



## Legislation Details (With Text)

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**Title:** A Resolution Authorizing the Acquisition of Approximately 341.5 Acres of Open Space located in the Mountain Shadows Open Space Candidate Area through the Trails, Open Space and Parks Program.

**Presenter:**  
Britt Haley, TOPS Program Manager, Parks, Recreation & Cultural Services Department

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| 6/9/2020 | 1    | City Council         | adopted  | Pass   |
| 6/8/2020 | 1    | Council Work Session | referred |        |

A Resolution Authorizing the Acquisition of Approximately 341.5 Acres of Open Space located in the Mountain Shadows Open Space Candidate Area through the Trails, Open Space and Parks Program.

**Presenter:**  
Britt Haley, TOPS Program Manager, Parks, Recreation & Cultural Services Department

**Summary:**  
A proposed open space acquisition for approximately 341.5 acres of property in the Mountain Shadows Open Space Candidate Area.

**Background:**  
On April 1, 1997, an ordinance implementing a sales tax for trails, open space and parks (TOPS) was approved by the citizens of Colorado Springs. This tax went into effect on July 1, 1997. In 2003, this 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. The acquisition proposal on today’s agenda offers the opportunity to acquire over 340 acres of open space previously identified in the 2014 Park System Master Plan as candidate properties for the City of Colorado Springs open space system. In addition, this proposal envisions a potential future donation of 100 acres, which would bring the total acreage to 440 acres.

Two properties are proposed for acquisition by TOPS, and a third is proposed as a donation upon physical site reclamation. All of the properties are owned by Castle Concrete/ Continental Materials Corporation (Castle Concrete). They are:

- o An approximately 193 acre property just west of the Cedar Heights neighborhood and adjacent to the Williams Canyon called the Black Canyon Quarry.
- o 148 acres of property between Blodgett Open Space and the Flying W Ranch. This property was purchased by Castle Concrete to buffer the Pikeview Quarry from the developing neighborhood (Oak Valley Ranch subdivision). No mining has occurred here and it has rolling hills featuring oak brush and grassland.
- o The 100 acre Pikeview Quarry site at a later date after it is physically reclaimed and the reclamation work is state approved. This would be donated to the City for a world class level bike park.

In April of 2019, Castle Concrete which is a wholly owned subsidiary of Continental Materials Corporation, notified the Parks, Recreation and Cultural Services Department (Parks) that it desired sell its property holdings (just over 148 acres of frontage property at the Pikeview Quarry and 193 acres at the Black Canyon Quarry) to help to fund the reclamation of the now closed Pikeview Quarry (100 acres). Due to many open space acquisition opportunities forming up in the same timeframe, Parks staff teamed up with Justin Spring from The Conservation Fund (TCF) to provide for bridge funding and a more agile acquisition of the Pikeview Frontage property. TOPS would acquire the Black Canyon Quarry with funds on hand and TCF would complete a buy and hold of the Pikeview Frontage property for TOPS to purchase back from TCF. We did this successfully at Ute Valley Open Space with Justin Spring when he previously worked for the Trust for Public Land on the 200+ acre Hewlett Packard property.

**Pikeview Frontage Property:** The TOPS Working Committee has identified a 148.02 acre property in the Mountain Shadows Open Space candidate area, which will be referred to as the Pikeview Frontage Property as a potential acquisition property. The Park System Master Plan states “conservation of lands in this area offer potential to extend open space and trail connectivity, serve growing recreational demands of city residents, and provide additional connections to the Pike National Forest.” It also highlighted the wildlife habitat, including important habitat for Golden Eagles and mentioned that it features known use areas for the Townsend’s Big-eared Bat which is a species of State Special Concern. The property is located within the City’s western mountain backdrop and is a prominent feature of the City’s western skyline. One of the identified priorities of the TOPS Working Committee has been to focus on candidate open space parcels that would protect and connect the City’s western mountain backdrop. As early as 1997, the City’s open space master planning documents have identified this area as having some of the highest natural resource values in our community.

In light of numerous open space acquisition opportunities becoming available at the same time in 2019, the TOPS program engaged a new conservation partner in this effort. For the first time in TOPS program history, the program is partnering with The Conservation Fund to assist in the acquisition of the Pikeview Frontage Property. The Conservation Fund (TCF) is a national, non-profit conservation organization that works with government agency partners. It has a revolving loan fund available to assist in the conservation of important properties. Since 1985, TCF has protected over 8 million acres of land across the country. The Conservation Fund would buy the entire 148 acre Pikeview Frontage property. It would immediately sell to TOPS 89.85 acres of that property at the appraised value. TOPS would have up to 18 months to purchase the remaining 58.17 acres. Although normally TCF charges 5% of the value of the property to cover its legal and real estate acquisition costs, to help the City make this deal happen they agreed to charge only 1.5% on the Phase I acquisition and the standard 5% for the Phase II purchase 5%.

**Black Canyon Quarry Properties:** This proposal also includes a purchase of a 193.47 acre property, which will be referred to as the Black Canyon Quarry Property. This property features Williams Canyon on its west and south boundaries, the Pike National Forest on its western and northern boundary, and the Cedar Heights neighborhood on its eastern boundary. The Black Canyon Quarry property is also included within the area identified as the Mountain Shadows Candidate Open space in the 2014 Park System Master Plan. It features impressive wildlife habitat as noted above and expansive views over the City of Colorado Springs to the east and south. Looking to the west are beautiful views of Pikes Peak. Perhaps more importantly from a regional

perspective, this property offers the potential to provide trail access to the Pike National Forest's Waldo Canyon area. This area is in the Reimagine Waldo planning process with the United States Forest Service to reopen to the public. This property could be an important component to a successful reopening of Waldo Canyon for community recreation because the one trailhead for that area has been eliminated on State Highway 24 due to significant safety concerns.

