

**PITKIN COUNTY OPEN SPACE AND TRAILS PROGRAM**  
**STATEMENT OF POLICIES AND OBJECTIVES**

**INTRODUCTION**

The Pitkin County Home Rule Charter has created and empowered the Open Space and Trails Board to fulfill the objectives outlined in HRC section 13.3.3. In the general election of 2006, the Open Space program was reauthorized and funded through 2020. The Board and Staff have gained significant experience since the program inception in 1990, and throughout 2007 have revisited the program policies originally adopted in 1993. The following are intended to provide general guidance for the Open Space Board's activities, including acquisition, management and enhancement of open space and trails assets. The Board presents this document to its constituents, the residents of Pitkin County, hoping both to inform and involve those who will benefit most from the Open Space and Trails program's accomplishments.

**ACQUISITION OBJECTIVE**

The mission of the Pitkin County Open Space and Trails program is to acquire, preserve, maintain and manage open space for multiple purposes including, but not limited to, recreational, wildlife, agricultural, access, and scenic purposes and to acquire, preserve, develop, manage and maintain trails for similar purposes.

**ACQUISITION POLICIES**

**Acquisition Policy #1 - Geographic Balance**

The Open Space and Trails Board attempts, through its purchase recommendations to the Pitkin County Commissioners, to allocate the taxpayer's funds for new open space and trails in balanced proportions throughout the County. Emphasis is placed on serving the needs of the County's residents recognizing that, in so doing, the tourism sector will also benefit. The Open Space and Trails Board recommends acquiring property outside the County only when such an acquisition clearly compliments and improves the County's open space or trails system.

**Acquisition Policy #2 - Planning**

The Open Space and Trails Board does not wish to duplicate previous public planning processes which have addressed open space and trails issues. Rather, the Open Space and Trails Board refers to land use and trail master plans previously adopted by the County and other governments in order to identify potential acquisitions. In areas not already examined by such plans, the Open Space and Trails Board may undertake special trail or open space planning projects. These projects will seek the full involvement of neighboring property owners and the general public and will be submitted to the appropriate County and municipal agencies for their review and comment in order to assure their compatibility with other existing plans. The Board also seeks recommendations from other land

management agencies about potential acquisitions and property management plans. Provided, however, that the Board will avoid public identification of specific private lands without the landowner's permission or prior to successful acquisition of public rights therein.

### **Acquisition Policy #3 - Methods**

The Open Space and Trails Board employs a variety of acquisition methods, always seeking the most cost-effective method to secure the most significant conservation values of a given property. Whenever feasible and appropriate, the Board will propose to purchase, at less cost, a partial property right such as a "conservation easement". A conservation easement limits future development while enabling the seller to continue using and enjoying the property in its present state. Similarly, trail, fishing, or access easements may be acquired by the Open Space and Trails program which would leave the majority of property rights in the control of the seller, but would give the public a limited right to use a specific portion of the property. The Board will also pursue the purchase of water rights to protect instream flows for recreation and/or aquatic habitat, and acquisition of mineral rights to buttress the protection of surface rights in conjunction with all of the above techniques. The Board is prepared to employ these and other innovative purchase techniques, and to accept gifts or grants of land.

### **Acquisition Policy #4 - Condemnation**

The Open Space and Trails Board, as the agent of the Pitkin County Commissioners, always seeks to negotiate with and recommend purchase of property from a willing seller. Thus, every reasonable effort is made to negotiate, in good faith, a mutually acceptable purchase price. Condemnation actions are the exclusive responsibility of the County Commissioners and are the acquisition method of last resort, used only when voluntary negotiations between the Open Space and Trails Board and the owner have failed and when an acquisition is deemed vitally important to the community and the Open Space and Trails Program. Any condemnation action requires four (4) voting members of the Open Space and Trails Board to vote in favor of the action, whether the condemnation action is initiated by the County Commissioners or the Open Space and Trails Board. The Open Space and Trails Board's argument for condemnation will be presented in a public hearing before the County Commissioners following a period of public notification. If the County Commissioners pursue a condemnation action, fair market value will be paid for the property rights acquired through the condemnation.

### **Acquisition Policy #5 – Full Disclosure and Fair Dealing with Landowners**

The Open Space and Trails Board will insure that all property owners with whom negotiations are had will be adequately advised of their need to utilize competent professionals to fully understand and benefit from each transaction.

## **STEWARDSHIP OBJECTIVE**

Stewardship practices seek to preserve and enhance the ecological, scenic, recreational and cultural values of the open space and trails acquired by the Open Space and Trails program.

