

## EL PASO COUNTY, TEXAS

### REAL PROPERTY DONATION POLICY AND PROCEDURES

#### I. STATUTORY AUTHORITY

Section 81.032 of the Texas Local Government Code authorizes the El Paso County Commissioners Court to accept donations of real property for the purpose of performing a county function.

#### II. PURPOSE

This policy will provide guidelines to members of the public that would like to donate real property to El Paso County. This policy will identify some of the risks and expenses associated with gifts of real property to the County. This policy will also ensure that real property gifts comply with state law and County policy objectives.

#### III. REQUIREMENTS FOR DONATION

**Real Property Donations will only be accepted where the all of the minimum criteria have been met AND the proposed donation represents an extraordinary value to the county.**

Property must meet the following minimum criteria before it will be considered for donation to the County:

1. The real property must be wholly situated in El Paso County, Texas.
2. The real property must be conveyed to the County as a gift or donation and without additional payment by the County.
3. The donor must be able to execute a General Warranty Deed, Special Warranty Deed, or (in exceptional circumstances) a Deed without Warranty. **Quit-Claim Deeds will not be accepted.**
4. The property must be completely free of all encumbrances (including mortgages or leases). The conveyance must grant fee simple title to the County, without remainders, liens, or other encumbrances of any kind.
5. All taxes must be paid in full and current through the current calendar year. In addition, the donor will be responsible for any taxes that accrue during the donation

period—i.e. that period of time in which the County evaluates the real property for donation and prepares legal documentation and prior to final acceptance by Commissioners Court.

**6.** The property must be free from any conditions, commitments, covenants, restrictions, or liens that would affect the County’s use or enjoyment of the property if the property were accepted.

**7.** Access to the property shall be provided if the County wishes to physically inspect the property.

**8.** The donor shall provide a completed donation request packet which shall include:

- A completed and signed Real Estate Acquisition Data Sheet which will provide an overview of the property and include relevant environmental and financial circumstances;
- A copy of the deed that conveyed title to the donor. If title is not held in fee simple by the donor, in the donor’s personal name, the donor shall provide acceptable documentation of the donor’s authority to convey the property—e.g. corporate resolutions, family trust agreements, partnership agreements, or powers of attorney;
- Any other documents related to legal, financial, or environmental issues associated with the property; and,
- A current tax receipt showing that all taxes are current.

#### **IV. DONATION PROCESURES**

**1.** A member of the public works staff will serve as the point of contact between the County and perspective real property donors. The Director of Public works will designate the Point of Contact and publish the name and contact information for that person on the County website.

**2.** The County Public Works staff will evaluate and provide a recommendation on all real property donation requests and submit the recommendation to Commissioners Court for disposition.

**3.** Parties interested in donating real property should contact the Point of Contact designated by the Director of Public Works. The Point of Contact will provide perspective donors a Real Estate Acquisition Data Sheet.

**4.** To be considered, the real property must meet, at a minimum, the criteria listed above.

5. Upon receipt of a complete Donation Request Packet, the Public Works Director, or his designee, will evaluate the property to be donated.

6. If the Public Works Director, or his designee, determines that the perspective donation is of extraordinary potential use and value to the County, a County representative will physically inspect the property and report its condition to the Director or Assistant Director of Public Works. Upon request, the perspective donor shall make reasonable arrangements for a physical inspection.

7. Once the Public Works Director has made a decision, the Public Works Point of Contact will notify the potential donor of the decision, in writing. If the Public Works Director determines that the County should not accept the donation, the Public Works Director will inform Commissioners Court by placing an item on the Commissioners Court "Consent Agenda."

8. If the Director of Public Works has made a decision in favor of accepting the gift, he will inform the County Attorney's Office and provide all relevant information concerning the property. Upon request, the County Attorney will assign an Assistant County Attorney to prepare the transfer paperwork.

9. The County Director of Public Works, or his designee, will place the donation on the Commissioners Court agenda to approve acceptance of the donation and to authorize the County Judge to sign the acceptance of the transfer.

10. The paperwork will be submitted to the donor to file with the County Clerk. The donation is not final until it has been signed by the donor and the County judge, and the donor has filed it with the County Clerk. The donor will be responsible for any filing fees charged by the clerk.

