which staff negotiated a right of first refusal in November of 2010. This property is an inholding within the Corral Bluffs Open Space and currently features a cell tower facility with Verizon Wireless as its assignable lessee. The 5.74 acre inholding was valued at \$195,000 pursuant to a July 2022 appraisal.

BACKGROUND:

The 2014 Park System Master Plan ("Master Plan") identifies the Corral Bluffs area as an Open Space Candidate Area. In fact, this area has long been identified for land conservation in advance of development. It was first identified over 20 years ago in the 1996 City Open Space Plan and also in the 1997 El Paso County Open Space Master Plan. Beginning with a TOPS program purchase of the Case property in 2009, the Anderson property in 2010, the Kyle property in 2017, and the Bishop Ranch property in 2018, the Colorado Springs Utilities Jimmy Camp Connection properties in 2020 and the Greco inholding also in 2020, the TOPS Program has diligently and patiently worked to assemble adjoining property in this resource rich area.

The 2014 Park System Master Plan (Master Plan) includes several goals that are supported by this proposal. First it provides enhanced open space opportunity on the City of Colorado Spring's east boundary, just as development is preparing to move forward under a revised and restated Banning Lewis Ranch annexation agreement intended to revitalize development on the adjoining 21,000 acres. Second, acquisition of this property will fill in a gap in the Corral Bluffs Open Space, reuniting this parcel with the "Anderson property," the balance of which was purchased by TOPS in 2010. It which will also provide a way to manage an existing access road to the open space currently used by the lessee Verizon Wireless. This acquisition would protect the City's existing investment by securing the parcel which is completely surrounded by Corral Bluffs Open Space.

Additionally, if purchased by TOPS, the property would be accompanied by a lease to Verizon Wireless that may be extended for up to six, five-year terms. Should either party choose to terminate this use on the property, the cell tower company is obligated to remove its equipment and restore the property to its native condition. However, with the current lease, rental payments of \$1,201.94 would be paid per month with an escalator for inflation resulting in a current income to the TOPS Program of approximately \$14,423.28 per year.

The special significance of the Corral Bluffs Open Space was highlighted in October of 2019 when scientists from the Denver Museum of Nature and Science (DMNS) published the first of a series of scientific papers in the prestigious journal Science concerning their fossil discoveries. They had discovered intact fossils documenting the emergence of mammals after the catastrophic asteroid that caused the die off of the dinosaurs. No other location in the world has produced such a treasure trove of quality fossils from this time period documenting the recovery

of the Earth after the asteroid impact. This find is accurately described as unprecedented and was the focus of a PBS documentary called "Rise of the Mammals" that has aired on PBS's NOVA program several times. The DMNS also dedicated an exhibit to the fossils from Corral Bluffs, which was called After the Asteroid: Earth's Comeback Story.

Staff had been in communication with the seller and the cell service provider since early 2022 to enforce the provisions of a right of first refusal (ROFR) which was purchased in November of 2010 to secure the opportunity to acquire this property if the sellers chose to divest themselves of the 5.74 acres. The TOPS Program paid \$2,000.00 at that time for the ROFR.

Pursuant to TOPS and City real estate acquisition procedures, an appraisal was completed for the property which indicated a value of \$195,000.00 based on an income capitalization approach for the 5.74 acres with the cell tower lease.

FINANCIAL IMPLICATIONS:

The City is under contract to acquire the property contingent on a favorable Parks, Recreation and Cultural Services (PR&CS) Advisory Board recommendation and City Council approval, for the appraised value of \$195,000. Acquisition of the property requires an appropriation in the amount of up to \$200,000 from TOPS Open Space Category revenues to purchase the property, and to pay for real estate transaction costs such as the title insurance, closing costs and recording fees. The TOPS fund balance currently shows a balance over \$5 million and therefore it can support this acquisition.

BOARD/COMMISSION RECOMMENDATION:

The TOPS Working Committee is the first board to consider this proposed acquisition of the 5.74 acre inholding at Corral Bluffs Open Space.

ALTERNATIVES:

Alternatives include advising staff of support for this acquisition, requesting additional information or suggesting an alternative approach to the transaction.

