41.01  Real Property

Policy Statement

The Board of Regents (board) of The Texas A&M University System (system) shall have the sole and exclusive management and control of all real property and real property interests. All real property, including leasehold and mineral interests, shall be held in the name of the board.

Reason for Policy

This policy governs the acquisition, disposal, management, and leasing of real property.

Procedures and Responsibilities

1. GENERAL PROVISIONS

1.1 Delegation of Authority. Except as otherwise provided in this policy, the board delegates to the chancellor authority to manage and maintain all system real property owned or controlled by the board. The chancellor is granted authority to execute and deliver, on behalf of the board, all contracts, agreements, closing documents, deeds, assignments, leases, easements, permits, licenses, listing agreements, division orders and all other documents necessary to carry out the powers granted to the chancellor by this policy, and to perform other specific real property transactions authorized by the board.

Any authority delegated to the chancellor in this policy may be further delegated by the chancellor in writing.

1.2 Responsibility for Care, Maintenance and Safekeeping. The chancellor is responsible for ensuring the care, maintenance, and safekeeping of all system real property. The chancellor may delegate these responsibilities to system member chief executive officers (CEOs) or an employee or department of the system member. Any such delegations must be in writing.

1.3 Regulations. The chancellor shall establish regulations implementing this policy.
2. ACQUISITION OF REAL PROPERTY

2.1 Except as provided in Section 2.2, all acquisitions of real property, including through the power of eminent domain under Section 85.32 of the Texas Education Code, must be approved by the board.

2.2 Following a due diligence review by the System Real Estate Office (SREO), gifts and bequests of real property, including mineral interests, may be accepted by a system member CEO on behalf of the board in accordance with System Policy 21.05, Gifts, Donations, Grants and Endowments, and this policy. Unless waived by the Office of General Counsel (OGC), the due diligence review must include an environmental site assessment, a survey, an examination of title, and a property condition inspection, and an owner’s policy of title insurance covering the real property gift or bequest must be obtained in an amount determined by the SREO.

3. DISPOSITION OF REAL PROPERTY

All dispositions of fee title to system real property must be approved by the board.

4. LEASE OF REAL PROPERTY

4.1 All leases of system real property to third parties having a term that exceeds five (5) years must be approved by the board. Renewal periods that may be exercised in the sole discretion of the third-party tenant shall be included in computing the term of the lease.

4.2 All leases of real property from third parties for the benefit of the system or a system member must be approved by the board if either:

(a) the term of the lease, including renewal periods, exceeds ten (10) years; or

(b) the total consideration payable by the system or system member for the term of the lease, including renewal periods, exceeds $300,000.

The term “total consideration” shall mean all rent, tenant improvement costs, and other expenses payable by the system or a system member, the amounts of which can be determined at the inception of the lease term, including base rent, security deposits, and common area maintenance and other charges, but excluding the costs of insurance, taxes, and maintenance under a “triple net” lease and rent escalations, unless the amount of those costs and/or rent escalations can be determined at the inception of the lease.

5. MINERAL LEASES

5.1 Process. System real property may be leased for oil, gas, sulphur, mineral ore, and other mineral development by public auction, sealed bid, or negotiated agreement.

5.2 Delegation. The board delegates to the chancellor authority to approve mineral leases having:
(a) a primary term of three (3) years or less;
(b) a royalty of at least 25%; and
(c) a drilling requirement during the primary term, as well as those mineral leases in which the board does not own or control the executive rights.

All other mineral leases must be approved by the board.

6. EASEMENTS

6.1 Granting of Easements. The board must approve easements on system real property granted for highway or roadway purposes having an indefinite term. The chancellor shall have authority to approve all other easements over, across or under system real property, provided that the term of the easement does not exceed ten (10) years. The chancellor shall periodically publish a schedule of fees to be charged for easements across system real property. The chancellor shall have the right, in the public interest, to waive fees for easements granted to governmental entities. Easements on system real property may not exceed ten (10) years, except those granted for highway or roadway purposes, which may be indefinite.

6.2 Easements from Third Parties. The board must approve easements over, across or under real property owned by third parties and benefiting the system or a system member if the consideration payable to the third party exceeds $300,000.

