



REAL PROPERTY DONATION POLICY & PROCEDURES

**ADOPTED APRIL 14, 2014
AMENDED NOVEMBER 8, 2021**

REAL PROPERTY DONATION POLICY & PROCEDURES

The El Paso County Commissioners Court is authorized under Section 81.032 of the Texas Local Government Code to accept donations of real property for the purpose of performing a County function. This policy provides a process for parties interested in donating real property to the County of El Paso. The Executive Director of Public Works shall designate a staff member to serve as the Point of Contact (POC) between the County and perspective real property donors. Parties interested in donating real property should contact the POC designated by the Executive Director. The POC shall provide perspective donors a Real Estate Acquisition Data sheet to begin the process identified below. The contact information for this individual shall be published on the County website in addition to being listed below:

Designated Point of Contact: Jorge A. Morales, GIS Planning Manager
Department of Planning & Development
County of El Paso Public Works
(915) 546-2015 | Planning@EPCounty.com

I. MINIMUM CRITERIA FOR CONSIDERATION

- A. Real property must be wholly situated in El Paso County, Texas;
- B. Real property must be conveyed to the County as a gift or donation and without additional payment by the County;
- C. Donor must be able to execute a General Warranty Deed, Special Warranty Deed or, in exceptional circumstances, a Deed without Warranty (*Quit-Claim Deeds not Accepted*). This means the property must be in the donor's name; the donor must have a power of attorney that empowers the donor to execute the donation in the principal's name; or the donor must have letters testamentary or other satisfactory probate document showing the donor's authority to donate the property on behalf of a deceased person or the deceased person's estate. The County will not draft these documents for the donor or the donor's agent.
- D. Real property must be completely free from 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.
- E. 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.
- F. Real 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.
- G. Access to the property shall be provided if the County wishes to physically inspect the property.

II. REQUIREMENTS FOR DONATION

- A. Real property donations will only be accepted where the all of the minimum criteria, as described in Section I of this policy, have been met. The proposed donation should also represent an extraordinary value to the County, including, but not limited to:

- i. A property of three or more acres, or combined properties that add to at least three acres in size coterminous to one another; and
 - ii. A property of at least half an acre in size, or combined, contiguous properties that add to at least a half-acre in size coterminous to one another that are located within the extraterritorial jurisdiction of City of El Paso; and
- B. The donor shall provide a completed donation request packet which shall include:
- i. A completed and signed Real Estate Acquisition Data Sheet which will provide an overview of the property and include relevant environmental and financial circumstances;
 - ii. 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, letters testamentary or powers of attorney;
 - iii. Any other documents related to legal, financial, or environmental issues associated with the property; and,
 - iv. A current tax receipt showing that all taxes are current.
 - v. The County may (and likely will) reject donations offers that are not accompanied by paperwork showing the donor's authority to donate the property in fee simple by General Warranty Deed or Special Warranty Deed as outlined in (b)(ii). Quit-claim deeds will not be accepted.

III. DONATION PROCEDURES

- A. Upon receipt of a complete Donation Request Packet, and if the real property meets the minimum criteria described in Section I of this policy, the property shall be evaluated to determine if the prospective donation is of extraordinary potential use and value to the County.
- i. If it is determined *not* to have value to the County, the prospective property owner shall be notified by the POC of the determination;
 - ii. If it is determined to have extraordinary value and use to the County, the County POC will physically inspect the property (upon request, the perspective donor shall make reasonable arrangements for a physical inspection) and report its condition to Public Works Administration, including Facilities Management, Infrastructure Services, Parks & Recreation and Planning & Development, for feedback and commentary related to the property, ultimately facilitating the development of a collective recommendation for acceptance or denial of the property donation to the Executive Director of Public Works. The POC will also investigate the potential donor's legal authority to donate the property;
- B. Once the Executive Director of Public Works Director has made a determination based on the recommendation, the POC shall notify the potential donor of the decision, in writing and/or email notice, including the scheduled date of the Commissioners Court meeting related to action on the prospective donation.
- i. If the Executive Director determines the County should not accept the donation, the Commissioners Court shall be notified of the process and decision by placing

an item on the Commissioner Court “Consent Agenda.” The prospective donor may appeal the decision to the Commissioners Court at this time.

