Parks, Recreation and Cultural Services

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

Agenda
Parks and Recreation Advisory Board

Please silence your phone during the meeting.

Thursday, July 14, 2016 | 7:30 am | Palmer Room

Call to Order

Citizen Discussion
Time for any individual to bring before the Parks and Recreation Advisory Board any matter of interest they wish to discuss that is not elsewhere on the agenda. Comments are restricted to three (3) minutes; you will hear an alarm when your time is up. Please contact PR&CS staff no later than the last Wednesday of the month prior if you wish to place a longer presentation on the agenda.

Approval of Minutes- June 9, 2016
Minutes are posted no later than 5:00pm on the Tuesday before the meeting at:
http://parks.coloradosprings.gov/explore-play/get-involved/boards-committees/parks-and-recreation-advisory-board

Ceremonial Items - Time Certain 10:00 a.m.

Recognition of Hillside Solar Project	Kim King
Recognition of Pikes Peak Hospice & Palliative Care	Karen Palus

Action Items

1. TOPS Policy and Procedure Manual Revisions	Chris Lieber
2. Transportation Alternative Grant Application	Tilah Larson

Presentations

3. Utilities Integrated Water Resources Planning Effort	Kevin Lusk
4. Planning and Community Initiatives Department Proposed Ordinance Revisions to Chapter 7-Appeals	Renee Congdon
5. Inspire Grant	Tilah Larson
6. Water Footprint	Eric Becker/Kurt Schroeder
7. University Village/Monument Valley Park Utility Corridors	Chris Lieber

Staff Reports

8. 2C and 2D Update	Chris Lieber

Board Business

9. Committee Reports/General Comments

Parks, Recreation and Cultural Services

Adjournment

Closed Executive Session

In accord with the City Charter Art. III, §3-60(d) and the Colorado Open Meetings Act, C.R.S. § 24-6-402(4) (a, b and e), the Parks and Recreation Advisory Board, in Open Session, is to determine whether it will hold a Closed Executive Session. The issues to be discussed involve receipt of legal advice and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators regarding a land acquisition matter. The Chair shall poll the Park and Recreation Advisory Board members, and, upon consent of two-thirds of the members present, may hold a 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 If consent to the closed executive session is not given, the item may be discussed in open session or withdrawn from consideration.

Parks, Recreation and Cultural Services

COLORADO SPRINGS PARKS AND RECREATION DEPARTMENT

PARKS AND RECREATION ADVISORY BOARD

Date: July 14, 2016

Item Number: Action Item # 1

Item Name: TOPS Policies and Procedures Manual Update

SUMMARY: Revisions to the TOPS Policies and Procedures Manual (Manual) are needed to clarify the role of the TOPS Working Committee, incorporate recent plans adopted by the City such as the Colorado Springs Park System Master Plan, and to reflect minor changes in Committee procedures. The overall mission, goals, objectives and procedures of the TOPS Working Committee remain unchanged.

PREVIOUS BOARD ACTION: NONE

BACKGROUND: On April 1, 1997, the Trails Open Space and Parks (TOPS) Ordinance was approved by the citizens of Colorado Springs, establishing dedicated funding for trail, open space and park projects. In 2003 the TOPS Ordinance was amended to extend the TOPS sales tax through 2025. The TOPS Working Committee is responsible for setting priorities and making recommendations for the expenditures of TOPS funds.

Originally adopted by the Parks and Recreation Advisory Board in 1997, the TOPS Policies and Procedures Manual guides the TOPS Working Committee in fulfilling their mission to "Work together, in accordance with the TOPS Ordinance, to guide our City in the prudent acquisition, development and preservation of Trails, Parks and Open Space, thereby creating a legacy for future generations in the Pikes Peak region."

On October 7, 2015, the TOPS Working Committee reviewed the existing Manual and identified potential updates and revisions. A subcommittee of the TOPS Working Committee was formed to review the Manual and recommend any proposed changes. On May 5, 2016, the TOPS Working Committee recommended approval of the Manual. The recommended draft Manual was presented to the Parks and Recreation Advisory Board on June 6, 2016.

On June 6, 2016, the Board requested additional clarification and revised language for Part 4, B.2: Acquisition Outreach. The draft language within this section has been revised as follows: "*The regular and proactive contact of landowners is a cornerstone of the TOPS Program. The Parks and Recreation staff or their representatives shall notify landowners of priority parcels deemed valuable to the community to be preserved as open space and inform owners of land conservation options*."

The proposed changes and recommendations are reflected within the draft TOPS Policies and Procedures Manual. (See attached).

FINANCIAL IMPLICATIONS: None

RECOMMENDATION:
Staff recommends approval of the proposed TOPS Policies and Procedures Manual update and revisions.

ALTERNATIVE:

The Board may choose to approve, modify, or disapprove the proposed TOPS Policies and Procedures Manual.

PROPOSED MOTION:
A motion to approve the proposed TPOS Policies and Procedures Manual update and revisions.

PARTIES NOTIFIED OF THIS MEETING:
Jason Alwine - TOPS Working Committee Chair

TRAILS, OPEN SPACE AND PARKS

POLICIES AND PROCEDURES MANUAL

SEPTEMBER, 1997
Revised July, 2016

COLORADO SPRINGS

TRAILS, OPEN SPACE AND PARKS POLICIES AND PROCEDURES

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PART I.
MISSION STATEMENT
AND
GOALS

PART I MISSION STATEMENT AND GOALS

COMMITTEE MISSION: Work together, in accordance with the TOPS Ordinance, to guide our City in the prudent acquisition, development and preservation of Trails, Parks and Open Space, thereby creating a legacy for future generations in the Pikes Peak region.

COMMITTEE GENERAL GOALS:

- ***Prioritize options and then remain focused on those priorities.***
- ***Maximize the leverage value of TOPS revenue.***
- ***Give appropriate consideration to projects in each category - Trails, Parks and Open Space.***
- ***Build trust through effective and proactive communication with the public and the media.***
- ***Fulfill our fiduciary responsibility to the citizens of Colorado Springs by practicing due diligence in our decision making process.***
- ***Coordinate our efforts with neighboring agencies when possible.***
- ***Educate the public of the TOPS Program accomplishments.***

PART II.
BY-LAWS

PART II BY-LAWS

ARTICLE I - FORMATION,NAME AND AUTHORITY

1. The Parks and Recreation Advisory Board has been appointed by City Council to serve as the Trails, Open Space and Parks Citizen Advisory Committee in accordance with the voter approved Trails, Open Space and Parks Ordinance. Three members of the Parks and Recreation Advisory Board are appointed by City Council as Citizen Advisory Committee Members with specific roles as identified in the TOPS Ordinance.

2. The formation and purpose of the TOPS Working Committee:
   The Parks and Recreation Advisory Board of the City of Colorado Springs, in accordance with item #11 of Board Policy (12/87), unanimously voted on June 24, 1997 to appoint a nine member citizen committee. The purpose of this committee is to evaluate and prioritize spending options for the revenue generated by the TOPS sales tax which was approved by Colorado Springs voters in the April 1, 1997 election, and based on the committee evaluation, make spending recommendations to the Parks and Recreation Advisory Board for approval.

3. The three members of the Parks and Recreation Advisory Board that are appointed by City Council to serve as Citizen Advisory Committee Members attend TOPS Working Committee meetings and serve as liaisons between the TOPS Working Committee and the Parks and Recreation Advisory Board.

4. The name of this organization shall be the TOPS Working Committee, hereinafter known as the Committee.

ARTICLE II - MEETINGS

1. Regular meetings of the TOPS Working Committee shall be held in a convenient location on a day and time to be set by the committee. All meetings will be posted at least 24 hours in advance.

2. Special meetings of the Committee may be held as necessary at the call of the Chairperson. Notice of the time, place, and purpose of all meetings of the Committee shall be given to each member at least 24 hours in advance of each meeting.

3. A complete agenda, with sufficient supporting documents to allow an adequate basis for decision-making, shall be sent to each member five days in advance of all regular meetings.

4. Unscheduled additions to the agenda shall be allowed when necessary, provided that decisions shall not be required on such items if the majority of those present feel the need for further discussion and data.

5. The following shall be the normal order of business at meetings:

   a. Call to order

   b. Agenda Review

   c. Citizen discussion

   d. Approval of minutes of previous meeting

   e. Action Items

   f. Presentation Items

g. Citizen Discussion

h. Legal Session (as need basis)

i. Adjournment

6. Public meetings for the purpose of gaining input from citizens shall be called by the Committee when deemed necessary, with adequate advance notice and publicity provided by the Department.

ARTICLE III - VOTING

1. Five members of the Committee present at any meeting shall constitute a quorum, and no action shall be taken without a quorum.

2. All motions, recommendations, and other acts of the Committee shall be determined by the majority vote of those present.

3. All voting shall be by voice vote, unless a roll call vote is requested by one or more members, in which case the minutes shall record the vote of each member.

4. Council rule 21-Parliamentary Law for Nonprofit Organizations shall determine the procedural conduct of all meetings, except as may otherwise be stated here.

ARTICLE IV - MEMBERS, OFFICERS AND DUTIES

1. Committee members term length: the Committee reports to and serves at the discretion of the Parks and Recreation Advisory Board. The normal term for appointees is three years with the option to apply for a second three year term. The initial terms have been staggered to promote continuity. Members appointed for a one year term may apply for two additional three year terms if desired. Members appointed for a two year term may apply for one additional three year term if desired. Re-appointment is not automatic.

2. The Committee shall endeavor to include at least one member from each Council District.

3. Alternate Members to the Committee may be selected to serve at the discretion of the Parks and Recreation Advisory Board. The normal term for alternates is three years. The Parks and Recreation Advisory Board may select up to two alternate members. Alternate members are non-voting and may not attend legal sessions. Alternate members may participate in Committee discussion, until such time as the Committee takes action on an item, such as by a motion or vote. Alternate members may participate in site visits and workshops.

4. New Committee Members shall be appointed in September of each year. Current and future Committee member terms shall end in September of each year.

5. In October of each year, the Committee shall elect from among its members a Chair and Vice-Chair.

6. The term of office for each shall be one year, or until their successors are elected and take office.

7. The Chair shall work closely with the TOPS Program Manager of the Parks and Recreation Department in developing the agenda for the official meetings and in determining the need for special sessions.