## **STEWARDSHIP POLICIES**

### **Stewardship Policy #1 - Management Plans**

A. Fee Simple Interests. As authorized by Section 2-4 of Title 12 of the Pitkin County Code, the Open Space Board will adopt Management Plans for lands in which a fee simple interest is acquired. Smaller parcels, or those endowed with substantially similar management needs may be grouped into management categories, including, but not limited to back-country inholdings, trail heads, and passive open space. Each plan will formulate a site-specific, balanced stewardship approach to the preservation, improvement, and use of 1) ecologically sensitive land and water resources, 2) wildlife resources, 3) visual resources, 4) cultural resources, 5) recreational and educational resources, 6) access to adjacent public land, and 7) agricultural uses. Interim plans may also be adopted to provide immediate management objectives until a more thorough long term plan can be adequately developed.

B. Trail Corridors. As authorized by Section 2-4 of Title 12 of the Pitkin County Code, the Open Space Board will adopt Management Plans for trail corridors which may include a mixture of fee simple interest and trail easements. Each plan will formulate management goals to harmonize use among various constituents, define the type of trail surface(s), protect adjacent ecological and cultural resources, and promote neighborliness with adjacent private lands as further provided in Stewardship Policy 3, below. Interim plans may also be adopted to provide immediate management objectives until a more thorough long term plan can be adequately developed.

### **Stewardship Policy #2 - Improvements**

A. Trails and Trail Heads; The Open Space and Trails Board has adopted design guidelines for trails and trailhead facilities These guidelines balance initial cost and quality with long-term maintenance expenses and strive for compatibility with other improvements already in place. The sustainability of trail development and use are of utmost concern in the planning and construction of new trails, and in their maintenance and management.

B. Open Space Parcels; Permanent improvements to open space parcels will not but undertaken unless consistent with a duly adopted management plan.

### **Stewardship Policy #3 - Neighborliness**

Being a good steward of the land means being a good neighbor. Every reasonable effort is made to minimize or eliminate the impacts of trespassing, litter, noise, fire hazard, livestock harassment, or other inappropriate behaviors on neighboring land owners.

#### **Stewardship Policy #4 - Retain Agricultural Lands**

It is the policy of the Open Space and Trails Board to cooperate with the county's agricultural community in strategies designed to retain and continue production on the large tracts of farm and ranch lands which provide important open space buffers between the communities of the Roaring Fork and Crystal River valleys. As a corollary policy, the Board also supports the responsible use of public lands for agricultural and ranching purposes.

#### **Stewardship Policy #5 - Public Use**

Public use of properties purchased by the Open Space and Trails Board will vary according to the terms of the purchase and the management plan, and the County Code. Easements may be acquired on private land which prevent future development and preserve open space but do not allow the public physical access to the land. Other properties may be purchased in order to protect essential wildlife habitat or threatened ecosystems. Trail acquisitions and management plans may restrict modes and periods of public use. Public use rules for each property are determined on a case-by-case basis within the context of the management planning process. The Board has recognized that an open space ranger program is necessary to fulfill this policy.

#### **Stewardship Policy #6 - Trail Etiquette/Outreach**

Pitkin County Open Space and Trails promotes Trail Etiquette through public outreach and education. Through the Ranger program the ultimate goal is to achieve safe and harmonious trail use by promoting an ethic of sharing and mutual respect between all users. The Pitkin County Code is the enforcement tool which provides our framework for compliance.

#### **Stewardship Policy #7 - Conservation Easement Amendments**

*(Adopted 8/19/2010)*

##### Amendment Philosophy

The Pitkin County Open Space & Trails program's mission is to acquire, preserve, maintain and manage open space properties for multiple purposes including, but not limited to, recreational, wildlife, agricultural, scenic and access purposes; and to acquire, preserve, develop, maintain and manage trails for similar purposes. When considering any amendment, this mission statement should be compared with the intent of the language in the proposed amendment, in addition to adhering to applicable state and federal laws, and broadly accepted standards and practices for land conservation. Conservation easement amendments are undertaken to improve the clarity, function or

conservation intent of the easement, in order to fulfill our agreement with the original Grantor and our conservation commitment to the community in perpetuity.