- ii. If the Executive Director determines the County should accept the donation, the Commissioners Court shall be notified of the determination through a “Consent Agenda” item requesting approval and acceptance of the real property donation based on the recommendation of the Public Works Department.
 - iii. Prior to placing an item on the Commissioners Court agenda related to accepting a real property donation, the POC shall conduct a title search on the property, at the cost of the County, to verify ownership of the prospective donation and the donor’s authority to lawfully donate the property in fee simple, as described above.
- C. If the Commissioners Court authorizes Public Works to move forward with the real property donation, the Public Works POC shall request that the Office of the El Paso County Attorney assign an Assistant County Attorney to prepare all necessary transfer paperwork, forms and records. Once the supporting documentation has been developed, the assigned Assistant County Attorney will notify the POC.
- D. Upon receiving notice from the assigned Assistant County Attorney, the POC shall place an item on the Commissioners Court “Consent Agenda” authorizing the County Judge to sign all the prepared transfer documents, forms and records as required by law. The prospective donor shall be notified in writing or email of the scheduled agenda item.
- E. The finalized required documents will be submitted to the donor to file with the Office of the El Paso County Clerk (including payment of the applicable filing fees authorized for collection by the Clerk). To finalize the donation, the documents must be:
- i. Signed by both the donor and the County Judge;
 - ii. Filed with the County Clerk by the Donor

IV. ACCEPTANCE OF LEGAL RISK, TAX RISK & OTHER CONSEQUENCES BY DONOR

- A. 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:
- i. The donor has not relied on any information provided by El Paso County, its officers, employees, attorneys or agents with respect to any tax or other legal issue related to the donation; and,
 - ii. 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.
- B. No County representative may make any representation to a donor with respect to tax or other legal issues.
- C. 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 Office of the El Paso County Attorney to obtain approval as to the legal form of the transaction. Legal advice will not be provided to prospective donors by any agent of the County of El Paso.



ATTACHMENT 1

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

To assist the County of El Paso 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: The County of El Paso 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 Numbers

2. Number of Parcels & Acreage

3. List Any Covenants, Zoning Requirements or Plat Requirements Associated with Property

4. List Improvements (Type of Building(s), Condition, Type and Date of Construction)

5. Existing Utility Connections:

- a. ___ Water Service (List Provider: _____)
- b. ___ Sewer Service (List Provider: _____)
- c. ___ Registered Septic System (Provide Copy of Registration)
- d. ___ Natural Gas Service
- e. ___ Electrical Service
- f. ___ Phone Service

6. Date of Last Appraisal (Attach Copy):

7. Are there Unpaid Taxes/Attachments on Property? (If Yes, Please Describe Below)

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 2nd and 3rd lien-holders).

9. Current Operating Expenses Are:

- a. Property Taxes: \$ _____
- b. Insurance: \$ _____
- c. Utilities \$ _____
- d. Homeowner Association Fees \$ _____
- e. Other (Please Specify) \$ _____

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:

4. Is the property subject to probate?

5. Is the donor the title holder of record? If not, does the donor have legal documentation showing donor's legal authority to donate the property? Please describe and include these attachments.

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. 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 the County of El Paso, 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 I-Printed Name

Date

Donor I-Signature

Donor II-Printed Name

Date

Donor II-Signature

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

County of El Paso Public Works
ATTN: Jorge A. Morales, GIS Manager
800 East Overland Avenue, Suite 200
El Paso, Texas 79901

To expedite the processing of the request, the completed forms and supporting documents may be scanned in color and sent via email to the following address:

Jorge A. Morales, GIS Manager: Planning@EPCounty.com

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