## **V. ACCEPTANCE OF LEGAL RISK, TAX RISK, AND OTHER CONSEQUENCES BY DONOR**

1. Donations of real property may have significant legal and tax consequences for donors of such property. Each perspective donor will be required to acknowledge that: 1) the donor has not relied on any information provided by El Paso County, its officers, employees, or agents with respect to any tax or other legal issue related to the donation; and, 2) that the donor understands that the donor has been provided notice of the donor's right to consult with competent tax or legal counsel, at the donor's expense, prior to the execution of any documentation or finalization of the transfer.

2. No County representative may make any representation to a donor with respect to tax or other legal issues.

3. If questions arise with regard to the interpretation of these guidelines or the possible modification of the procedures as described, the Public Works Department shall consult with the County Attorney or her designee to obtain approval as to the legal form of the transaction. The County Attorney will not provide legal advice of any nature to prospective donors.

**Attachment 1**

**EI PASO COUNTY  
REAL ESTATE ACQUISITION DATA SHEET  
FOR GIFTS OF REAL ESTATE**

To assist El Paso County in determining the potential benefit of proposed donations of real property, prospective donors shall provide the information requested below and sign in the space provided. Please use additional sheet(s) if additional space is required for any response(s). **NOTE: El Paso County will only accept donations that meet all minimum criteria AND represent an extraordinary value to the County.**

**A. GENERAL PROPERTY INFORMATION**

Name of

Donor(s): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

1. Legal Description of Property, Geographic/Property ID #s:

2. Number of parcels and acreage:

3. List any covenants or zoning requirements associated with this property (list any zoning restrictions):

4. List improvements (type of building(s), condition, type and date of construction):

5. Utilities:

\_\_\_\_\_ Water service (List name of Provider \_\_\_\_\_)

\_\_\_\_\_ Sewer service (List name of Provider \_\_\_\_\_)

\_\_\_\_\_ Registered Septic System (Provide copy of registration)

\_\_\_\_\_ Electrical Power

\_\_\_\_\_ Telephone

6. Date of last appraisal (attach copy):

7. Are there any unpaid taxes/attachments on the property? (If yes, please describe), provide copy of current tax status:

8. Is the property subject to a mortgage? If yes, please list: the current mortgage holder, the current balance, and the loan origination date for each mortgage (including 2<sup>nd</sup> and 3<sup>rd</sup> lien-holders).

9. Current yearly operating expenses are:

Property Taxes \$ \_\_\_\_\_

Insurance \$ \_\_\_\_\_

Utilities \$ \_\_\_\_\_

Homeowner/

Association Fees \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

## **B. LEGAL STATUS OF PROPERTY**

1. Has the property recently been offered for sale? \_\_\_\_\_. If yes, how long has it been on the market? \_\_\_\_\_.
2. Any type of easements located on the property. If yes, please list:
3. Potential or pending legal actions or claims:

## **C. ENVIRONMENTAL CONDITIONS**

1. Has the property known or suspected to have been used as a dumping site, either legally or illegally, for disposal of solid or chemical waste? \_\_\_\_\_. If yes, explain:
2. Any evidence or suspicion of asbestos-containing material or lead paint in the building(s)? \_\_\_\_\_. If Yes, please describe:
3. Are you aware of any known or suspected above ground or underground storage tanks on or near the property including fuel oil, heating oil, or gasoline? \_\_\_\_\_. If yes, please describe including distance from property:

- 4. Other structures and/or improvements on property:
  
- 5. Are there any of the following: washes, arroyos, gorges, caves, wells, canals/ditches, or other natural or man-made hazards:

**D. DONOR CERTIFICATION**

I/We certify that the information provided in the Real Estate Acquisition Data Sheet is true and correct to the best of my(our) knowledge. I/We further acknowledge that I/we have not relied on any information (written or verbal) provided by El Paso County, its officers, employees or agents with respect to any taxation or other legal issues with respect to this donation and that I/we understand and acknowledge that I/we have been given notice of our right to consult competent tax and/or legal counsel and encouraged to seek such advice or consultation prior to execution of any documents or any actions with respect to the donation of the subject real property to El Paso County. **I/we understand that I/we will be responsible for all taxes which are due, or become due, prior to or during the donation process.**

\_\_\_\_\_  
Donor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Donor

\_\_\_\_\_  
Date

**Please return the completed form along with a copy of the Deed and other pertinent information to:**

**Public Works Department  
800 E. Overland, Suite 407  
El Paso, Texas 79901.**

Thank you for your assistance in helping us assess your generous donation offer.