



Office of the City Auditor

Date: August 19, 2010
To: Honorable Mayor and Members of City Council
Re: 10-17 – Trails, Open Space, and Parks (TOPS) Fund

AUTHORIZATION

We performed an examination of the Trails, Open Space, and Parks (TOPS) Fund for the period January 1, 2008 to December 31, 2009. We conducted this examination under the authority of Chapter 1, Article 2, Part 706 and Chapter 4, Article 6, Part 203 of the City Code (Code), which states:

1.2.706: EXAMINE BOOKS, RECORDS:

The City Auditor shall examine and inspect all books, records, files, papers, documents and information stored on computer records or in other files or records relating to all financial affairs of every office, department, group, enterprise, political subdivision and organization which receives funds from the City or under the direct or indirect control of the City Council. The Auditor may require any person to appear at any time upon proper notice and to produce any accounts, books, records, files and other papers pertaining to the receipt or expenditure of City funds, whether general or special. If that person fails to produce the papers, then the Auditor may request Council approval to search for and take any book, paper or record in the custody of that person or public official.

4.6.203: BIENNIAL INDEPENDENT AUDIT:

The City shall adopt regulations requiring an independent biennial audit of the expenditures of all of the net proceeds from the sales tax and other revenue. The City Council, with City and advisory committee participation, shall regularly review the audits with a view to establishing expenditure priorities.

ORGANIZATIONAL PLACEMENT

The Office of the City Auditor is structured in a manner to provide organizational independence from the entities it audits. This independence is accomplished by the City Auditor being appointed by and reporting directly to City Council. The audited entity in this audit was the Park and Recreation Department, which is under the reporting structure of the City Manager. The City Manager is a City Council Appointee.

INTERIM CITY AUDITOR DENNY NESTER, MBA CPA CIA CFE CGFM CGAP

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BACKGROUND

The TOPS program was created to establish a trails, open space and parks program to acquire real property in the City and El Paso County. The TOPS program was established in July 1997 and since then has protected over 6,178 acres of open space, built 32 neighborhood parks, and constructed over 46 miles of urban trails in Colorado Springs and El Paso County.

OUR AUDIT

The audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*, a part of the Professional Practices Framework promulgated by the Institute of Internal Auditors. The audit included interviews with appropriate personnel and such tests of records and other supporting documentation as deemed necessary in the circumstances. Sufficient competent evidential matter was gathered to support our conclusions.

Based upon our audit, we noted the following:

The TOPS program was established to acquire and develop real property in the City and El Paso County pursuant to guidelines set forth in the ordinance. The TOPS program is funded by a 0.1% Sales Tax. Of the proceeds collected, the Code limits the percentage of funds that can be spent in specific areas.

The limitations prescribed in section 4.6.202 of the City Code include:

- A maximum of 3% can be spent for program management purposes.
- A maximum of 6% can be spent for stewardship and maintenance of TOPS funded trails, open space, and parks.

After deductions for the above limitations,

- A minimum of 60% shall be used for the acquisition and stewardship of new open space lands.
- A maximum of 20% may be used for new open space land for new trails within the City, including the construction, acquisition, and maintenance of new trails.
- A maximum of 20% may be used to acquire an interest in new open space land for new park areas, including the construction and acquisition (but not maintenance) of new park recreational capital improvements.

Section 4.6.203 of the Code states "The City Council, with City and Advisory Committee participation, shall regularly review the audits with a view to establishing expenditure priorities." To help you accomplish this, we have attached three reports which contain pertinent financial information.

The reports are:

- Attachment A – Statement of Sources and Uses from inception to December 31, 2009.
- Attachment B – Summary of Compliance Calculations as of December 31, 2009.
- Attachment C – Detailed Compliance Calculations as of December 31, 2009.

Based on our review, we conclude that as of December 31, 2009, the TOPS Fund was in compliance with the spirit of all limitations found in section 4.6.202 of the City Code. We noted that the Total Expended and Outstanding Appropriations for Trails were slightly over 20%, which may be perceived as a temporary violation of statute. However, considering the Outstanding Appropriations include grant funds from other sources—which will resolve over time, we do not believe the current situation violates the intent of the statutes.

As always, feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Denny L. Nester". The signature is written in a cursive style with a large initial "D".