8. The Chair shall serve as liaison between the Committee, the Parks and Recreation Advisory Board and the media.

9. The Vice-Chair shall assume the duties of the Chair in his/her absence.

10. In the absence of both Chair and Vice-Chair, the Committee shall elect a Chair pro-tempore.

11. The responsibility of keeping Minutes of Committee meetings and of handling administrative duties of the Committee will be assigned to a staff member of the Parks and Recreation Department.

ARTICLE V - AMENDMENTS

These By-Laws may be amended at any regular meeting by a majority vote of the full Committee, provided that all members have been notified in writing one week in advance of the proposed amendment. Final approval of such changes rests with the Parks and Recreation Advisory Board.

PART III.
COMMITTEE
POLICY

PART III COMMITTEE POLICY

1. This is a working committee, therefore, all memorandums to the Parks and Recreation Advisory Board are recommendations and are to be so worded.

2. Attendance by Committee members at scheduled meetings, special meetings, go-see tours, conferences, workshops, etc., deemed important by the Director, is vital. Any member with more than two consecutive unexcused absences or absence rate of 20% of the meetings within a six month period will be asked to resign from the Committee. An excused absence shall be defined as one for which 24 hours prior notice has been given to the TOPS Chair or TOPS Program Manager.

3. The relationship of the Committee to the staff: Committee members channel of communication with the staff is through the Chair of the Committee to the TOPS Program Manager. Avoid requesting individual staff members for reports, favors or special considerations without clearing with the TOPS Program Manager.

4. The relationship of the Committee to the Parks and Recreation Advisory Board: Memoranda providing Committee recommendations are the primary source of communication. When requested or when deemed advisable, the Chair or designee, will be present at the Advisory Board meetings to state the Committee's recommendation and answer questions or submit written comments in lieu of being present.

5. The Committee reviews the TOPS budget and gives its recommendations. It is imperative that the Committee assist the TOPS Program Manager and staff in interpreting the needs and reasons for the budget adopted by the Advisory Board and City Council. The TOPS Program Manager or staff will keep accurate and current records on TOPS expenditures to assure compliance with the TOPS Ordinance.

6. The press and public may be present during all meetings coming before the Committee, except those dealing with land acquisition or legal matters. At these times the Committee Chairperson or TOPS Program Manager may request the press and public to leave the room. Calling of Executive Session must comply with the Colorado Open Meetings Act.

7. The Committee is responsible for implementing the Trails, Open Space and Parks (TOPS) initiative program by making recommendations to the Parks and Recreation Advisory Board on the acquisition and/or construction of trails, acquisition of open space and acquisition and/or development of parks.

8. The Committee will conduct periodic program evaluations, including a review and up-dating of goals. Recommendations for changes in Committee policy may be initiated by Committee members, Advisory Board, TOPS Program Manager, the Director, Mayor, or City Council and acted on in the same manner as changes in the By-Laws which includes advance notice plus majority vote. Final approval of such changes rests with the Parks and Recreation Advisory Board.

9. Public meetings for the purpose of getting input and gathering consensus from the community may be called at the discretion of the Committee. Usually the Committee Chairperson will officiate; the TOPS Program Manager and staff will present background information and pertinent data.

10. The Committee's commitment to provide complete trails, open space and parks and recreation facilities for all parts of the city is best served by taking a broad view of the community as a whole in its budgetary procedures. The Committee opposes any budgetary divisions which might result in narrowing the perspective of Committee members into parochial concerns.

11. The City Attorney's Office provides an orientation for Committee members regarding conflict of interest issues. Members may find themselves confronted with a situation where they have a conflict of interest.

The direction provided by the City Attorney's Office shall be followed in these situations.

12. In order to vote on an open space proposal, each committee member shall personally visit each open space site under consideration for acquisition.

13. In order to vote on a trail or park proposal, each committee member must be reasonably familiar with each trail or park project.

14. The committee will conduct business within the guidelines and/or requirements of the following documents which comprise the ***TRAILS, OPEN SPACE AND PARKS POLICIES AND PROCEDURES MANUAL:***

TOPS Working Committee Mission and Goals (Part I)
TOPS Working Committee By-Laws (Part II)
TOPS Working Committee Policy Statement (Part III)
TOPS Working Committee Acquisition Process (Part IV)
TOPS Working Committee Acquisition Options (Part V)
TOPS Working Committee Application for Funding (Part VI)
TOPS Working Committee Resource Assessment/Open Space Evaluation Questions (Part VII)
TOPS Working Committee Appendix (Part VIII)

Other Supporting Documents:
TOPS Ordinance
Colorado Springs Park System Master Plan
City Policy for Open Meetings
City Policy for Conflicts of Interest

TIME COMMITMENT

FUNCTION	DATE	TIME	Time Commitment
Formal TOPS Working Committee Meeting(s)	To be determined	TBA	2-4 hours per month
Review of Formal Agenda/Site Visits	Prior to Formal Meeting	NA	2-3 hours per month
Meetings with Advisory Board	Varied	NA	6-8 hours per year
Work sessions, budget hearings, field trips	Varied	NA	4-8 hours per year

AGENDA AND MINUTES PROCEDURES

Procedures regarding the agenda and minutes are as follows:

- The placement of items on an upcoming agenda should be referred to the Committee Chairperson or TOPS Program Manager.

- Agenda items may need Department staffing, which may require reasonable time for meetings and staff recommendations to be developed.

- Committee members, with input from the Chair, may place an item on the agenda for Committee discussion, which does not require a prepared staff recommendation.

- Executive session items may be closed to the public and must be relative to land acquisition or legal matters and must follow Council Rule 14.

- Executive session minutes are kept of executive session agenda items. This follows City Council meeting format Rule 15.

- Minutes of the regular session are sent with the next meeting's agenda as stated in the bylaws. If minutes for an item are needed prior to that time, please notify the TOPS Program Manager.

PART IV. AQUISITION PROCESS

PART IV ACQUISITION PROCESS

A. PARKS AND TRAILS ACQUISITION AND DEVELOPMENT

The Parks and Recreation Department has a long history of acquisition and development of parks and trails. Both parks and trails have approved master plans that will be followed to guide acquisition and development. The planning and development process for parks and trails includes a time tested public process. All development master plans are approved by the Parks and Recreation Advisory Board. Any acquisition and development using TOPS funding will follow the existing process.

1. PARK ACQUISITION, PLANNING AND DEVELOPMENT PROCESS

The acquisition, planning and development of neighborhood, community and regional parks generally follow the guidelines of the Parks and Recreation Master Plan. This plan is prepared with an extensive public input process and is updated approximately every ten years.

a. Acquisition Process

The Public Space and Development Ordinance (PLDO) requires land dedication for neighborhood and community parks as a part of new developments. The majority of land that is in the inventory for neighbor and community parks has been provided by developers in compliance with the ordinance. These park sites are determined during the planning process for the subdivision master plan. The Parks and Recreation Department has been able to maintain a standard of 5.5 acres of parkland per 1,000 residents using this ordinance and with the occasional purchase of additional land.

If there is a need to purchase land to add parkland within an area or if a special situation arises to add to an existing park, the process is as follows:

(1.) Staff will assess the property in question as to need and other conditions as required.
(2.) If the land purchase price is not agreed on initially, the staff will either negotiate with the land owner or work through land appraisals.
(3.) Once a purchase price is established, the acquisition proposal is forwarded to the Parks and Recreation Advisory Board for approval.
(4.) If the Board approves, the proposal is forwarded to City Council for final approval.
(5.) After City Council approval, the property transaction is turned over to the Real Estate Management Services Office to process. This process includes a Phase I Environmental Assessment and title and tax certification.

b. Planning Process

The Parks and Recreation Department has a planning process that requires extensive public and staff input. Neighborhood meetings are held to gather input for the master plan for each park. The final plan is then presented to the Parks and Recreation Advisory Board for approval.

c. Development Process

The development of parks begins with construction plans prepared either by staff or a consultant. These plans are subject to an extensive review process by various City departments. The construction of the parks is then managed by the Parks and Recreation staff.

2. TRAILS ACQUISITION, PLANNING AND DEVELOPMENT PROCESS

The acquisition, planning and development of trails generally follow the guidelines of the Park System Master Plan adopted by the Parks and Recreation Advisory Board and the City Council in 2014.

a. Acquisition Process

The City of Colorado Springs has an ordinance that requires land dedication for trails along the twenty-six trail corridors identified in the Multi-Use Trails Master Plan as a part of new developments. The majority of land that is in the inventory for trails has been provided by developers in compliance with the ordinance. These trail corridors are identified during the planning process for the subdivision master plan.

If there is a need to purchase land for trail corridors within an area the process is as follows:

(1.) Staff will assess the property in question as to need and other conditions as required.

(2.) If the purchase price is not agreed on initially, the staff will either negotiate with the land owner or work through land appraisals.

(3.) Once a purchase price is established, the acquisition proposal is forwarded to the Parks and Recreation Advisory Board for approval.

(4.) If the Board approves, the proposal is forwarded to City Council for final approval.

(5.) After City Council approval, the property transaction is turned over to the Real Estate Management Services Office to process. This process includes a Phase I Environmental Assessment and title and tax certification.

b. Planning Process

The Park System Master Plan identifies existing and future trail corridors. The City seeks to secure these trail corridors through the Development Review Process and the PLDO Ordinance. If acquisition of additional land for trail purposed is required, the City's Real Estate Manual will be followed. For new trail corridors, the City shall conduct neighborhood meetings to inform the community and seek input.

c. Development Process

The development of trails begins with construction plans being prepared either by staff or a consultant. These plans are subject to an extensive review process by various City departments and appropriate regulatory agencies. The construction of trails is then managed by the Parks and Recreation staff.

B. OPEN SPACE ACQUISITION

1. Acquisition Priorities

a. Land that fulfills the system goal and purposes of the current Park System Master Plan.

(1.) Creates large contiguous areas of native vegetation

(2.) Protects rare landscape elements and significant natural features

(3.) Maintains connections among open space areas

(4.) Conserves areas representative of Colorado Springs main natural area types: Grasslands, Foothills, Bluffs and Mesas and Riparian

(5.) Maximizes public access and recreational opportunities, particularly trail corridors within and between open space areas and opportunities for nature observation and environmental education.

(6.) Pursues the conservation of areas that reflect community values for open space that may not be tied directly to the protection of natural areas, such as historic resources, urban shaping and agricultural uses.