RECOMMENDATION:

Staff anticipates recommending the acquisition at the January 2023 TOPS Working Committee meeting.

PROPOSED MOTION:

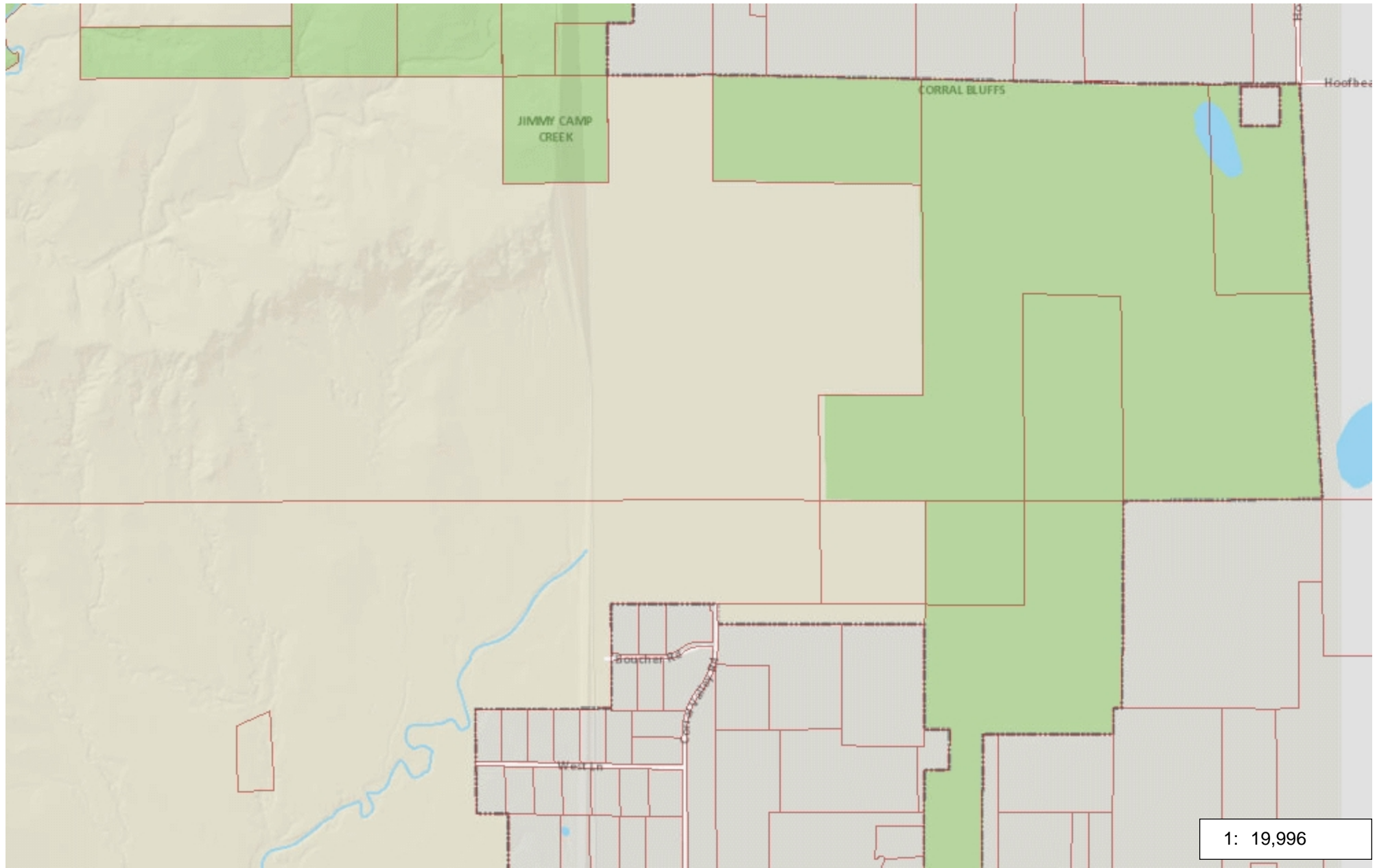
N/A

Attachments:

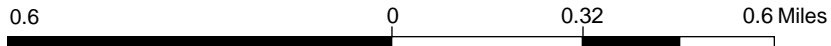
Map depicting the property



City of Colorado Springs



1: 19,996



NAD_1983_StatePlane_Colorado_Central_FIPS_0502_Feet
 © Latitude Geographics Group Ltd.