6.3 Conservation Easements. Neither the system nor a system member shall be the holder of a conservation easement as defined in Section 183.001 of the Texas Natural Resources Code without first obtaining approval of the board.

7. APPRAISALS

Acquisitions of title to real property must be supported by current appraisal reports in accordance with the rules of the Texas Higher Education Coordinating Board. All transfers of fee title to system real property must be supported by an appraisal prepared in accordance with regulations promulgated by the chancellor.

8. INCOME FROM SYSTEM REAL PROPERTY

8.1 Revenues from System Real Property Acquired Other Than by Gift or Bequest. Unless otherwise directed by the board, by law, or by an intrasystem agreement between or among system members, and except as set forth in Sections 8.2 and 8.3, all sale proceeds, rents, fees, and other income from the sale, lease or use of system real property, and all surface damages paid by mineral lessees (other than damages to crops or other property of a tenant) shall be credited to the account of the system member to which the property has been assigned.

8.2 Revenues from System Real Property Acquired by Gift or Bequest. Unless otherwise directed by the donor, all sale proceeds, rents, fees, royalties, bonuses, damage recoveries, and other income from the sale, lease or use of system real property or
mineral interests acquired by gift or bequest, shall be credited to the account of the
system member designated as the donee of the gift or bequest; provided that, if the
board or the system is designated as the donee, the board shall determine the disposition
of all revenues.

8.3 Mineral Revenues from State Land. In accordance with Section 85.70 of the Texas
Education Code:

8.3.1 Except as provided in Section 8.3.2, all income received from mineral leases on
system real property that was acquired by any means other than gift or bequest
will be deposited into The Texas A&M University System Special Mineral
Investment Fund. Income from this fund shall be deposited to the credit of The
Texas A&M University System Special Mineral Income Fund, and is
appropriated by the legislature exclusively for the system and expended under
the direction of the board for the general use of any member of the system.

8.3.2 All income received from mineral leases on system real property that was
acquired for the use of Texas A&M University-Kingsville and its divisions will
be deposited into the Texas A&M University-Kingsville Special Mineral
Investment Fund to be used exclusively for Texas A&M University-Kingsville
and its branches and divisions.

9. PRIVATIZED HOUSING

9.1 All legal obligations regarding privatization of on-campus housing facilities by third
parties which are to be considered by the board must first be reviewed by the OGC for
legal sufficiency, and must include, at a minimum, the following terms and conditions:

(a) a term not to exceed forty (40) years;
(b) consideration in the form of a flat rate and/or a sharing of net profits and/or other
definable benefits to the system or system member;
(c) reservation of the right to review and approve all construction plans and
specifications, including changes;
(d) adequate insurance and appropriate indemnification;
(e) reservation of the right to purchase all leasehold and/or fee interests in the land
and improvements for fair market value at any time during the term of the lease;
(f) reservation of the right to review the third party’s financial statements and to
approve terms and conditions of the third party’s financing and any subsequent
refinancing; and

(g) any commitments, contingencies or other obligations of the system or a system
member must be subordinate to system indebtedness under the Master Resolution
Indenture.

9.2 Upon recommendation from a system member CEO, the chancellor, or designee, will
determine the feasibility of privatization on a case-by-case basis; and if a determination
is made to proceed, the chancellor, or designee, will initiate a request for proposals,
evaluate responses, select the successful respondent, and negotiate an agreement subject to approval of the board.

**Related Statutes, Policies, or Requirements**

Texas Education Code § 85.25

Texas Education Code § 85.26

Texas Education Code § 85.32

Texas Education Code § 85.51

Texas Natural Resources Code § 183.001

19 Tex. Admin. Code, Chapter 17

System Policy 21.05, Gifts, Donations, Grants and Endowments

This new System Policy supersedes:

System Policy 41.01, Real Property Gift and Bequest Acceptance
System Policy 41.02, Real Property Purchase
System Policy 41.03, Real Property Condemnation
System Policy 41.04, Real Property Classification
System Policy 41.05, Real Property Management Policy
System Policy 41.06, Mineral Lease Property
System Policy 41.07, Real Property Disposition
System Policy 41.08, Administration of Real Estate Office
System Policy 41.09, Privatization of On-Campus Housing Facilities by Third Parties

**Contact Office**

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