(7.) Protects environmental features: wildlife habitat, significant vegetation, water resources and natural hazards

(8.) Protects our community's visual resources

b. Lands that have long-term regional significance

c. Lands which serve multiple purposes

d. Lands or easement rights which are available where the current owner is willing and able to negotiate the sale

e. Lands which may have a higher and more immediate development potential

2. Acquisition Outreach

The regular and proactive contact of appropriate landowners is a corner stone of the TOPS program. The Parks and Recreation staff or their representatives shall notify landowners of priority parcels deemed valuable to this community to be preserved as open space and inform owners of land conservation options.

C. Procedures

1. Acquisition or Development Requests

a. Staff Review

(1.) All acquisition requests shall be submitted to Parks and Recreation for consideration by the TOPS Working Committee. Requests for acquisition may be submitted by an owner or representative, a municipality, a public or private entity, private citizen, or by the City of Colorado Springs.

(a.) The request shall be written and shall include the information contained in the TOPS Application Form, Exhibit II-B-1

(b.) Staff shall assign a project tracking number, complete an application form and perform pre-screening as deemed necessary by Staff.

(c.) If the request meets pre-screening criteria, Staff shall complete a property profile/preliminary evaluation as deemed necessary. If the request does not meet the pre-screening criteria, Staff shall notify the applicant in writing and provide a report to the

Committee at the next regular meeting. An applicant may appeal the decision to the Committee.

(d.) Staff shall schedule the request on the Committee meeting agenda. If the proposal is submitted by another government agency, a resolution by that governmental entity is required and shall accompany the request.

b. Trails, Open Space and Parks Working Committee Review

(1.) Acquisition proposals are presented to the Committee by Staff as an agenda item. Applicants will be notified of the meeting date for consideration of the proposal.

(2.) Following review of the request by the Committee and a preliminary determination to pursue acquisition, a field trip shall be scheduled with the Committee, Staff, applicant and if deemed appropriate, the owner or representative.

(3.) At a Committee meeting following the field trip, public testimony shall be taken and a vote taken on the proposal. In order to vote on an open space proposal, each committee member shall personally visit each open space site under consideration for acquisition. In order to vote on a trail or park proposal, each committee member must be reasonably familiar with each trail or park project.

(4.) If the proposal is recommended for approval, a Committee recommendation shall be prepared by Staff and signed by the Committee Chair. A minority report shall be prepared if appropriate.

If the proposal is not recommended for approval, a letter stating the decision of the Committee shall be prepared by Staff, signed by the Committee Chair, and sent to the applicant. If an Application is rejected by the TOPS Working Committee the Applicant may appeal the decision to the Parks and Recreation Advisory Board as follows:

a. Within 10 working days, the appeal must be made in writing to the TOPS Program Manager who will inform the Committee Chair of the appeal and immediately forward the appeal to the Chair of the Parks and Recreation Advisory Board.

b. The appeal will be placed on the Parks and Recreation Advisory Board agenda within 30 days. The appellant will be notified in writing at least one week in advance of when their appeal will be heard by the Parks and Recreation Advisory Board.

c. The Parks and Recreation Advisory Board will hear the appeal and have latitude to recommend approval of the Application, deny the appeal, or send the Application back to the Committee for reconsideration.

d. The applicant may re-submit a proposal that has been rejected only if there have been significant/substantial changes in circumstances or financing that might warrant reconsideration.

(6.) For proposals recommended by the Committee for approval, Staff shall place the proposal on the next regular scheduled Parks and Recreation Advisory Board meeting as a legal item and prepare the agenda item for the Board agenda packet. If the Committee determines that the proposal can be in a public session, it shall be placed on the regular agenda.

c. Parks and Recreation Advisory Board Review

(1.) The proposal shall be presented to the Parks and Recreation Advisory Board by a representative of Staff and/or a representative of the Committee in a legal session or public session as determined by the Committee.

(2.) If the acquisition of property is initially approved by the Board, a title commitment, appraisal, survey and negotiations to acquire shall proceed. An appraisal may be authorized prior to the Board meeting upon approval of the TOPS Program Manager and/or the Committee Chair.

(3.) If the acquisition of the property is not approved by the Board, written notification of the decision shall be provided by Staff to the Committee, applicant and the owner or representative. The Board decision may be appealed by the applicant or member of the public to the City Council.

(4.) The Board decision should be placed by Staff on the next regular meeting of the City Council for consideration and approval. The proposal will be either on the regular or legal agenda depending on pending negotiations.

d. City of Colorado Springs City Council Review

(1.) The proposal shall be presented to the City Council by a representative of Staff and/or a representative of the Committee as determined by the Committee.

(2.) If the acquisition of property is not approved by the City Council, written notification of the decision shall be provided by Staff to the Committee, applicant and the owner or representative.

(3.) Following action on the recommendation by the City Council, copies will be provided to Staff and the Committee and the owner or their representative shall be notified by Staff of the City Council decision.

(4.) The acquisition of the property at this time shall be assigned to the City Real Estate Services Office to follow the City Land Acquisition Policy.

PART V.
ACQUISITION OPTIONS

PART V ACQUISITION OPTIONS

A. Intent

To provide guidelines on the types of land preservation techniques available to the TOPS Program.

B. Policy

1. The City of Colorado Springs may consider all available acquisition options and combination of options in order to maximize the Trails, Open Space and Parks Program funding.

2. The City of Colorado Springs shall participate in cost-share agreements, intergovernmental agreements, and partnerships with other public or private entities where appropriate.

3. The City of Colorado Springs shall take full advantage of outside grants where appropriate.

C. Procedures

1. The following preservation options shall be explored by Staff and the Committee when considering acquisition of property:

   a. Fee-simple purchase
   b. Donation
   c. Dedication
   d. Conservation easement
   e. Purchase /Transfer of Development Rights
   f. Lease with option to buy
   g. Leases and Management Agreements
   h. Purchase and leaseback
   i. Limited or joint venture development
   j. Options and rights-of-first refusal
   k. Undivided interests
   l. Remainder interests
   m. Conservation investors
   n. Exchange
   o. Installment sales

2. Grant programs shall be explored by Staff when considering acquisition of property.

3. Acquisition Option Review

   a. The Parks and Recreation Staff shall coordinate the review of the acquisition option(s) as a component of the acquisition process outlined in Section I.

PART VI.
APPLICATION
FOR
FUNDING

APPLICATION FOR FUNDING
TRAILS, OPEN SPACE AND PARKS (TOPS) PROGRAM

APPLICANT: **DATE:**_____

Name: _____

Agency: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____-_____

TYPE OF PROJECT: (Check all that apply)

Trail: _____ Acquisition _____ Development_____

Park: _____ Acquisition _____ Development _____

Open Space:_____ Acquisition: _____

OWNER: Is owner aware of this proposal?_____

Name: _____

Agency: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____)_____

LOCATION AND DESCRIPTION OF PROPOSED ACQUISITION:

Address:_____

_____

Description_____

_____

_____

Purpose of Acquisition:

_____

_____

_____

_____

_____

APPLICATION FOR FUNDING
TRAILS, OPEN SPACE AND PARKS (TOPS) PROGRAM

PAGE TWO

Proposed Type of Development:

_____

_____

_____

_____

Please explain why this proposal is appropriate for TOPS Funding:
(200 words or less)

_____

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_____

FOR OFFICE USE ONLY

O.S. File No._____

Date of Proposal _____

Name of Project _____

City of Colorado Springs
OPEN SPACE PROPERTY PROFILE/
PRELIMINARY EVALUATION

Prepared by Staff

Open Space File No: _____ Staff Assigned: _____ Date: _____
Name of Project: _____

Primary Criteria:
(score all that apply: 1-10 points each) (maximum score = 100) Score: _____

_____ Wildlife habitat/corridor
_____ Ecosystem preservation; species diversity
_____ Water resources (natural drainages, streams, lakes, ponds, wetlands)
_____ Riparian corridor (major stream corridors, potential greenways)
_____ Significant vegetation (type, mix, coverage)
_____ Significant geological formations or unique landforms
_____ Scenic quality (views to and from, relative visibility, visual significance)
_____ Open space linkages and trail connections
_____ Passive recreation opportunities
_____ Cultural, historic, archeological, or paleontological resources

Supplemental Criteria:
(score all that apply: 1-5 points each) (maximum score = 15) Score: _____

_____ Land adjacent to park or public open space lands
_____ Spatial definition and separation of developed areas
_____ Preservation of agricultural activities

Priority:
(score all that apply: 1-10 points each) Score: _____
(maximum score = 120)
_____ Identified for conservation in the Colorado Springs Park System Master Plan
_____ Meets goals of potential open space system
_____ Serves multiple purposes
_____ Representative of one or more natural area types
_____ Long-term, regional significance
_____ Accessible to the public
_____ High and immediate development potential
_____ Land/easement rights available
_____Favorable terms and conditions
_____ Community support/partnerships
_____ Ability to combine acquisition with other conservation tools
_____ Maintenance and Management

Total Score:_____ (maximum score = 235)

PART VII.
RESOURCE ASSESSMENT/ OPEN SPACE EVALUATION QUESTIONS

PART VII RESOURCE ASSESSMENT

Open Space Evaluation Questions:

Requests for acquisition shall be reviewed by Staff. The proposed land acquisition shall be evaluated using the Open Space Property Profile/Preliminary Evaluation form, utilizing any and all resources available. Additional questions or issues may be considered during the evaluation process if determined appropriate by Staff.

I. Primary Criteria:

Wildlife habitat/corridor:

a) Are there any endangered species known to exist? Any threatened species?

b) Is there a wide diversity of wildlife present?

c) Is the land of sufficient size to provide stand-alone habitat to support the known species?

d) Does the land provide a critical corridor for movement of wildlife from one habitat to another?

e) *Is the land an important or critical element within a regional habitat?*

f) *Will development of the site negatively impact wildlife?*

Ecosystem preservation; species diversity:

a) Does the land contain a unique or rare ecosystem?

b) What types of ecosystem(s) are present?

c) What is the size of the unique or rare ecosystem contained on this land?

d) Does this land, when considered with any adjacent conservation land; have the size and resources necessary to sustain the ecosystem?

e) What flora or fauna is within the ecosystem?

f) Is the ecosystem free from detrimental factors such as insect, disease, and/or weed problems?