**Reclamation information:**

The City and The Conservation Fund have signed real estate purchase contracts with Castle Concrete to sell the Pikeview Frontage property to TCF and the Black Canyon Quarry property to the TOPS program. The contracts are contingent on approval by the State of Colorado, Department of Natural Resources, Division of Reclamation, Mining and Safety (DRMS) of the request for an amendment to the Pikeview Quarry's reclamation permit.

Castle Concrete has submitted a request to the State DRMS to amend the reclamation plan at the Pikeview Quarry. The company proposes to reclaim the quarry by filling in the pit from the bottom up rather than by blasting the top of the quarry down into the pit. After review, the staff of the DRMS are recommending approval of the reclamation plan amendment at Pikeview Quarry. When the amendment was noticed for public comment, only one individual objected to the changes proposed by Castle Concrete. That individual is Warren Dean, a property owner near the Hitchrack Ranch located off of Highway 115. Mr. Dean filed one timely objection and two additional late objections. He has hired experts to assist with his objections to the amendment. Because there is a member of the public objecting to the staff recommendation to approve the amendment, the request will be formally heard by the Mined Land Reclamation Board (MLRB). The current COVID19 situation has impacted the MLRB's ability to hold public hearings. The additional objections, a full MLRB hearing agenda in the early months of 2020 and COVID19 in person meeting prohibitions have caused delay in the hearing on the amendment. When the hearing is conducted, Parks staff and TCF will participate to assist the MLRB in its understanding of the open space components and the future vision regarding the bike park on the reclaimed Pikeview Quarry.

At the May 6, 2020 TOPS Working Committee meeting, Mr. Dean indicated that he does not support the acquisition as proposed of the Pikeview Frontage Property and the Black Canyon Quarry Parcels as open space for the City.

For the Pikeview Quarry, the State DRMS holds a \$15 million performance bond which it could call in order to contract for the reclamation itself, if reclamation is not fully performed by Castle Concrete. As reclamation commences and is performed, the reclamation bond can be reduced to reflect the remaining cost associated with the work.

At the Black Canyon Quarry, which has been closed since approximately 2015, reclamation is largely completed except for the revegetation phase at that site. In this case, staff anticipates that full revegetation of the site might be counterproductive to its end use if it is to serve as a trailhead. Therefore, if acquired, staff would pursue the final reclamation to determine if the State would approve changes to accommodate that potential future use. Our review of that location indicates that the company has a remaining reclamation bond of approximately \$167,000. This means if they self-perform rather than contract the work out the remaining work is estimated to cost approximately \$167,000. If TOPS purchases the property and must conduct the reclamation, it would likely be more expensive for the TOPS program to do the work to revegetate the site. TOPS would need to contract out the work. Our estimates indicate it could cost as much as \$400,000 to conduct this work, which would be required under state regulation unless amended to accommodate the future use as a trailhead. Staff is researching and would be prepared to seek a grant offered by the State of Colorado for the purposes of making communities whole after the impacts of mining operations as part of the mineral severance program. This site could be a good fit for that type of grant.

**Previous Council Action:**

N/A

**Financial Implications:**

Acquisition: This is a complicated transaction and payment will occur over a period of time that can extend up to 18 months on the purchase of the frontage property at Pikeview. TOPS would purchase the Black Canyon Quarry, remit the administrative settlement payment and purchase Phase I of the frontage property immediately. TOPS would have up to 18 months to purchase the Phase II Pikeview Frontage property. The transaction details are summarized below.

|   |              |
|---|--------------|
| Black Canyon Quarry Parcels (appraised “as if reclaimed” value) | \$ 1,712,500 |
| Pikeview Frontage Parcels (appraised value)                     | \$ 6,660,000 |
| TOTAL APPRAISED VALUES  | \$ 8,372,500 |
| Administrative Settlement                                       | \$ 427,500   |
| TOTAL CASH OFFER AMOUNT   | \$ 8,800,000 |

Acquisition of the 148.02 acre Pikeview Frontage Property will require funding of \$6,660,000 from the TOPS Open Space Category. Acquisition of the Black Canyon Quarry property will require \$1,712,500 from the TOPS Open Space Category. An additional sum of \$427,500 will be included as a negotiated settlement of the parties’ difference in opinion of value for the package. Finally, TCF agreed to reduce its standard professional service fee from 5% to 1.5% of the total value of the Phase I Frontage Property purchase which is approximately \$60,650.00. For the Phase II acquisition of the Frontage Property the standard 5% will apply and that equals approximately \$130,865.00.

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

At its May 6, 2020 meeting, the TOPS Working Committee voted 7 in favor, 1 opposed and 1 member did not respond when called upon to vote. She may have been involuntarily disconnected from the electronic meeting and was marked by the Chairperson as an abstention. The Parks, Recreation and Cultural Services Advisory Board will consider this item on the May 14, 2020 meeting agenda.

**Stakeholder Process:**

The TOPS Working Committee meetings and Parks, Recreation and Cultural Services Advisory Board meetings provide opportunities for public comment.

**Alternatives:**

City Council may decline to recommend acquisition of the properties.

**Proposed Motion:**

A motion to recommend acquisition of 193.47 acres known as the Black Canyon Quarry parcels and acquisition of 148.02 acres in two phases from The Conservation Fund of the Pikeview Frontage property to include the purchase prices, the administrative settlement, and professional services fees for a total cost of \$8,991,515 with revenues from the TOPS Open Space Category.

N/A