



Colfax County
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Resolution #2021-37

Procedure for Accepting Donation of Real Property

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, 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 Colfax if the property is remote, contains environmental hazards or has a clouded chain of title; and

WHEREAS, the Board of County Commissioners of Colfax County has determined that it is in the best interest of the County to adopt a resolution which 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 which 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:

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Policy

SECTION I. GENERAL

Colfax County shall consider accepting title to real property as a gift if the donated real property can be sold to ascertain its cash value for the County 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 Colfax County interest in accepting a gift or real estate shall begin once the following information is provided to the Colfax County Manager or said manager's designee:

1. The name, address, telephone number, email 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. Colfax 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 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, 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 rights-of-way, an up-to-date appraisal report, and a chain of title report, if necessary, will be provided by the Assessor's Office.
2. A five-year tax search will be provided by the Treasurer's Office.
3. Site inspection for potential environmental hazards by the County Manager or said manager's designee.
4. A community development potential review by the County Manager or said manager's designee.
5. A health and safety risk and hazard evaluation by the Emergency Manager or County Fire Marshal.
6. A road review evaluation performed by the Road 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

If after review, the County Manager finds that accepting the property would be in the County's best interest, the County Manager shall recommend approval and submit a request for the item to be presented to the Board of County Commissioners at a Regular County Commission Meeting.

(D) Step 4. Final Acceptance

The County Manager will detail to the Board of County Commissioners why accepting the property would be in the County's best interest. The County Manager shall explain why the real property will either be beneficial for County Government use or why the real property can easily be sold for its cash value as well as plan for the real property. After receiving the County Manager's recommendation to accept the real property the Board of County Commissioners may, as its sole discretion, vote to accept the real property.

SECTION III. FINAL ACCEPTANCE

If the Board votes to accept the property the donor must transfer the real property, by Warranty Deed, to the County of Colfax within 60 days of the vote or the acceptance will be considered null and void. Colfax County will not accept a Quit Claim Deed. If the Board votes not to accept the donation the County Manager shall inform the donor, in writing, the County rejects the donation.

The donor is subject to and required to pay the taxes for the current year in which the transfer was completed. County of Colfax will be responsible for the taxes for subsequent years.

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, Resolution 2021-37 replaces any previous Resolutions pertaining to Accepting of Donation of Real Property by Colfax County with the adoption of this instrument.

APPROVED, ADOPTED, AND PASSED on this 13th day of September, 2021.



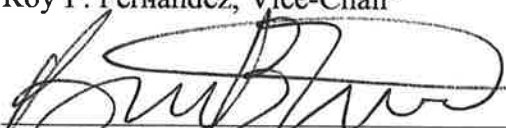
BOARD OF COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO



Bobby LeDoux, Chairman



Roy P. Fernandez, Vice-Chair



Bret E. Wier, Member

ATTESTED:



Clerk of the Board