Water Resources: (Natural drainages, streams, lakes, ponds, wetlands)

a) Does the land contain unique water resources?

b) Does the land provide a variety of water resource habitats?

c) Is the site reasonably free of possible off-site impacts such as downstream flooding, mud slides, debris flows?

d) *Do the water resources found on this site have high quality water and habitat? Free from contaminants?*

e) *Is the site free from adjacent development impacts such as drainage or detention pond requirements?*

Riparian corridor:

a) *Does the waterway contain water year-round?*

b) *Does the vegetation in the corridor consist of native species? Broad diversity?*

c) *Will the land protect a sufficient amount of riparian area to positively impact the areas not protected?*

d) *Does the corridor contain significant or indicator plant and animal species?*

e) *Will the corridor support multiple purposes such as storm water management, greenway, wildlife, etc...?*

f) *To what extent will development of adjacent property affect the corridor?*

Significant vegetation:

a) *Does the land contain unique or rare vegetation?*

b) *Does the land exhibit one or more vegetation community? Broad diversity?*

c) *Does the land contain healthy vegetation, free from insect problems, noxious weeds, and diseases?*

d) *Is the natural vegetation free from disturbance such as grading, propagation of non-indigenous species, or over grazing?*

Significant geological formations or unique landforms:

a) *How visible are the formations from adjacent areas or roads?*

b) *Are the formations those that make Colorado Springs, El Paso County, or adjacent counties unique along the Front Range?*

c) *Would the formations or landforms create public safety concerns if public access is provided?*

d) *Can the geological features be managed to prevent endangering the resource if public access is provided?*

e) Does the land form rate highly on the Visual Significance Inventory identified in the 1996 Colorado Springs Open Space Plan?

Scenic Quality: (Views to and from, relative visibility, visual significance)

a) Is the land visible from a major arterial? A local collector? A rural road?

b) Does the land provide wide vistas, such as to the mountains, grasslands, to a major bluff, or overlooking the city and other lands?

c) Does the land rate highly on the Visual Significance Inventory?

d) Is the land, and adjacent land, free from visual distractions or intrusions such as utility sites, future easement, power lines, mining scars, unsightly development, etc.?

Open space linkages and trail connections:

a) Is the linkage significant to provide access to trails, parks, or open space?

b) Is the trail identified as an important link in the Colorado Springs Park System Master Plan or other agency trail master plans?

c) Will the linkage provide access to a significant number of residents?

d) Is the linkage in danger of being lost if not pursued?

e) Is it reasonably feasible to acquire the linkage or trail through the development process?

f) Is the land suitable for trail construction? Suitable grades?

g) Does the land adjacent to the open space or trail connection affect the proposed recreational experience in a positive manner? Free from public safety concerns? Aesthetically pleasing?

h) Will the linkage or connection serve more than one purpose such as wildlife corridor, view corridor, transportation, and recreation?

Passive recreational opportunities:

a) Is there an opportunity for multiple uses? (I.e. trails, picnic tables, educational, fishing wildlife viewing, etc.)

b) Does the land provide a recreational opportunity unique to Colorado Springs, El Paso County or adjacent county? (i.e., a lake for fishing, wading, bird watching, photography, etc.)

c) Is the land easily accessible to a large population?

d) *Is the land topographically suitable for development of passive recreation facilities while providing a variety of nature experiences?*

e) *Will preservation of the resources on the site necessitate seasonal closures, or restrictive use areas?*

Cultural, historic, archeological, or paleontological resources:

a) *Are there any sites on the land recognized by the Colorado Springs Historic Preservation Board, the Colorado Historical Society, or the State Archeologist?*

b) *Is the site of local significance? Of regional significance? Of national significance?*

c) *If the site contains a structure, is restoration easily accomplished? Are long-term maintenance and upkeep costs relatively low?*

d) *What, if any, special management considerations will be required to protect the resource?*

II. Supplemental Criteria:

Land adjacent to park or public open space lands:

a) *Are the uses of the other adjacent lands compatible with this land as open space?*

b) *Would commercial or residential development of this land be incompatible with adjacent park or open space?*

c) *Will this land significantly enhance the use of the adjacent park or open space?*

d) *Will this land provide access to adjacent public land to which access does not now exist or is problematic?*

e) *Is the land free from foreseeable future impacts associated with adjacent property development?*

f) *Does adjacent land use provide opportunities for public access?*

Spatial definition and separation of developed areas:

a) *Will a buffer in this location be beneficial to the region? City? Neighborhood?*

b) *Is this land sufficient to provide a buffer or is it a key link in a plan to provide a buffer between developed or developing areas?*

c) *Is the land already zoned for development or is development likely in the near future?*

d) *Is there reasonable potential for commercial or residential development of the land separating the areas?*

e) If commercial or residential development potential exists, is it feasible to preserve a buffer through the development process?

f) Will acquisition of the parcel protect a sufficient amount of the resource, amenity or land form?

g) Is the land sufficient size and shape to provide or protect habitat?

Preservation of agricultural activities:

a) Does the agricultural activity protect or enhance natural resources found on the land?

b) Does the agricultural activity provide or preserve views to significant land features?

c) Does the agricultural activity provide spatial definition or buffer which benefits the region? City? Neighborhood?

d) Is there reasonable potential for development in the near future?

e) Is the agricultural activity an important cultural resource within the community?

<u>III. Priority:</u>

Identified for conservation in the Colorado Springs Park System Master Plan:

a) Is the land identified as a candidate area for conservation in the Colorado Springs Park System Master Plan or other regional plans?

Meets goals of potential open space system:

a) Will principles of environmental conservation be used to plan the land? Will a large, contiguous area of native vegetation be conserved? Will rare landscape elements and significant features be protected? Will acquisition maintain connections between open space areas by identifying and protecting corridors for wildlife movement?

b) Will obtaining the land conserve areas representative of the Pikes Peak Region's main natural area types?

c) Does the land provide public access and recreational opportunities, particularly trail corridors?

d) Will obtaining the land result in conservation of areas that reflect community values for open space that may not be tied directly to the protection of natural areas, such as historic resources?

e) Will the land have long-term community value or significance?

f) Will obtaining the land maximize the efficient use of financial and administrative resources while conserving public open space?

Serves multiple purposes:

a) Will the land support multiple purposes? (ie. protection of wildlife, preservation of ecosystems, passive recreation, etc.)

Representative of one or more natural area types:

a) Are one or more natural area types found on the land? (e. grasslands, riparian corridors, foothills, bluffs)

Long-term, regional significance:

a) Does the land contain resources that are significant regionally? Locally?

b) Has the land been valued as open space by the community in the past? Will this continue?

Accessible to the public:

a) Is the land accessible from major arterials? Minor arterials? Collector streets? Neighborhoods? Pedestrian trails or walks?

b) Is the land suitable for trailhead or parking if necessary?

c) Is the land visually accessible from public areas or can be enjoyed from a distance?

High and immediate development potential:

a) Has the land been zoned for development or is development likely in the near future?

b) Is there reasonable potential for development in the near future?

c) Is the land free from topographic, geographic, geological, or other developmental constraints?

Land/easement rights available:

a) Is the land being proposed for acquisition by the owner or representative?

b) If the land is being proposed is presented by other than the owner, is the owner aware of, and in concurrence with the proposal?

Favorable terms and conditions:

a) Is the land owner supportive of the proposal?

b) Are the terms and conditions reasonable and equitable?

c) Are the owner's terms and conditions flexible or negotiable?

Community support/partnerships:

a) Is the land valued by a significant population in the community?

b) Is acquisition of the land supported by community based advocacy groups?

c) Does opportunity exist for acquisition through partnerships or trusts?

d) Will the community support the acquisition and long-term care of the land through stewardship programs such as "adopt a trail" or "adopt a park"?

Ability to combine acquisition with other conservation tools:

a) Is there an opportunity to preserve the land via conservation easement(s)? The development process? Land exchange? Or other acquisition method?

b) Is the land a likely candidate for grants? Dedications? Or Donation?

Maintenance and management:

a) Will the community share in the long-term care of the land through stewardship programs such as "adopt a trail" or "adopt a park "?

b) Will the land have minimal long-term maintenance and management expenses?

c) Is the land free from weeds, insect problems, diseases, refuse, or other environmental problems?

d) Does the land have ecological diversity necessary to sustain the native communities without extensive management programs?

PART VIII.
APPENDIX

PART VIII APPENDIX

AN INITIATED ORDINANCE SUBMITTED TO THE ELECTORS OF THE CITY AT THE REGULAR ELECTION ON APRIL 1, 1997 RELATING TO THE CREATION OF A TRAILS, OPEN SPACE AND PARKS PROGRAM THROUGH A SALES AND USE TAX

That there is hereby submitted and referred to the vote of the electors of the City at the regular general election to be held on Tuesday, April 1, 1997 the following proposed ordinance.

AN ORDINANCE ESTABLISHING A TRAILS, OPEN SPACE AND PARKS PROGRAM FOR THE CITY OF COLORADO SPRINGS.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF COLORADO SPRINGS:

WHEREAS, Section 29-2-102, Colorado Revised Statues and Chapter 7 of the Code of the City of Colorado Springs 1980, As Amended ("City Code"), authorize the City of Colorado Springs ("City") to levy a sales or use tax, or both, upon the approval of a majority of the registered electors of the city voting on such proposal; and

WHEREAS, the City Code provides that a proposal for a citywide sales and use tax may be referred to the registered electors of the City upon initiation by registered electors pursuant to requirements under the City Code; and

WHEREAS, there is a critical need for the preservation of open spice lands and for the provision of trails and parks within the City of Colorado Springs, (the "City") and areas within the immediate vicinity of the City, and it is in the best interests of the present and future citizens of the City to establish a sales tax and use tax of one tenth of one percent (0.10 %) to finance the foregoing; and

WHEREAS, it is the intent of this Resolution to encourage, foster and promote public-private partnerships in the preservation of open space lands, trails and parks in the City and surrounding areas; and

WHEREAS, registered electors within the City desire to submit this proposal to all registered electors of the City;

NOW, THEREFORE, BE IT RESOLVED that the Code of the City of Colorado Springs l980 As Amended, shall be amended to reflect the following provisions:

Section 1) An ordinance amending those sections of Article 2, Chapter 7 of the Code of the City of Colorado Springs 1980 As Amended which reflect the tax rate are hereby amended to reflect an increase of .1%.

Article 6
TRAILS, OPEN SPACE AND PARKS PROGRAM

4.6.101: PURPOSE:

The general purposes of this article are as follows:

A. To establish a trails, open space and parks program to acquire real property in the City and El Paso County by various types of transactions when determined by the City Council, acting pursuant to authority set forth in this article, to be necessary to preserve the area.

B. To acquire water rights and water storage rights for use in preserving fragile ecosystems, natural areas, scenic vistas and areas, fish and wildlife habitats and corridors, or important areas that support biodiversity, natural resources and landmarks, and cultural, historical and archeological areas.

