



**VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION № 2018- 60**

PROCEDURE FOR ACCEPTING DONATIONS OF REAL PROPERTY

RECITALS

WHEREAS, pursuant to NMSA 1978 Section 4-38-1 (1884) the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and,

WHEREAS, NMSA 1978, Section 4-38-13 (1953) provides that board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, Article 10 Section 14 of the New Mexico Constitution, referred to as the anti-donation clause, which provides “[n]either the state, nor any county, school district, or municipality ... shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association, or public or private corporation”; and,

WHEREAS, the ownership of real property and the management of such real property has the potential of imposing unacceptable risks and liabilities on the County of Valencia if the property is remote, contains environmental hazards or has a clouded chain of title; and,

WHEREAS, the Board of County Commissioners of Valencia County has determined that it is in the best interest of the County to adopt a resolution that embodies the policies and procedures to be employed by the County regarding the acceptance of gifts of real property in order to safeguard the County against accepting gifts of real property that are difficult to sell or are encumbered with defects that could put the County at risk once it is in the chain of title; and,

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners that the following procedure for accepting donations of real property is hereby adopted:

POLICY

SECTION I. GENERAL.

Valencia County shall consider accepting title to real property as a gift if the donated real property can be sold to realize its cash value, if it can be held for future sale or if the property is located in an area where the real property may be used to meet the operational needs of County Government.

SECTION II. PROCEDURE TO ACCEPT REAL PROPERTY.

(A) Step 1. Establishing County Interest:

The process of establishing Valencia County interest in accepting a gift of real estate shall begin once the following information is provided to the Valencia County Manager:

1. The name, address, telephone number, e-mail address and signature of the proposed donor submitted on the Application & Checklist for Accepting Property Donations.
2. A statement of the reasons for the donor's desire to make the gift.
3. A general description of the property including the exact location, any structures (above and below ground), past uses of the property, location characteristics and pictures.
4. Proof of donor's ownership of the property in the form of a copy of the donor's deed to the real property. If the owner of record of the real property is deceased a copy of the Court's Appointment of the donor/applicant as Personal Representative/ Executor of the estate will be required.
5. A statement as to whether the contribution is of the donor's complete or partial interest in the property. Valencia County will not accept as a gift a partial, fractional or minority interest in real property.
6. A list of any personal property to be included with the gift.
7. Copies of current real estate tax bills and special assessment bills.
8. Applicant will be required to satisfy the tax debt on the real property. NMSA 1978 Section 7-38-37(1973) provides that taxes owed remain the personal obligation of the owner even after the owner sells or donated the property.

(B) Step 2. Review By County Departments

If based on the information obtained in Step 1 it is determined by the County Manager that the County will not benefit from the real property the County Manager shall inform the donor, in writing, that the County rejects the donation.

If the County Manager determines, based on the information obtained in Step 1 that the County may potentially benefit from this donation of real property, the following additional steps will be followed by County Departments before the donation is presented to the Board of County Commissioners:

1. A recent legal description and survey of the property showing any easements and right-of-ways, an up to date appraisal report, and a chain of title report, if necessary, will be provided by the Assessor's Office.
2. A ten-year tax search will be provided by the Treasurer's Office.
3. Site inspection for potential environmental hazards by Code Enforcement Department.
4. A community development potential review by the Planning and Zoning Department.
5. A health and safety risk and hazard evaluation by the Emergency Services Department.
6. A road review evaluation performed by the Public Works Department
7. The County Manager reserves the right to request additional information from the donor as determined necessary for the Administrative Review.

(C) Step 3. Administrative Review & Initial Acceptance

If after review, the County Manager finds that accepting the property would be in the County's best interest, the County Manager may, in his/her discretion, accept the real property on behalf of the Board of County Commissioners. U

(D) Step 4. Report

1. Within 10 days of initial acceptance by the County Manager, the Manager shall prepare a written report detailing why accepting the property was be in the County's best interest. The County Manager shall explain why the real property is either be beneficial for County Government use or why the real property can be sold for its cash value either currently or in the future (including to be held for possible bundling with other properties for future sales).
2. Any member of the Board may, within 10 days of receiving the report, request that a donation be considered by the entire Board at the duly published meeting. In such case the Manager will not file the final received deed until further direction is given by the Board.

3. Upon the expiration of the 10 day review time detailed in Section (D)(2) above or acceptance by the Board the donation shall proceed to final acceptance.

SECTION III. FINAL ACCEPTANCE

- (A) If County Manager or the Board accepts property the donor must transfer the real property, by Warranty Deed or Personnel Representative's Deed, to the County of Valencia within 90 days of the vote or the acceptance will be considered null and void. Valencia County will not accept a Quit Claim Deed.
- (B) The donor is required to submit a \$25.00 filing fee, checks or other instruments shall be made payable to the Valencia County Clerk, with the executed final deed.
- (C) If the County Manager or the Board elects not to accept the donation the County Manager shall inform the donor, in writing, that the County rejects the donation.
- (D) The donor is subject to and required to pay the taxes for the current year in which the transfer was completed. County of Valencia will be responsible for the taxes for subsequent years.
- (E) No real property shall be considered accepted or owned by the County of Valencia unless it is formally accepted pursuant to this resolution or by other formal acceptance by the Board of County Commissioners.

SECTION IV. APPEAL

Upon the receipt of a letter of denial a potential donor may request the denial to be re-considered at a regular meeting of the Board of County Commissioners.

BE IT FURTHER RESOLVED, that Resolution 2017-45 is repealed with the adoption of this instrument.

APPROVED, ADOPTED, AND PASSED on this 16th day of November, 2018

BOARD OF COUNTY COMMISSIONERS



Jhonathan Aragon, Chair
District V



Charles D. Eaton, Vice-Chair
District IV



Helen Y. Cole, Commissioner
District I



David Carlberg, Commissioner
District II



David A. Hyder, Commissioner
District II



Peggy Carabajal, County Clerk