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COLORADO SPRINGS PARKS, RECREATION AND CULTURAL SERVICES DEPARTMENT

TOPS WORKING COMMITTEE

Date: December 7, 2022

Item Number: Presentation Item #2

Item Name: Proposed 2023 TOPS Ballot Question

SUMMARY:

This item presents a ballot question developed for City Council consideration for referral to the April 4, 2023 Municipal General Election reflecting work the Parks, Recreation and Cultural Services Department and its associated advisory boards have done with the Mayor, City Council, and citizens groups to prepare for a ballot initiative that would extend and modify the Trails, Open Space and Parks (TOPS) sales and use tax. An increase in the sales and use tax is not likely to be successful in 2023. Consequently, this measure proposes the remaining two modifications to the TOPS tax which were previously recommended. Those are an extension of the tax for twenty (20) years and a modification to the trails and open space expenditure categories permitting expenditures from TOPS funds on property regardless of how it was acquired. This modification also aligns with a voter approved change in 2013 to the TOPS parks expenditure category.

BACKGROUND:

The TOPS Program is funded by 0.1% sales and use tax dedicated to trails, open space and parks. This tax is currently in effect until December 31, 2025 and it collects one (1) cent on every ten (10) dollars of purchases in the City of Colorado Springs. It is dedicated to stewardship, acquisition, construction and maintenance of trails, open space, and parks for the City of Colorado Springs. The TOPS Program has been in existence since 1997 and during that time the Program has constructed over 50 miles of trails, acquired 7,500 acres of open space and built and improved 66 parks.

The TOPS sales and use tax is set to expire on December 31, 2025. In preparation for a November 2021 ballot question, the TOPS Working Committee began work in November of 2020 to review proposals related to the TOPS Program, including a measure to extend the sales and use tax program, an increase to the tax rate and modifications to the expenditure provisions of the TOPS Program.

The TOPS Working Committee ultimately unanimously recommended a twenty (20) year extension of the TOPS sales and use tax, an increase in the tax of .15% for a resulting .25% tax and a reformulation of the funding categories to provide for 30% for parks, 30% for trails and 30% for open space acquisition and stewardship with a flexible 10% of funds that could be allocated to any of the three TOPS funding categories (parks, trails and open spaces) by recommendation in the standard budget review process.

Additionally, City Council formed a President's Commission on Sustainable Park Funding to consider funding options for the park system including a TOPS ballot measure. The Parks, Recreation and Cultural Services (PRCS) Board selected two members, David Seigel and Dr. Daniel Bowan to participate in the Council President's Sustainable Parks Funding Commission (Commission) which was formed in April of 2021 by City Council members Tom Strand and Richard Skorman. The TOPS Working Committee was represented on the Commission by its Chairman Bob Falcone and member Hank Scarangella.

The Commission was made up of a diverse group of citizens with the purpose of also evaluating a potential ballot item to increase the TOPS tax and parks funding strategies for the future. The Commission met multiple times and supported a 0.1% increase to the TOPS program with a 20-year extension. During consideration of the ballot measure several other areas of agreement emerged. The advisory bodies and Commission indicated their agreement that all City open spaces and trails ought to be eligible for TOPS funding, which aligns with a change that was made to the parks category in 2013.

Ultimately a ballot question was placed on the ballot for the November 2021 election proposing a 0.1% increase and numerous changes to the TOPS sales and use tax. This measure was not successful and failed by a margin of 53.46% voting against the measure and 46.54% voting in favor.

After review of the failed outcome, some observations included that the ballot question itself was too complicated, the tax increase was not persuasive to the voters in a weakening economy, TOPS expenditures had not had sufficient impact on the east side of the City and too many changes were being sought in the ballot language at one time.