C. To acquire mineral and fuel resource rights in order to protect the visual, geological and biological surface features of open space lands and trails.

D. To acquire rights of way and easements for access to open space lands and for trails and to build and improve the access ways and trails.

E. To acquire options related to these acquisitions.

F. Conservation of new open space lands shall be related to resource management including, but not limited to, water improvements (irrigation, domestic use and recreational use), preservation enhancements (fences, wetlands and wildlife habitat improvements), and passive recreational uses, such as trail, trailhead parking and other access improvements, and restrooms.

G. To manage, patrol, improve and maintain all new open space lands and trails acquired with revenues generated by a sales and use tax approved by the electorate pursuant to this article, in accord with the purposes set forth in this article.

H. To improve new park lands acquired with revenues generated by a sales and use tax approved by the electorate pursuant to this article, in accord with this article.

I. To permit the use of the funds generated by the approved sales and use tax for the joint acquisition of new open space lands between the City and the County of El Paso and neighboring counties, recreational districts or with other governmental entities or land trusts, or with private individuals, corporations or entities, as would benefit the citizens of the City.

J. To permit the use of the funds generated by the approved sales and use tax for repaying bonds issued for trails, open space and park capital purchases.

K. Open space lands, for the purposes of this article, are generally described as those lands that are, or which may be in the future, in the public interest to protect and preserve, and which fulfill one or more of the functions described in this article. The interest acquired may include fee simple ownership, leases, easements, including conservation easements, or development rights. All open space land purchases in fee simple shall require the payment of fair market value as just compensation. The City shall be authorized, but shall not be obligated, to accept lands donated as trails, open space or park lands which are consistent with the functions or which fulfill the purposes described herein.

L. Open space lands shall serve one or more of the following functions:

1. Linkages and trails, access to public lakes, streams, and other suitable open space lands, stream corridors and scenic corridors along existing highways;

2. Preservation of fragile ecosystems, natural areas, scenic vistas and areas, fish and wildlife habitats and corridors, or important areas that support biodiversity, natural resources, significant land formations and landmarks, and cultural, historical and archeological areas;

3. Creating spatial definition of and between urban areas;

4. Areas of environmental preservation, designated as areas of concern, generally in multiple ownership, where several different preservation methods (including other governmental bodies' participation or private ownership) may need to be used;

5. Conservation of natural and visual resources, including, but not limited to, forest lands, range lands, agricultural land, aquifer recharge areas, and surface water;

6. Lands within or adjacent to a park or public open lands whose development potential is clearly incompatible with those lands; and

7. Preservation of land for educational opportunities and outdoor recreation areas limited to passive recreational use, including, but not limited to, hiking, photography or nature studies, and if specifically designated, bicycling, horseback riding, or fishing.

M. Park lands shall serve one or more of the following functions:

1. Irrigated multipurpose turf playing areas for both youth and adult baseball, softball, soccer, football, etc.

2. New neighborhood parks;

3. Individual picnic areas and group picnic pavilions;

4. Playgrounds;

5. On-site parking; and

6. Restrooms, drinking water fountains and storage areas.

N. "Trails" are defined as public thoroughfares within and connecting open space lands and greenways for nonmotorized use, often located in or near natural waterways, and which shall serve one or more of the following functions:

1. Hiking, walking or jogging;

2. Recreational or commuter bicycling; and

3. Horseback riding.

O. No motorized vehicles, other than those necessary for maintenance, emergencies or safety, shall be permitted on trails, open space or parks supported by this article. No right of way for new roadways or utility corridors shall be assumed in areas obtained pursuant to this article.

P. When public improvements are located in urban trail corridors, maximum effort will be undertaken to restore the land to its natural state while also providing for efficient maintenance of the constructed facilities. (Ord. 97-96; Ord. 01-42; Ord. 03-69)

4.6.102: DEFINITIONS:

A. City Code Definitions Incorporated: For purposes of this article, the definitions of the words contained herein shall be as defined in chapter 2 of this Code concerning sales and use taxes. (Ord. 97-96; Ord. 01-42)

4.6.103: CITIZENS ADVISORY COMMITTEE:

A. The City Council shall establish and appoint a Trails, Open Space and Parks Advisory Committee which shall be charged with the following duties and responsibilities:

1. To make recommendations to the City Council regarding disbursements of funds from the Colorado Springs trails, open space and parks fund, and the selection of open space land to be acquired, maintained, developed or preserved, and establishment of priorities therefor; and may by separate and additional resolutions promulgate the rules and regulations as may be required to implement this proposal for the best interests and preservation of the public peace, health, safety and welfare of the citizens of the City, including, without limiting the generality of the foregoing, all rules and regulations designed to assure that all proceeds from the taxes and other revenue sources, reimbursements, rebates or refunds thereof shall be used for the purposes set forth herein.

2. To make recommendation to the City Council concerning the trails, open space and parks program, to periodically review the open space elements of the comprehensive land use plans for both the City and the County of El Paso, to review the Mayor's budget as it relates to open space matters and to submit its recommendations concerning this budget to the City Council, and it may prepare and submit to the City Council, the Mayor, the Parks Department, the Utility Department or any other City department, recommendations on any other matter relating to or affecting the trails, open space and parks program, and it may request and obtain from the Mayor, the Parks Department, the Utility Department or any other City department, information relating thereto.

B. To assist the advisory committee in carrying out its functions in an efficient manner, the advisory committee shall be authorized to recommend to City Council the expenditure of up to two percent (2%) of the revenues collected by the City to retain outside professional services to the extent necessary or appropriate. The expenses shall be considered part of and count against the administration expenses described in subsection 4.6.202A of this article and subject to the limitations set forth therein.

C. The members of the advisory committee shall all be residents of the City, shall not hold elected public office, shall serve without pay and shall be appointed by the City Council. At a minimum, the advisory committee shall include at least one member from each of the following:

1. One representative appointed at large selected from lists of nominees submitted by nonprofit groups whose mission includes promoting and protecting open space lands;

2. One representative appointed at large selected from lists of nominees submitted by nonprofit neighborhood groups; and

3. One representative appointed at large selected from lists of nominees submitted by nonprofit groups whose mission includes promoting and protecting trails.

D. No later than the year 2025, the advisory committee shall draft language for and recommend to the City Council a ballot measure which shall be referred to the electors of the City concerning renewal of this article. (Ord. 97-96; Ord. 01-42; Ord. 03-69; Ord. 11-19)

PART 2 DEPOSIT AND EXPENDITURE OF REVENUES

4.6.201: SALES TAX:

Those sections of chapter 2 of this Code which establish the tax rate shall reflect an increase of 0.1 percent for the purpose of funding the City's trails, open space and parks program as described in part 1 of this article. (Ord. 97-96; Ord. 01-42)

4.6.202: DEPOSIT AND EXPENDITURE OF REVENUES:

The sales tax and other revenue source funding collected pursuant to this part shall be deposited in a special fund, to be known as the "Colorado Springs trails, open space and parks fund" (the "fund") and all revenue derived from sales tax and revenues received from other sources shall be allocated and expended only in the following amounts, and for the following purposes:

A. Maximum Deposit:

1. Of the proceeds collected pursuant to this part, a maximum of three percent (3%) may be deposited into an account identified as a trails, open space and parks administration, planning and management fund as may be allocated for use by the City Council as recommended by the Trails, Open Space and Parks Advisory Committee ("advisory committee") established by this article for planning purposes as concerning trails, open space and parks.

2. Of the proceeds collected pursuant to this part, a maximum of six percent (6%) may be deposited into an account identified as a trails, open space and parks stewardship and maintenance fund as may be allocated for use by the City Council, as recommended by the Trails, Open Space and Parks Advisory Committee ("advisory committee") established by this article, for stewardship and maintenance purposes related to trails, open space and parks acquired with sales tax and other revenue source funding collected pursuant to this part.

B. Funds Separate: For purposes of Colorado Constitution, article X, section 20 and City Charter section 7-90, the receipt and expenditure of revenues of the sales and use tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of the City and outside of the fiscal year spending of the City as calculated under Colorado Constitution, article X, section 20 and City Charter section 7-90. Nothing in Colorado Constitution, article X, section 20 and City Charter section 7-90 shall limit the receipt and expenditure in each fiscal year of the full amount of the revenues of the sales and use tax, nor shall receipt and expenditure of the revenues affect or limit the receipt or expenditure of any and all other revenues of the City for any fiscal year; nor shall Colorado Constitution, article X, section 20, or City Charter section 7-90 limit the receipt and expenditure of revenues received from sources outside of the sales and use tax described by this part, regardless of the source, and specifically including, but not limited to, any revenues received from the great outdoors Colorado fund or private donations.

C. Public-Private Partnerships: Private individuals, corporations or entities may form public-private partnerships with the City and the respective municipalities to advance the purposes described in section 4.6.101 of this article, including the making of private donations for those purposes. This article shall not be construed to limit any tax credits or deductions that may be afforded to private individuals, corporations or entities for charitable donations made hereunder and which are permitted by the Internal Revenue Code, as amended.

D. Bonds: The City may issue bonds as approved by the voters in future elections to advance the capital acquisition purposes of this article.

E. Interest: Interest generated from the revenues of the sales and use tax or other revenues received pursuant to this article shall be used for the purposes set forth above in this article.

F. Open Space Lands Account: Of the revenues distributed hereunder, after deductions for planning as described in subsection A of this section, a minimum of sixty percent (60%) shall be used only for the acquisition and stewardship of new open space lands as provided herein.

1. The funds allocated for new open space lands shall be expended by the City only for the purposes set forth in section 4.6.101 of this article.

2. Excepting land leases for the growing of agricultural crops, no new open space land acquired through the revenue provided by these sales taxes or other revenue sources as described in this article may be sold, traded or otherwise conveyed, nor may any exclusive license or permit with respect to open space land be given, until approval is given by a majority vote of the electors of the City in a regular election after referral from the City Council or through a citizen initiative. Prior to referral to the electors of the City, the proposal shall be reviewed by the advisory committee established by this article which shall make a recommendation to the City Council.

3. If the new open space land or any interest acquired in real property by use of proceeds of the sales and use tax generated pursuant to this article be ever sold, exchanged, transferred or otherwise disposed of, the consideration for the sale, exchange, transfer or disposition shall be subject to the same expenditure and use restrictions as those set forth herein for the original proceeds of the sales and use tax and other revenue sources, including restrictions set forth in this subsection F. If the consideration is by its nature incapable of being so subject, then the proposed sale, exchange, transfer or disposition shall be unlawful and shall not be made.