### Amendment Principles

When considering an amendment to a conservation easement, careful deliberation should be given to the depth and breadth of legal, conservation and other considerations that may be affected by the amendment. A general framework of principles regarding amendments should include, but are not limited to:

- The amendment should be consistent with the overall purpose of the conservation easement and any specific provision within the Easement addressing Amendments
- The amendment will enhance, or not impair, the resource values conserved
- There are no feasible alternatives available to achieve the desired, and legitimate purpose
- There are no issues regarding private benefit, or any issues that exist could be adequately addressed
- It is consistent with any other written expressions of the original Grantor's intent
- All conservation easement co-holders approve of the amendment
- It is consistent with one of the legitimate circumstances for amendments
- All funder (those land trusts; non-profit organizations; municipalities; federal, state and local governmental agencies; pseudo-governmental agencies and other entities providing funding for a project) requirements are met regarding amendment

### Legitimate Circumstances for Amendments

- I. Prior Agreement – In rare cases, a conservation easement has included a specific provision or an unrecorded agreement or letter allowing modification of the restrictions at a future date under specified conditions. Such agreements must be set forth in the conservation easement document or in a separate document signed by all parties at the time or prior to when the conservation easement was executed. The amendment must be consistent with the terms and conservation intent of the original agreement.
- II. Upgrade Standard Language and Format – The standard language and format of conservation easements are periodically revised to reflect new standard clauses, statutory changes, changes in policy, or to improve enforcement and administration, or enhance the protection of the conservation values of the protected property, or consolidate the legal documents in order to simplify the protection regime. Amendments for any of these purposes will be recommended so long as the changes are consistent with the intent and objectives of the original conservation easement.
- III. Correct an Error or Ambiguity –An amendment may be recommended to correct an obvious error or oversight that was made at the time the conservation easement was entered into. This may include correction of a legal description, inclusion of language that was unintentionally omitted, or clarification of an

ambiguity in the easement in order to avoid litigation over the interpretation of the document in the future.

- IV. Settle Condemnation Proceedings – Pitkin County may recommend a settlement agreement with the condemning authority where it appears that the land to be taken has little or no resource value, is not central to the purpose of the conservation easement and where condemnation power would be properly exercised for a recognized public purpose. If the condemnation proposed is significant, affects valuable resources and is central to the conservation easement, and there is no other better alternative site for the proposed facility, Pitkin County may still recommend a settlement agreement with the condemning authority if the public health, welfare and safety significantly outweighs the conservation resource values, but will do so only with great caution. In reaching such an agreement, the intent of the original conservation easement must be preserved to the greatest possible extent.
- V. Amendments to Leverage Additional Conservation –Pitkin County welcomes amendments to add additional land to a conservation easement. We also welcome the return of reserved rights by landowners.
- VI. Amendments to Reconfigure Conservation Easements – Modifications of reserved rights may be considered, provided that there is clear demonstration that the conservation values of the property are enhanced or determined to be “net-neutral” after the amendment. Similarly, the addition of reserved rights in exchange for additional land conservation may be recommended provided that the above principles and other considerations are substantially met.
- VII. Amendments Consistent with Conservation Purpose – Other amendments of a conservation easement may be recommended where the modification is consistent with the goals of the original conservation project, there is no or only incidental private benefit, the amendment is substantially equivalent to or enhances the resource values protected by the conservation easement and any additional burden on the Stewardship staff is outweighed by the increased conservation value. Requests made under this section will be reviewed carefully.

#### Circumstances for Denial of a Requested Amendment

Granting of an amendment request is at the sole discretion of Pitkin County and its co-grantees, unless such an amendment is specifically enumerated in the easement agreement, or necessary to correct an error. However, the following provides some, but not an exhaustive list, of circumstances under which the County may not consider amending a conservation Easement:

- I. Private inurement to the Grantee
- II. Non-compliance with the Home Rule Charter, CO State Statutes and Federal IRS statutes
- III. Non-compliance with Conflict of Interest policy or other County policies, including the County Land Use Code

- IV. The request can be addressed by another method (letter of interpretation, Correction Deed, etc.)
- V. The request weakens the terms of the conservation easement, or result of the amendment does not enhance or impairs the conservation values.
- VI. The proposed amendment is not acceptable to funding partners or co-grantee.

#### Process

- Request should be submitted in writing. If OST is not lead agency, it should be forwarded to the lead agency. If OST is the lead agency, then it should inform sister agencies that a request for amendment has been received.
- Request is reviewed by staff, including the attorney's office, the Community Development Dept., if appropriate, and any other county staff as appropriate. Staff prepare a written determination on whether the request complies with the principles and specifications of this procedure, including verifying compliance with funder requirements, and conceptual acceptance for consideration by co-grantees, analysis of impacts to the conservation values, the economic benefit to the landowner, compliance with aforementioned applicable laws and policies, and a recommendation from staff.
- Request is taken to OSTB for recommendation
- Partner/funder review and recommendations
- Board of County Commissioners Review and Approval
- Recording of the amended conservation easement deed with the applicable counties' Clerk and Records office

#### Documentation of Implementation of Amendment

In an effort to provide transparency, and provide a written record that due diligence has been completed, documentation of the amendment should be in accordance with County policies and industry best practices.

