



## Legislation Text

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**File #:** 22-788, **Version:** 1

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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 and requiring seventy-five percent (75%) of open space funds be used for acquisition of open space, 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

**Presenter:**

Britt Haley, Director- Parks, Recreation and Cultural Services Department

**Summary:**

This item presents a ballot question developed for City Council consideration for referral to the April 4, 2023 General Municipal 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. The measure 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. After public comment, and to gain consensus on support for the sales tax extension, an additional clause was included to require a minimum of seventy five percent (75%) of the funding designated for open space be utilized for new open space acquisition.

**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 taxable 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 67 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 more flexibility.

Additionally, the City Council President and Council President Pro Tem formed a President's Commission on Sustainable Park Funding (Commission) to consider funding options for the park system including a TOPS ballot measure. The Parks, Recreation and Cultural Services (PRCS) Advisory Board selected two members, David Seigel and Dr. Daniel Bowan to participate on the 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 Chair 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. 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. After considering public input, it also commits a minimum of seventy five percent (75%) of funds designated for open space purposes be spent on new open space acquisition.

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 a patchwork trail system where trail 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 outside of the TOPS Program. 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 General Municipal Election by Resolution. The deadline for Council to refer a measure is by the January 24, 2023 City Council Regular Session. Staff conducted a work session with City Council at its December 12, 2022 meeting and City Council is scheduled to consider referral of the measure for the January 10, 2023 City Council meeting.

**Previous Council Action:**

N/A for this proposed ballot question.

**Financial Implications:**

This question proposes a continuation of an existing tax for twenty (20) years. At the current rate of revenue of approximately twelve (12) million per year, the tax 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 General Municipal Election is already scheduled for April 4, 2023.

**City Council Appointed Board/Commission/Committee Recommendation:**

On January 4, 2023, the TOPS Working committee voted unanimously to recommend that City Council refer the proposed TOPS extension question to the ballot. Also on January 4, 2023, the Parks, Recreation and Cultural Services (PRCS) Advisory Board unanimously voted to recommend that the proposed TOPS extension question be referred by City Council to the ballot.

The TOPS Working Committee, PRCS Advisory Board and Presidents Commission on Sustainable Parks Funding previously participated in this policy matter and recommended a 20 year extension and supported the trails and open space spending flexibility described above.

**Stakeholder Process:**

TOPS Working Committee and PRCS Advisory Board meetings provide opportunities for public comment. City Council meetings will also provide an opportunity for stakeholder input. Public comment was received at the December 8, 2022 PRCS Advisory Board meeting. Public comment was also received at the January 4, 2023 meetings of the TOPS Working Committee and the PRCS Advisory Board meetings. All public comment supported the referral of the TOPS extension at the January 4, 2023 meetings.

**Alternatives:**

City Council could decline to refer the question as drafted or request changes to the language.

**Proposed Motion:**

A motion to adopt the 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 and requiring a minimum of seventy five percent (75%) of open space funds be used for acquisition of open space, 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.

N/A