4. Revenue collected by the City that is generated from activities on open space lands acquired with funds generated by this article must be used to acquire, manage, patrol, improve and maintain open space lands consistent with this article.

G. Use For Trails: Of the revenues received from the sales and use tax and other revenue sources, after deductions for planning as described in subsection A of this section, a maximum of twenty percent (20%) of the revenues may be used to acquire an interest in new open space land for new trails within the City, including the construction, acquisition and maintenance of new trails, and to join in partnerships with El Paso County, neighboring counties and municipalities incorporated therein, recreational districts or other governmental entities or land trusts, or with private individuals, corporations or entities, as would benefit the City residents by completing trail plans as they exist as of the passage of this article. Recreational capital improvements shall be limited to the purposes described in section 4.6.101 of this article.

H. Use For Parks: Of the revenues received from the sales and use tax and other revenue sources, after deductions for planning as described in subsection A of this section, a maximum of twenty percent (20%) of the revenues 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 area recreational capital improvements for the use and benefit of the public. Recreational improvements shall be limited to the purposes described in section 4.6.101 of this article. Any funds or other revenue received pursuant to this article that is spent on existing lands owned by the City may be spent to acquire, construct, establish and maintain new parks and related facilities thereon as described in section 4.6.101 of this article and to maintain and renovate all City Parks. -

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. (Ord. 97-96; Ord. 01-42; Ord. 03-69; Ord. 15-92)

4.6.204: EFFECTIVE DATE; EXPIRATION DATE:

This article shall become effective and in force at one minute past midnight (12:01) A.M. on July 1, 1997, and shall expire at twelve o'clock (12:00) midnight on December 31, 2025, unless renewed by a vote of the electors of the City; and upon expiration, all monies remaining in any of the funds created hereunder may continue to be expended for the purposes set forth until completely exhausted. (Ord. 97-96; Ord. 01-42; Ord. 03-69)

OPEN MEETINGS - CITY BOARDS AND COMMISSIONS - SENATE BILL 91-33

11 June 91 rev.0

On April 29, 199 1, Governor Romer signed Senate Bill 91-3 3 concerning the open meetings provisions of the "Colorado Sunshine Act of 1972." The Sunshine Act is the State law which requires that meetings of the State Government be open to the public.

One of the purposes of S.B. 91-33 is to make the open meetings provisions of the state law applicable to local public bodies such as the Colorado Springs City Boards, Commissions, Task Forces and Committees. I will refer to all of these City groups collectively as "Boards" in this presentation.

The Sunshine Act, as amended by S.B. 91-33, may or may not be applicable to the City of Colorado Springs. Colorado Springs is a home rule City under Article XX of the Colorado Constitution, and has the sole right to legislate on matters of local concern. 'Me Colorado Supreme Court will ultimately have to decide this issue. However, Senate Bill 91-33 has little effect on the City's open meeting provision for its boards.

The City Attorney has reviewed S.B. 91-33. He has determined that compliance with the provisions of S.B. 91-33 by City Boards can be easily accomplished. In fact, our own City rules are more stringent than S.B. 91-33. Therefore, boards will be expected to comply with S.B. 91-33 as part of the City Open Meetings Policy. The City Attorney has charged attorneys which advise City Boards to review board practices to ensure that they are in compliance with City policy. That is why I am speaking to you today.

S.B. 91-33 states that all meetings of a quorum or three or more members of any board, whichever is less, at which any public business is discussed or any action is taken, is a public meeting open to the public.

Public business is not defined in S.B. 91-33. It should be interpreted broadly to cover any aspect of board business.

S.B. 91-33 exempts from public meetings any chance meeting or social gathering at which the discussion of public business is not the central purpose. Also, the law only applies to meetings between members of the same board.

For example, three members of your board, meeting to discuss a matter of interest to the board or which appears on your agenda, is a public meeting. However, two or fewer members of your board, meeting with two or fewer members of a different City Board, is not a public meeting.

The practical method for compliance with this open meetings rule is to avoid making site visits, or discussions of board business, with two or more of your fellow board members. Remember, a chance or social meeting between two or more board members does not count as a public meeting if you refrain from discussing board business.

A second provision of S.B. 91-33 is the public meeting notice requirement. If there is going to be a meeting of your board at which the adoption of any proposed policy, position, resolution, rule, regulation or other formal action occurs, or at which a majority or quorum attends or is expected to attend, then the meeting may only be held after full and timely notice to the public is given.

Under the statute, fall and timely notice is given if posted in a designated public place along with specific agenda information at least 24 hours before the meeting. This is the minimum notice required. In your board rules you can require more notice to the public.

An example of sufficient notice would be a newspaper notice several days before your meeting, which announces the meeting time and place, and states that the agenda is posted and available for inspection in the City Clerk's office. You may also list the agenda in the newspaper, or post it in another public location.

Minutes must be kept of meetings at which any proposed policy, position, resolution, rule, regulation, or formal action occurs. Generally, your board already does this. Unless required by specific ordinance, you need not keep verbatim minutes of the meetings.

You should also note that, if a meeting does not involve any proposed policy, position, resolution, rule, regulation, or formal action occurring, then minutes need not be kept, and full and timely notice to the public is not necessary. It is always a good idea to provide notice of all public meetings. Notice allows increased public observation of City government functions and increases citizen awareness.

Public observation does not mean public participation. For example, you can hold a workshop, for your board or for several boards. The workshop would be a public meeting. The public could observe, but the audience need not be permitted to make comments or participate in the meeting.

The public can be excluded form Executive sessions of your public meetings. S.B. 91-33 states that Executive sessions may be called by a vote of two-thirds of a quorum and may be held only to consider the following matters:

1. Property matters;
2. Legal matters;
3. Matters required to be kept confidential by state or federal law;
4. Security matters;
5. Negotiation matters;
6. And personnel matters, unless an employee who is the subject of the discussion requests that the meeting be open to the public.

Before a meeting is closed, the Chairperson must announce the general topic or topics to be discussed (i.e. legal and personnel matters), and the minutes of the open public meeting must reflect that your board went into executive session to discuss those topics.

The State law sanction for failing to follow the law is that any formal action taken is not valid. Also, if a court finds a violation of the law, the citizen prevailing will receive costs of court and attorney's fees.

The City policy on executive sessions, which applies to your board, is more restrictive than S.B. 91-33. Under the City Council Policy, all informal and formal meetings of City Boards are open to the public and to the press for observation and reporting. Executive or Legal Sessions may be held only to consider the following matters:

a. Land acquisition or sales: where the disclosure of negotiations would endanger the City of Colorado Spring's bargaining position.

b. Personnel Matters: The discussion of hiring, dismissal or salary arrangements or individuals or organizations.

c. Legal Matters: whereby contracts, litigation or other sensitive legal items are to be discussed.

Under the City Council Policy, the purpose of closed executive or legal sessions is to deliberate over legal, personnel, or property acquisition matters. During these sessions, no resolution, rule, regulation or formal action may be adopted or approved. Only deliberations can be undertaken. Any formal action or position flowing from those closed deliberations must be discussed and undertaken in open session.

In conclusion, it is the policy of the City that City Boards will comply with the provisions of S.B. 91-33 until otherwise directed. The issue of whether S.B. 91-33 applies to the City will be left to the Courts.

Meetings of three or more members of a board, or of a quorum of the board, whichever is less, for the purpose of discussing board business, constitutes a public meeting. Chance or social meetings at which the primary purpose is not the discussion of board business are not public meetings.

Minutes must be kept of all public meetings at which any proposed policy, position, resolution, rule, regulation or other formal action is taken or adopted. Minutes need not be kept for other public meetings unless otherwise required by a City or Board rule.

Public notice, including specific agenda information, must be posted in a designated public place at least 24 hours prior to a public meeting at which the adoption of any proposed policy, position, resolution, rule, regulation or formal action occurs or at which a majority of a quorum attends or is expected to attend.

The Board may hold executive sessions to deliberate Legal, Personnel, and property acquisition matters, but any formal action must be done in an open public meeting session.

Last, please remember that your board has a Legal Advisor assigned by the City Attorney. Part of your legal advisor's job is to assist you in reaching a determination on open meetings issues. Should you or your board have a question about open meetings, either procedurally or otherwise. Call your legal advisor. If your advisor is unavailable, you may speak to any Attorney in the city Attorney's Office. The telephone number is AC (719) 578-6670.

"Board Responsibilities and Considerations"
Presented by
Mr. James Colvin City Attorney for the City of Colorado Springs

Sale of Park Property procedures and the intricate complexities surrounding that process (including stipulations, conditions, circumstances and restrictions) was presented to the Board by City Attorney James Colvin. Citing examples, he stated:

1) Covenants or restrictions in deeds by which a property is accepted are binding, often with a provision covering non-compliance of the original intent that the land be used for park purposes. If a breach of the deed restrictions occurred, the City could face loss of the land and it would then revert back to the heirs (Palmer Park is such an example).

   The City acts as Trustee to carry out deed mandates for use solely as parkland and park purposes. These covenants must be followed. Certainly times change -- the Trusteeship includes monitoring exceptions that are needed because of technological advances and public needs (utility lines would be an example).

2) Another restriction on the sale of parkland is a State statute that indicates before parkland can be sold, a vote of the people is needed. (In the late 1970's, approval through a vote of the people resulted in the sale of parkland in west Colorado Springs

   There is an alternative method to this procedure that would enable sale of park property in which the City Council, through a public hearing, declares the property is no longer a park. However, it is rare a City will sell any park property -- rather, it is taken for municipal purposes which provide a broader flexibility for usage and management by future City administrations and councils.

3) Jimmy Camp Creek Master Plan approval is a City Council Agenda item which opens the door for the City to pursue acquisition in accord with the annexation agreement of Jimmy Camp Creek Park. Discussion followed. Martha Mattoon commented on the legislative session of NRPA's national convention referencing the R.T.C. -- created by the Financial Institutions Reform, Recovery and Enforcement Act of 1989. It is "... required to identify properties with natural, cultural, recreational or scientific values of special significance (a catalog of land is available). The Federal Property Act permits discounted transfer of excess and surplus federal lands with recreation or conservation value to federal, state or local governments."

