

Orleans Conservation Trust Land Transaction Policy
Adopted 7/28/20, Amended 9/1/20, Amended 1/30/2024

The purpose of this policy is to establish procedures for Orleans Conservation Trust (OCT) land transactions. It is the responsibility of the OCT Board of Trustees to approve all land transactions affecting the organization. These transactions include (1) the acquisition of fee ownership of lands and interests in land (i.e., conservation restrictions) by donation or purchase, (2) the perpetual protection of lands that are appropriate for OCT's permanent ownership, and (3) in limited cases, the resale of land that is not appropriate for such permanent ownership.

In any land transaction, the Board of Trustees shall not financially overburden OCT, jeopardize its non-profit status, assume excessive legal risk, incur unsustainable stewardship obligations, or approve a transaction that does not further the conservation purposes of OCT. The Board shall also attempt to raise funds that will cover the costs of future land stewardship efforts on the property.

For donations of land, OCT shall attempt to secure a written statement of the donor's wishes and in turn shall communicate OCT's intentions regarding future ownership and use of the property to the donor. OCT shall also take into account any written intentions regarding future ownership and use of land or interests in land sold to OCT.

Acquisition and Perpetual Protection of Lands

Upon recommendation of the Land Acquisition Committee that the acquisition of a property or a conservation restriction (CR) by donation or purchase is desirable and will further the conservation purposes of OCT, the Board shall vote on whether to add the land or the CR to OCT's conservation portfolio.

If OCT acquires fee ownership of land which is not already protected by a CR held by another organization (a CR is required for publicly funded acquisitions), OCT shall establish one of the following overlay protections to ensure perpetual conservation use of the property. OCT may grant a CR to a suitable organization that is willing to hold the CR. Alternatively, OCT may work with the Compact of Cape Cod Conservation Trusts or another suitable organization to establish a charitable trust on the property.¹

¹ A property is deeded from OCT to the Compact and then back to OCT with a charitable trust provision added, stating that the land shall be "kept in an open and natural condition exclusively for conservation purposes forever". Such a provision affords protection of the property by the Massachusetts Attorney General and the Compact, which also has legal standing to take OCT to court if OCT attempted to use its lands for non-conservation purposes.

Acquisition and Disposition of Non-Permanent Holdings

Perpetual ownership is not necessarily a requirement for land that OCT acquires in fee. If OCT acquires a property that, in its opinion, does not have significant conservation value and whose preservation does not further the mission of the organization, OCT may sell or otherwise dispose of all or part of the property.

For example, a donor may gift a property to OCT with the intent that the property will be sold to generate income that will further OCT's mission. Alternatively, if a property is donated to OCT without any conditions or stipulations on its use and no expression of intent from the donor, and the property lacks significant conservation value, OCT may sell the property if it employs the following procedures:

- OCT shall attempt to obtain a written acknowledgment from the donor of OCT's intent to sell the property prior to accepting the donation of land.
- If such a property comes to OCT through a donor's will, trust or estate with no direction or intent provided, and OCT does not desire to own the property permanently, OCT shall attempt to obtain an acknowledgment of OCT's intent to sell the land from the executor of the donor's estate or the trustee, as applicable.
- OCT shall consider putting in place a CR that preserves the conservation values of some or all of that property.
- The proceeds of any such sale shall be used to further the conservation interests of OCT as determined by the Board of Trustees.

In addition, OCT may acquire property and determine before or after its acquisition that a portion of the property does not have significant conservation value (or such portion has some conservation value but such value is not sufficient to warrant its retention in comparison with the alternative of disposition) and its retention will not materially further the mission of the organization. In this event, OCT may sell that portion of the property and use the proceeds to further the mission of the organization. An example of these circumstances would be OCT's acquisition of a property that includes a developed portion and OCT's determination that it would not benefit by retaining the developed portion and the mission of the organization would be best advanced by selling the developed portion. Under these circumstances, OCT may sell the developed portion and the amount of surrounding land that OCT determines is appropriate to serve the developed portion.

OCT may also transfer (by sale or donation) land or interests in land to another conservation organization if OCT determines that organization is equally or better equipped to protect the conservation values of the land and the organization is willing to accept the land, provided that such a transfer is made in accordance with the Powers of Trustees outlined in the Declaration of Trust, dated 18 April 1970, as amended.