Mayor Suthers considered this feedback, and he renewed his commitment to work to extend and adjust the TOPS program while he remains in office. Based on the results of the election and the prior support for an extension and alignment of the funding categories of the TOPS Program, the revised measure under review today proposes an extension of the program for twenty (20) years, provides a concise question and aligns the expenditure flexibility in the trails and open space categories with the flexibility that voters approved for the parks category in 2013.

Currently, for the trails and open space categories, TOPS funds are not eligible for expenditure on properties which were not originally acquired with TOPS dollars. This has resulted in patchwork trail system where trails repairs end abruptly along a trail corridor and where arbitrary lines exist

across open space properties where funding is available on one side of the open space but not on the other side.

The keystone example is found at Ute Valley where approximately half of the property was purchased with TOPS Open Space dollars and is eligible for open space funds to improve trails, the trailhead and the open space while the other side is in poor condition with a pitted trail head because it is only eligible for limited funding. Another example exists on the east side of the City at Jimmy Camp Creek, where the 697 acres at Jimmy Camp are not eligible for TOPS open space funding but the neighboring acres at Corral Bluffs are eligible even though the landscape is connected as one functioning prairie ecosystem.

A ballot measure may be referred by City Council to the April 4, 2023 Municipal General Election by Resolution. The deadline for Council to refer a measure is by the January 24, 2023 City Council Regular Session. Staff proposes to conduct a work session with City Council at its December 12, 2022 meeting and to set consideration of the referral of the measure for the January 10, 2023 City Council meeting.

FINANCIAL IMPLICATIONS:

This question proposes a continuation of an existing tax for twenty (20) years. At the current rate of revenue of twelve million per year, this would generate at least \$240M (\$12M X 20 years) for trails, open space and parks. A decision to refer a measure to extend and modify TOPS will not incur additional election costs, because a Municipal General Election is already scheduled for April 4, 2023.

BOARD/COMMISSION RECOMMENDATION:

The prior Boards and Commissions that reviewed this policy matter recommended a 20 year extension and supported the modification to the program as described above.

ALTERNATIVE:

Do not recommend the proposed ballot language or provide additional input on what it should include or not include.

RECOMMENDATION:

This is a presentation item. Based on the prior recommendations developed during the consideration of an increase, which included the twenty-year extension and modification of the spending categories as described, Staff will recommend the ballot question in the form drafted at the Mayor's request when this item is considered for a recommendation.

PROPOSED MOTION:

N/A

RESOLUTION NO. _____ - 23

A RESOLUTION SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF THE CITY OF COLORADO SPRINGS, COLORADO, AT THE GENERAL MUNICIPAL ELECTION CONDUCTED BY MAIL BALLOT TO BE HELD ON TUESDAY, APRIL 4, 2023, THE QUESTION OF EXTENDING THE SALES AND USE TAX FOR TRAILS, OPEN SPACE AND PARKS (“TOPS”) PROGRAM AND MODIFYING THE PROGRAM FOR THE PURPOSE OF ALLOWING REVENUE TO BE USED ON ALL CITY TRAILS AND OPEN SPACES, PROVIDING FOR THE FORM OF THE BALLOT TITLE AND TEXT, PROVIDING FOR CERTAIN MATTERS WITH RESPECT TO THE ELECTION, AND PROVIDING THE EFFECTIVE DATE OF THIS RESOLUTION

WHEREAS, the City Council (the “Council”) of the City of Colorado Springs, Colorado (the “City”), a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State of Colorado and the City Charter (“Charter”), has determined that extending the City sales and use tax for the Trails, Open Space and Parks program with certain modifications is in the best interest of the residents of, and visitors to, the City; and

WHEREAS, the Council does hereby determine that the General Municipal Election conducted by mail ballot on April 4, 2023, is designated as a municipal election pursuant to the City Charter (the “Election”) at which the question of extending and modifying the City sales and use tax for the Trails, Open Space and Parks program shall be submitted to the City’s electors qualified and registered to vote thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Council hereby submits and refers to the vote of the registered qualified electors of the City to be held at the Election (as defined in Section 2), the question regarding extending the sales and use tax for the Trails, Open Space and Parks (“TOPS”) program, with no changes to the program except allowing revenue to be used for the maintenance and improvement of all City parks, trails and open spaces, which appears in full in Section 3 of this resolution.