   Referencing this ruling, Mrs. Mattoon asked if more land can be obtained; and, Chairperson Rice-Jones asked if City Council would have any leeway to make changes to the Master Plan. Mr. Colvin's responses centered on determinations of such depended on dedication of property stipulations -- an annexation agreement is a binding contract with specific terms and conditions between involved parties. He added the Aries Annexation Agreement is detailed and restrictive as to zones, types of development and locations of development; and does not represent a burden to the City or tax and rate payers.

Conflicts of Interest - In keeping with procedure that the City Attorney review guidelines pertaining to conflicts of interest to approximately 50 Colorado Springs' Boards and Commissions, Mr. Colvin stated serving on an appointed Board of City Council, members are subject to provisions of the City Charter. The main conflict of interest is financial and is covered in a direct, frank statement clearly stated in Section 141 as follows: "Any City officer, employee or appointee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, or any contract with the City, or in the sale of any land, materials, supplies or services to the City, or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon, or otherwise participating in, his capacity as a City officer, employee or appointee in the making of such sale or in the making of performance of such contract.

“Any City officer, employee or appointee who willfully conceals such substantial financial interests, or willfully violates the requirements of this Section, shall be guilty of malfeasance in office or position, and shall forfeit his/her office or position. Violation of this Section with the express or implied knowledge of the person or corporation contracting with or making the sale to the City shall render the contract or sale voidable by the City Manager’.”

Mr. Colvin described possible scenarios, clarifying that the intent of the language stresses disclosure aspects – “...make known, disclose and shall not participate in an official capacity the carrying out of that sale, that contract." Should a financial conflict of interest occur, it is provided as well in the City Charter that the individual "absent himself from the room.”

Where members participate as a legislative body, policy bias is for seen, appropriate and expected to occur; and, expression of such is encouraged in the decision-making process. Should any questions arise, Mr. Colvin advised the Board to come to the Legal Department or the Board's department administrative staff for clarification. Where members participate in a quasi-judicial body, the entire case must be heard, considering all and fair aspects, before decisions occur. Trust and credibility of government by public interest must be upheld. Should contact from interest groups occur, Mr. Colvin advised as follows: 1) ask that the inquiry be put in writing; or, 2) ask that the group bring their inquiry to a public hearing.

COLORADO SPRINGS PARKS AND RECREATION DEPARTMENT

PARKS AND RECREATION ADVISORY BOARD

Date: July 14, 2016

Item Number: Action Item # 2

Item Name: Transportation Alternatives Grant Application: Gold Hills Trail Construction Phase 1

SUMMARY:

The City of Colorado Springs proposes to construct approximately 1,750 feet of trail spur from the Midland Trail on the north side of Colorado State Highway 24, including grade-separated crossings at 21st Street and Highway 24 to the eventual beginning of the Gold Hills Trail. This trail extension is part of a priority east-west trail identified in several plans including the 2014 Colorado Springs Park System Master Plan and the Regional Non-Motorized Transportation System Plan. It will provide the only grade-separated crossing of Highway 24, a significant improvement to the City's trail network.

PREVIOUS BOARD ACTION: None

BACKGROUND:

Colorado State Highway 24 is a significant regional transportation corridor from I-25 to the Ute Pass communities and beyond. For much of its length through the City of Colorado Springs, Highway 24 is a 55 MPH barrier separating westside neighborhoods. Highway 24 represents a substantial barrier to non-motorized travel around the City of Colorado Springs. The Midland Trail follows the right-of-way most of the way, but the highway itself prevents all but the most fearless bicycle riders and pedestrians from accessing it. Because of the highway's importance to commuters in the Ute Pass communities and people looking to access recreational activities in the mountains, traffic volumes are generally quite heavy during drive times and on weekends, exactly when recreational and commute users are trying to get around the City. The Pikes Peak Area Council of Governments' recent Regional Non-Motorized Plan recognized this corridor as a regional priority, at their highest level of safety concern.

This Gold Hills/Midland Trail connection project will include significant bicycle and pedestrian improvements:

- An underpass where Fountain Creek crosses under Highway 24, just before 21st Street
- Additional segments of trail following Fountain Creek at the northeast and southeast corners of Highway 24 and 21st Street
- An underpass under 21st Street that links to the Midland Trail trailhead

FINANCIAL IMPLICATIONS: The Parks Department will match $300,000 of TOPS funding.

RECOMMENDATION:
Approve the submittal of the grant application and letter of support.

ALTERNATIVE:
Not approve the submittal of the grant application and/or modify the application.

PROPOSED MOTION:
Approve the submittal of the grant application and letter of support.

PARTIES NOTIFIED OF THIS MEETING:
Gold Hills Mesa Development

parks · recreation · cultural services

July 14, 2016

Colorado Department of Transportation
CDOT Region 2
905 Erie Avenue
Pueblo, CO 81001

Dear Colorado Department of Transportation:

We are delighted to support the City of Colorado Springs' application for the Gold Hill Mesa Phase 1: Highway 24 Underpass and Connection to Midland Trailhead. This grant provides the opportunity for a needed grade separated crossing at Highway 24, a major thoroughfare in our community. The project will result in the first non-motorized dedicated crossing across the highway in Colorado Springs. Additionally, this underpass and trail connector will serve the anticipated Gold Hill Mesa Trail on the south side of Highway 24.

Ultimately, this network of trails on the south side of Colorado Springs will connect the southwest communities to downtown and westside communities and attractions. With a trail corridor that follows Fountain Creek we anticipate that the Gold Hill Mesa Trail projects will serve as amenities for transportation and creekside recreation.

In support of this project the Parks, Recreation and Cultural Services Advisory Board has approved 2017 Trails, Open Space and Parks (TOPS) funding to designing all phases of the Gold Hill Mesa trail project. TOPS funding will also be used to provide matching funding for the grant, if awarded.

With a current deficit of urban trails and connectivity in southwest Colorado Springs, this project will further advance investment in our local trail system. For these reasons I strongly urge the Colorado Department of Transportation to support the City of Colorado Springs' application.

On behalf of City of Colorado Springs Parks Department and the Parks and Recreation Advisory Board, we thank you for your consideration.

Sincerely,

Mina Liebert
Chair, City of Colorado Springs
Parks, Recreation and Cultural Services Advisory Board

TEL 719.385.5940 | FAX 719.385.6599
1401 Recreation Way | Colorado Springs, Colorado | 80905-1024

COLORADO SPRINGS PARKS AND RECREATION DEPARTMENT

PARKS AND RECREATION ADVISORY BOARD

Date: July 14, 2016

Item Number: Presentation Item # 7

Item Name: Request by Colorado Springs Utilities for a Public Utility Corridor across the Pikes Peak Greenway at North Nevada Avenue and University Village

SUMMARY: The Parks and Recreation Department has received a request from Colorado Springs Utilities for a public utility corridor across the Pikes Peak Greenway Trail at North Nevada Avenue and University Village. The proposed public utility corridor is necessary for the construction of underground utilities to serve to benefit the University of Colorado at Colorado Springs (UCCS) and other developments along the corridor. If approved by the Parks and Recreation Advisory Board, Park staff will pursue an Executive Agreement with Colorado Springs Utilities for use of this corridor.

PREVIOUS BOARD ACTION: None

BACKGROUND:

Representatives from Colorado Springs Utilities will provide a presentation on the proposed utility corridor.

FINANCIAL IMPLICATIONS: There will be no cost to the Parks Department. Colorado Springs Utilities will be responsible for all costs associated with the establishment of the Executive Agreement and construction of the proposed utilities.

RECOMMENDATION:
N/A – Presentation Item Only

ALTERNATIVE:
N/A

PROPOSED MOTION:
N/A

PARTIES NOTIFIED OF THIS MEETING:
Colorado Springs Utilities

EXECUTIVE AGREEMENT
(Secondary Use)
Colorado Springs Utilities Wastewater Main
On Park City Property along Monument Creek

This **Executive Agreement** ("Agreement") effective _____, 2016, is in connection with the City of Colorado Springs owned real property identified as El Paso County Tax Schedule Number 6319402072, located at 0 N Nevada Avenue, Colorado Springs, and this Agreement is by and between the City of Colorado Springs Parks, Recreation and Cultural Services Department ("Controlling Department"), whose address is 1401 Recreation Way, Colorado Springs, Colorado 80905, and the Colorado Springs Utilities ("Non-Controlling Department") whose address is P.O. Box 1103, Colorado Springs, Colorado, 80947-0930. Both Controlling Department and Non-Controlling Department hereinafter are individually referred to as "Party" and collectively referred to as "Parties."

Recitals

WHEREAS, the City of Colorado Springs is owner in fee simple of the real property known as El Paso County Tax Schedule Number 6319402072 ("Property"), and the Non-Controlling Department is requesting a portion of the property for the purpose of utility use, and specifically a wastewater main; and

WHEREAS, the Controlling Department has determined that the installation of a subsurface wastewater main for utility purposes is compatible and will not interfere with the operation of the Property; and

WHEREAS, the Parties do not intend to establish new standards, but rather to set forth the terms and conditions under which the Parties may continue to use the Property for their respective operations.

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Covenants

1. **Administration and Enforcement**: The Controlling Department shall have the management responsibilities for the Property. The Controlling Department hereby grants to the Non-Controlling Department permission to enter, occupy and use a portion of the Property for utility purposes, and specifically the installation of a subsurface wastewater main. The Non-Controlling Department shall obtain the written approval of the Controlling Department prior to any proposed installation and repair of the Property for the purpose of utility construction or maintenance contemplated by the Non-Controlling Department. The Controlling Department's approval shall not be unreasonably withheld. The provisions of this Agreement shall be administered and enforced for by the Controlling Department.

2. **Property**: The Property is identified as El Paso County Tax Schedule Number 6319402072, and is shown on Exhibit A, attached hereto and incorporated herein by reference.

3. **Utility Area**: The utility area is described and shown on Exhibit B and Exhibit C, attached hereto and incorporated herein by reference. The Parties shall notify each other as soon as reasonably possible in the event of any significant change to the current use or proposed major modifications that may impact the

uses of utility area as set forth in this Agreement. If in the future the utility area on the Property is not required by the Non-Controlling Department, this Agreement shall automatically terminate.

4. **Purpose and Use**: The Controlling Department shall permit the Non-Controlling Department to use and occupy the utility area to add, construct, reconstruct, install, use, operate, maintain, repair, patrol, replace, upgrade, modify, alter, or remove their present and future wastewater main, respectively, and which are incidental to and necessary to operate and maintain the Controlling Departments operation.

The Non-Controlling Department will coordinate the installation of the wastewater main with an independent contractor, and the title to that wastewater main will be held by the Non-Controlling Department.