#### **Stewardship Policy #8 – Planning Development Adjacent Protected Lands.**

The Open Space Board will seek to advise Pitkin County and other relevant land use jurisdictions regarding the impact of proposed development on adjacent Open Space Properties, and may suggest mitigation measures to address those impacts.

#### **ADVOCACY OBJECTIVE**

Through joint planning and acquisition efforts, and through the County's land use approval process, the Open Space and Trails Board actively performs its role as the public's advocate for trails, for the preservation of open space, and for access to public lands and protection of water resources.

## **ADVOCACY POLICIES**

### **Advocacy Policy #1 - Joint Projects**

The Open Space and Trails Board seeks opportunities to cooperate with other local governments, state and federal agencies, and with not-for-profit organizations in projects which meet the Open Space and Trails Program's acquisition criteria and which maximize the potential to acquire, manage, and promote open space and trails. For instance, the Open Space and Trails Program may provide acquisition, capital improvement, or management funds which complement development and management resources provided by another agency. Conveyance or conversion of open space property interests is restricted under the Pitkin County Home Rule Charter.

### **Advocacy Policy #2 - Activism**

The Open Space and Trails Board is charged with representing the public's interest in open space and trails within the context of county government. The Board may act as a referral agency which reviews land use proposals under County jurisdiction and recommends appropriate open space or trail dedication plan elements to the Planning & Zoning Commission and to the County Commissioners. The Board may also make recommendations to the County Commissioners regarding the County's overall position on issues affecting federal land management. The Open Space and Trails Board lends its support to the efforts of other organizations whose goals and actions are consistent with the goals of the Open Space and Trails program.

### **Advocacy Policy #3 - Joint Planning**

The Open Space and Trails Board seeks opportunities to contribute to the formulation of open space and trails plans being prepared for the Pitkin County area by other local agencies and organizations which could contribute to the achievement of the Open Space and Trails program's goals.

## **PERFORMANCE AND EFFICIENCY OBJECTIVE**

The Open Space and Trails Board strives always to protect and husband public resources, foster public objectives, and elicit public trust and confidence through efficient and effective performance.

## **PERFORMANCE AND EFFICIENCY POLICIES**

## **Performance Policy #1 - Staffing**

The Open Space and Trails program will keep administrative costs low by operating the program with the minimum staff required to efficiently achieve the program's objectives. The program will employ, under Pitkin County's regular personnel policies and procedures, a highly motivated and capable professional staff and provide them with the guidance and resources needed to operate responsibly and effectively.

## **Performance Policy #2 - Contracted Services**

When necessary and cost-effective, private sector services will be contracted through open bidding in conformance with County procurement rules and procedures.

## **PUBLIC SUPPORT OBJECTIVE**

The Open Space and Trails Board seeks to build public support for acquisition of open space and trails by encouraging the public's involvement in, access to, and clear understanding of the program's purposes, decisions, and operation.

## **PUBLIC SUPPORT POLICIES**

### **Support Policy #1 - Openness**

The Open Space Program will ensure that our public outreach and review processes are designed to invite and consider public opinion regarding proposed projects funded by OST that will place permanent improvements on open space properties or change the use of open space assets. This public process will occur early enough in the planning so that these opinions can affect the ultimate design of our projects. Routine and ongoing maintenance and administration of OST assets (i.e., weed control, directional or regulation signage, etc.) do not fall under this policy.

The Open Space and Trails Board operates publicly and openly. Board meetings are open to the public and press when such visibility does not compromise a seller's request for confidentiality in the negotiating phase of a purchase or when the program's ability to negotiate a fair price on behalf of the taxpayers is not jeopardized. Executive Sessions may also occur for deliberation in accordance with applicable laws. The Board will make public the final terms of all acquisitions. A public record of the Open Space and Trails Board's meetings, budgets, and plans is available for review on request.

### **Support Policy #2 - Information Distribution**

The Open Space and Trails Board strives to keep the public informed of its activities through the media, speakers, public meetings and workshops, and its own map and other publications. The Board also seeks opportunities to explain the program's open space

and trails acquisition mandate and methods to property owners and real estate professionals.

**Support Policy #3 - Accountability**

The Open Space and Trails Board will report regularly to the Pitkin County Commissioners on its activities. The Board will keep the Pitkin County Commissioners well-informed regarding the status and parameters of acquisition negotiations. The Board will also convene special meetings at least once a year at locations throughout the County to discuss the program's activities and seek guidance for the program's progress.