Section 2. The Election shall be a General Municipal Election conducted by mail ballot on April 4, 2023, pursuant to the Charter of the City of Colorado Springs and applicable Colorado statutes, except as otherwise provided in the Charter or ordinances of the City, all as impliedly modified by relevant judicial decisions. The City Clerk shall be the designated election official for all matters.

Section 3. The question of extending and modifying the sales and use tax for the TOPS program as a voter approved change, shall be submitted to the registered qualified electors of the City in substantially the following form:

WITHOUT IMPOSING ANY NEW TAX OR INCREASING THE RATE OF ANY EXISTING TAX, SHALL THE EXISTING 0.1% (ONE TENTH OF A CENT) CITY SALES AND USE TAX FOR TRAILS, OPEN SPACE AND PARKS (TOPS) BE EXTENDED FROM ITS CURRENT EXPIRATION OF DECEMBER 31, 2025 THROUGH DECEMBER 31, 2045, WITH THE SAME USES FOR OPEN SPACE ACQUISITION, DEVELOPMENT AND STEWARDSHIP, AND TRAILS AND PARKS ACQUISITION, MAINTENANCE AND DEVELOPMENT, THE ABOVE CONSTITUTING NO CHANGES TO THE PROGRAM EXCEPT ALLOWING FUNDS DEDICATED TO MAINTENANCE AND RESTORATION OF TRAILS AND OPEN SPACES TO BE USED REGARDLESS OF HOW THE TRAIL OR OPEN SPACE WAS ACQUIRED, AS A CONTINUATION OF A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO ANY CONSTITUTIONAL, STATUTORY, AND CHARTER REVENUE AND SPENDING LIMITATIONS THAT MAY OTHERWISE APPLY?

___ YES

___ NO

Section 4. The City Council finds and declares that if the question set forth in Section 3 is approved by the electors voting thereon, the City of Colorado Springs shall be authorized to continue its sales and use tax for the TOPS program to and until December 31, 2045. As is currently the case, all revenues from the sales and use tax for the TOPS program will be placed in a dedicated fund to be used only for the purposes stated in this resolution.

Section 5. The City Clerk and officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of the resolution. The City Clerk shall conduct the General Municipal Election.

Section 6. All actions heretofore taken by the Council and officers of the City, not inconsistent with the provisions of the resolution and toward the Election, are hereby ratified, approved and confirmed.

Section 7. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section,

paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 8. All resolutions, bylaws and regulations of the City in conflict with this resolution, are hereby repealed to the extent of any conflict. This repealer shall not be construed to revive any ordinance, resolution, bylaw or regulation, in whole or in part, previously repealed.

Section 9. This resolution shall be effective upon passage.

Dated at Colorado Springs, Colorado this _____ day of _____, 2023.

Council President

ATTEST:

Sarah B. Johnson, City Clerk

WITHOUT IMPOSING ANY NEW TAX OR INCREASING THE RATE OF ANY EXISTING TAX, SHALL THE EXISTING 0.1% (ONE TENTH OF A CENT) CITY SALES AND USE TAX FOR TRAILS, OPEN SPACE AND PARKS (TOPS) BE EXTENDED FROM ITS CURRENT EXPIRATION OF DECEMBER 31, 2025 THROUGH DECEMBER 31, 2045, WITH THE SAME USES FOR OPEN SPACE ACQUISITION, DEVELOPMENT AND STEWARDSHIP, AND TRAILS AND PARKS ACQUISITION, MAINTENANCE AND DEVELOPMENT, THE ABOVE CONSTITUTING NO CHANGES TO THE PROGRAM EXCEPT ALLOWING FUNDS DEDICATED TO MAINTENANCE AND RESTORATION OF TRAILS AND OPEN SPACES TO BE USED REGARDLESS OF HOW THE TRAIL OR OPEN SPACE WAS ACQUIRED, AS A CONTINUATION OF A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO ANY CONSTITUTIONAL, STATUTORY, AND CHARTER REVENUE AND SPENDING LIMITATIONS THAT MAY OTHERWISE APPLY?

_____ YES

_____ NO