5. **Parties' Responsibilities**:

The Controlling Department shall not have the responsibility and obligation to perform the duties associated with the construction, installation, or maintenance of the wastewater main or utility area.

The Non-Controlling Department shall have the responsibility and obligation to perform the duties associated with utilities as it may relate to the Property. Additionally, the Non-Controlling Department agrees that the wastewater main and its maintenance and repair will be the obligation of the Non-Controlling Department at its sole expense.

6. **Ingress and Egress**: The Parties shall have the perpetual right of reasonable ingress and egress in, to, through, over, under, and across the Property for access to and from any roads or any other point to the Property, in order to perform the Party's rights with respect to the utility area. To the maximum practicable extent, the Parties shall use existing gates, roads, or trails to avoid disruption of the other Parties' operations.

7. **Modifications and Alterations to the Property**: The Parties shall have the right to add, construct, reconstruct, install, use, operate, maintain, repair, patrol, replace, upgrade, modify, alter or remove (modifications and alterations) at any time or from time to time, their respective existing and future facilities or improvements and appurtenances thereto within the Property. Such right shall be perpetual, and each Party shall not stop, hinder, or impede modifications and alterations of such improvements or limit the same within the Property. However, any modifications or alternations of improvements any of the Parties shall be reviewed and approved by the other Parties; such approval shall not be unreasonably withheld. Each Party, at its expense, shall protect their respective improvements and structures on the Property.

8. **Consideration:** The consideration could be addressed through the annual budget process and cost allocation of funds provided to the City of Colorado Springs by the Colorado Springs Utilities.

9. **Controlling Departments' Rights Unaffected**: the Controlling Department shall retain the right to make full use of the Property, except for such use as might endanger or interfere with the rights of the Non-Controlling Department.

10. **Restoration of Property and Improvements**: In the construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of each Parties improvements and structures, the Parties shall promptly restore, replace, or repair such improvement and structure as close to its condition immediately prior to such work as may be reasonably possible.

11. **Maintenance of Each Parties Improvements**: Each Party shall be responsible for the maintenance of their respective improvements and structures. Each Party shall have the perpetual right, but not the obligation, to remove obstructions which injure or interfere with each Party's use, occupation or enjoyment of the Property.

12. **Waiver**: The failure of either Party to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of either Party in any one or more instances to exercise any option, privilege, or right here in contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by the either Party of any default hereunder shall in any manner be construed as constituting a waiver of such default.

13. **No Third Party Beneficiaries**: Except as expressly provided otherwise, this Agreement is intended to be solely for the benefit of the Parties and shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.

14. **Notice**. Any notice provided in accord with this Agreement, shall be in writing to any Party's address as shown ("Notice"). Such Notice shall be effective upon the date received and acknowledged by signature of the Party that receives Notice. Either Party may change its address to which any Notice is to be delivered under this Agreement by giving Notice as provided herein.

If to Controlling Department:

City of Colorado Springs
Parks, Recreation and Cultural Services Department
1401 Recreation Way
Colorado Springs, CO 80905
Attn: Karen Palus, Director
719-385-6501

If to Non-Controlling Department:

Colorado Springs Utilities
Utilities Development Services
P.O. Box 1103
Colorado Springs, CO 80947

15. **Entire Agreement**: This Agreement represents the entire agreement between the Parties with respect to the Property and no additional or different oral representation, promise or agreement, oral or otherwise, shall be binding on any of the Parties hereto with respect to the subject matter of this instrument, unless stated in writing explicitly referring to this Agreement and signed by the Parties.

16. **Assignment**: This Agreement may not be assigned by any Party.

17. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed original and all of which together shall constitute one and the same instrument. Facsimile copies of signatures shall be permitted for purposes of the binding nature of this Agreement.

EXECUTIVE AGREEMENT

Each of the undersigned represents that he or she has full authority to bind their respective entity with regard to the matters contained herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF COLORADO SPRINGS
Parks, Recreation and Cultural Services Department

By: _____
Karen Palus, Director

COLORADO SPRINGS UTILITIES
Development Review Services Division

By: _____
Brian Whitehead

Exhibit A – Property

Platted: Tract B, University Village Colorado, Filing No. 1, recorded at Reception Number 208712737, El Paso County, Colorado

Exhibit B

Legal Description of Utility Area

That portion of Tract B, University Village Colorado Filing No. 1, City of Colorado Springs, El Paso County, Colorado described as follows:

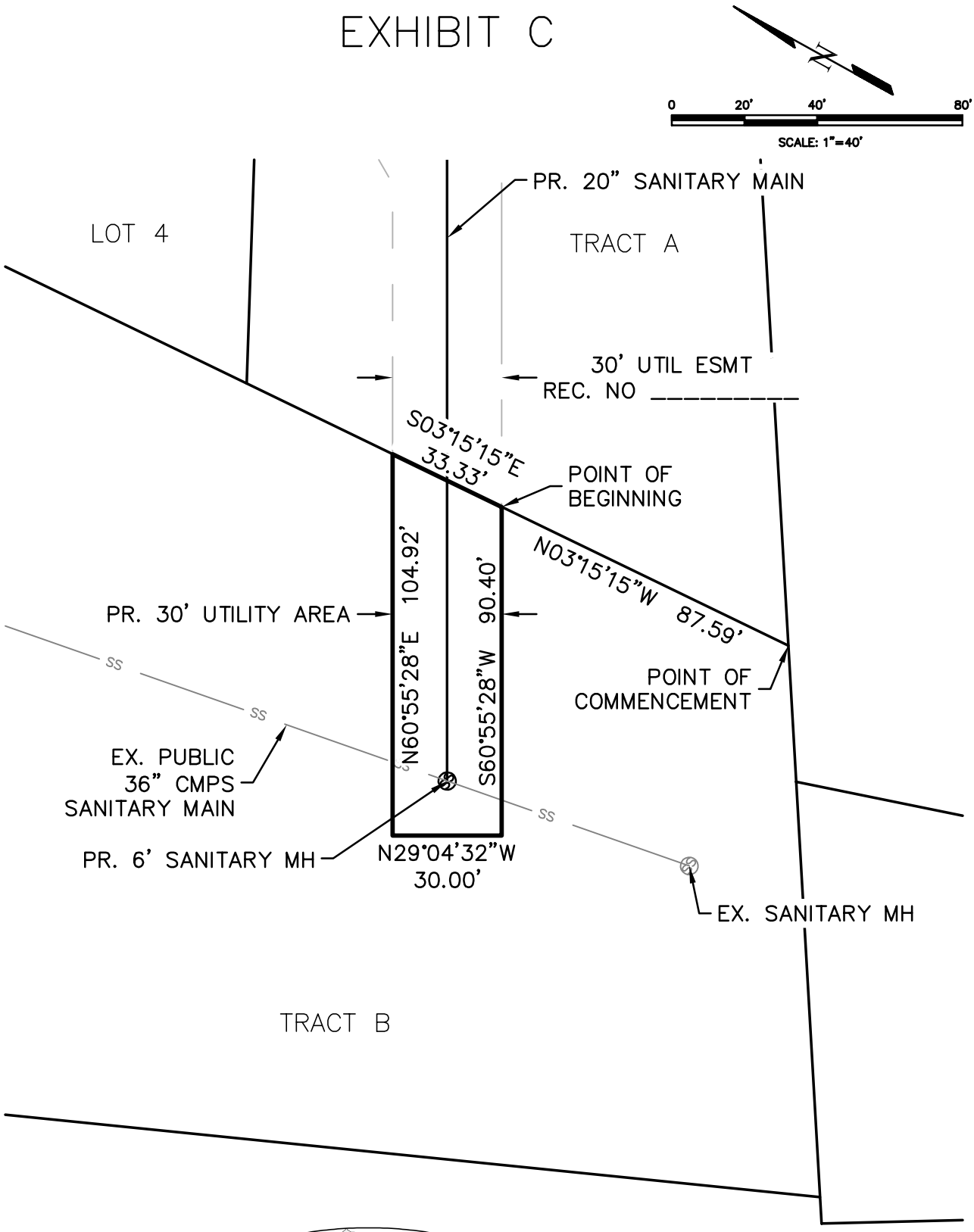
Commencing at a southwesterly corner of Tract, said University Village Colorado Filing No. 1 (said point also being a corner of Tract B); thence North 03 degrees 15 minutes 15 seconds West, along an easterly line of said Tract B, a distance of 87.59 feet to the point of beginning;

1. Thence South 60 degrees 55 minutes 28 seconds West, 90.40 feet;
2. Thence North 29 degrees 04 minutes 32 seconds West, 30.00 feet;
3. Thence North 60 degrees 55 minutes 28 seconds East, 104.92 feet;
4. Thence South 03 degrees 15 minutes 15 seconds East, along easterly line of said Tract B, to the Point of Beginning.

Containing a calculated area of 2,930 square feet (0.0673 acres), more or less.

This legal description and exhibit were not prepared by a licensed Professional Surveyor and are to be used only for reference.

EXHIBIT C



125 N. WAHSATCH AVENUE
COLORADO SPRINGS, CO 80903

OFFICE: 719-635-6422
FAX: 719-635-6426
www.tnesinc.com

Terra Nova
Engineering, Inc.
"Creative Civil Engineering Solutions"

EXHIBIT C
UCCS OFFSITE SANITARY SEWER
2016.06.23
1414.00

REVISIONS		
NO.	DESCRIPTION	DATE

UNTIL SUCH TIME AS THESE DRAWINGS ARE APPROVED BY THE APPROPRIATE REVIEWING AGENCIES, TERRA NOVA ENGINEERING, INC. APPROVES THEIR USE FOR ANY OTHER THAN PURPOSES DESIGNATED BY WRITTEN AUTHORIZATION.

PREPARED FOR:
UCCS
ATTN: GARY REYNOLDS
1420 AUSTIN BLUFFS PKWY
COLORADO SPRINGS, CO
719.255.3313

Terra Nova Engineering, Inc.
Creative Civil Engineering Solutions
125 N. WAHSATCH AVE.
COLORADO SPRINGS, CO 80903
OFFICE: 719-635-6422
FAX: 719-635-6426
www.tnesinc.com

TRACT B CITY AGREEMENT

DESIGNED BY NMS
DRAWN BY NMS
CHECKED BY LD

H-SCALE 1"=100'
V-SCALE N/A

JOB NO. 1414.00
DATE ISSUED 7/06/16
SHEET NO. 1 OF 1