Denny L. Nester
Interim City Auditor

cc: Steve Cox, Interim City Manager
Terri Velasquez, Finance Director
Kara Skinner, Accounting/Payroll Manager
Kurt Schroeder, Interim Director, Parks, Recreation and Cultural Services
Sarah Bryarly, Interim Manager, Design, Development and TOPS
TOPS Working Committee

**Attachment A – Trails, Open Space and Parks (TOPS) Program
Statement of Sources and Uses
July 1, 1997 – December 31, 2009**

	Related to General Revenues*	Related to Borrowings**	Total
Sales and Use Tax	68,845,367	-	68,845,367
Intergovernmental	395,000	-	395,000
Charges for Services	181,603	-	181,603
Investment Income	2,033,322	442,308	2,475,630
Outstanding Debt	-	9,925,000	9,925,000
Total Sources	71,455,292	10,367,308	81,822,600
APM Fund	1,490,525	-	1,490,525
Stewardship/Maintenance	2,235,279	-	2,235,279
Trails	10,126,894	-	10,126,894
Parks	11,706,377	-	11,706,377
Open Space	38,905,689	10,367,308	49,272,997
Total Uses	64,464,764	10,367,308	74,832,072
Sources vs. Uses	6,990,528	-	6,990,528

APM = Administration, Planning and Management

* - The column titled "Related to General Revenues" represent activities related to the TOPS Fund

** - The column titled "Related to Borrowings" represent debt activities supporting the TOPS Fund. The debt activities may or may not be repaid from the TOPS fund. As of the date of this report, all the activity in this column relates to the Red Rocks COP.

**Attachment B – Trails, Open Space and Parks (TOPS) Program
Summary of Compliance Calculations
July 1, 1997 – December 31, 2009**

	Actual Amounts Received or Expended	Outstanding Appropriations	Total Expended plus Outstanding Appropriations	Calculated Percent *	City Coded Limit	Status
Total Revenue Received	71,455,292					
Less:						
APM Fund	1,490,525	136,238	1,626,763	2.28%	LT 3%	In Compliance
Stewardship/Maintenance	2,235,279	257,045	2,492,324	3.49%**	LT 6%	In Compliance
Equals Available for Projects	67,729,488		67,336,205			
Projects						
Trails	10,126,894	3,504,185	13,631,079	20.24%	LT 20%	* Note 1
Parks	11,706,377	915,001	12,621,378	18.74%	LT 20%	In Compliance
Open Space	38,905,689	1,550,934	40,456,622	60.65%	GT 60%	In Compliance
Total Project Expenditures	60,738,959	5,970,120	66,709,079			
Remaining Balance	6,990,528					

APM = Administration, Planning and Management

* Calculations found on Attachment C

* Note 1 - This % is greater than 20% because of grants that were appropriated to this fund, however the money will not be spent until future years, therefore it is our opinion this fund is not out of compliance

** - percentage is calculated from 1997 to 2009, please note that until 2003 maintenance could not be greater than 3% of proceeds collected

**Attachment C – Trails, Open Space and Parks (TOPS) Program
Detail Compliance Calculations
July 1, 1997 – December 31, 2009**

Category	What the City Code Says (1)	Auditor's Interpretation	Calculation (2)
Planning	Of the proceeds collected, a maximum of 3% may be allocated for use for planning purposes	The amount actually expended plus the amount of outstanding appropriations may not exceed 3% of the total revenues collected	1,626,763 / 71,455,292 =2.28%
Stewardship	Of the proceeds collected, a maximum of 6% may be allocated for use for stewardship and maintenance purposes	The amount actually expended plus the amount of outstanding appropriations may not exceed 6% of the total revenues collected	2,492,324 / 71,455,292 =3.49%
Trails	Of the revenues received, after deductions for Planning and Stewardship, a maximum of 20% may be used for Trails	The amount actually expended plus the amount of outstanding appropriations may not exceed 20% of the total revenues collected less the amount expended/appropriated for Planning and Stewardship	13,631,079 / 67,336,205 =20.24%
Parks	Of the revenues received, after deductions for Planning and Stewardship, a maximum of 20% may be used for Parks	The amount actually expended plus the amount of outstanding appropriations may not exceed 20% of the total revenues collected less the amount expended/appropriated for Planning and Stewardship	12,621,378 / 67,336,205 =18.74%
Open Space	Of the revenues distributed, after deductions for Planning and Stewardship, a minimum of 60% may be used for Open Space	The amount actually expended plus the amount of outstanding appropriations shall exceed 60% of the total amount expended and appropriated for Trails, Parks, and Open Space	40,456,622 / 66,709,079 =60.65%

Definitions assumed in Auditor's Interpretations and Calculations

Proceeds Collected	Total Revenue Collected. Interchangeable with revenues received
May be allocated for Use	Total amount spent plus outstanding appropriations. Interchangeable with Used
Revenues received	Total Revenue Collected. Interchangeable with proceeds collected
Revenues Distributed	Total expended for the project plus outstanding appropriations
Used	Total amount spent plus outstanding appropriations. Interchangeable with May be allocated for Use

Notes:

- (1) - Paraphrase from section 4.6.202 of the City Code for the City of Colorado Springs
- (2) - Financial numbers taken from Attachment B