

Orleans Conservation Trust

Conflict of Interest Policy

Adopted 1/21/2020

Orleans Conservation Trust (“OCT” or the “Trust”) Standards and Practices

Background

OCT is registered as a nonprofit charitable organization with the Massachusetts Secretary of the Commonwealth. OCT is also qualified as a charitable organization under section 501(c)(3) of the Internal Revenue Code.

Dealing with Conflicts of Interest: OCT has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The OCT conflict of interest policy applies to insiders (see definitions), including OCT’s Board of Trustees (the “**OCT Board**”) and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.

Purpose of Policy

The purpose of this policy is to protect the integrity of the decision making process of OCT when persons in a position to influence a decision have a private interest in the outcome of the decision. It is essential for the ethical operation of the Trust and the protection of public confidence that the Trust does not offer special treatment to any person because of that person’s relationship with the Trust. The policy has two sections:

1. Obligations of persons who have a duty of loyalty to the Trust when they have a potential conflict of interest in regard to a decision for which they are responsible; and
2. Obligations of the Trust when a proposed action has the potential to benefit a person whose relationship with the Trust creates the possibility, whether real or perceived, of undue influence over the decision.

A. General Principle of Public Benefit of All Activities

As a public charity as defined in IRS Regulation 501(c)(3), OCT is required to ensure that its actions benefit the general public. It is not permissible to take any action *primarily* for the purpose of conferring a private benefit on an individual. A private benefit is allowed if it is *incidental* to the primary purpose of the action, and if the primary purpose *cannot reasonably be*

achieved without conferring the private benefit. It is the duty of the OCT Board to ensure that all activities of the organization meet the public benefit test and advance the mission of the Trust¹.

B. Duty of Care and Loyalty – Conflicts of Interest

Trustees of nonprofit charitable organizations in Massachusetts are subject to two primary duties: the duty of care, and the duty of loyalty. The **duty of care** means that OCT Trustees must act with such care as an ordinarily prudent person would employ in your position. The **duty of loyalty** means that OCT Trustees must act in good faith and in a manner that you reasonably believe is in the best interest of the organization².

C. Obligations of Individuals Who Have a Duty of Loyalty to the Trust

1. Covered Persons

Persons who have a duty of loyalty to the Trust include members of the OCT Board, OCT Officers, and the OCT staff. Also included are members of committees or advisory groups that have the authority to make decisions for the Trust or recommendations to the OCT Board regarding specific actions. Individuals in this group are described as “**covered persons**” in this policy.

2. Definition of Conflict of Interest

Covered persons may have a conflict of interest when they have:

- a private interest, financial or otherwise, in a transaction or project under consideration by the OCT Board or a committee of the OCT Board;
- or when they propose to act on any issue, matter, or transaction in which the Trust has an interest, and in which they may have an interest separate from that of the Trust.

The private interest may be a direct benefit to the covered person, or an indirect benefit through another party to whom the covered person has a family, business or other affiliation³.

¹ For example, while fundraising is an essential activity for achieving the mission, it is not one of the charitable purposes of the organization. The organization is not permitted to subordinate its mission to the need to raise funds. Therefore, a decision taken primarily to accommodate a substantial contributor in order to ensure further donations is likely to be found to confer an impermissible private benefit.

² See generally Massachusetts Office of the Attorney General. *Guide for Board Members of Charitable Organizations* <https://www.mass.gov/files/documents/2016/08/oz/guide-for-board-members.pdf> (herein after “MA AG Guide at”).

³ Family affiliations include spouse or domestic partner, parents and grandparents and their spouses, children and grandchildren and their spouses, and siblings and their spouses. Business

It is the responsibility of the OCT Board acting upon the recommendation of the OCT Governance Committee to determine if a potential conflict of interest constitutes an actual conflict of interest.

3. General Guidelines

Covered persons must conduct themselves under strict rules of honesty and fair dealing between themselves and OCT. Such persons shall not use their position or knowledge gained during their association with the Trust for their private benefit nor to obtain an unfair advantage over any aspect of their dealings with the Trust.

4. Actions Required of Persons Who Have a Potential Conflict of Interest

Each covered person is obliged:

- To disclose to the OCT Board, the OCT Board President, or committee of the OCT Board on which he or she serves, the existence of any potential conflict of interest prior to the discussion of the subject issue, matter, or transaction;
- To abstain from discussing with OCT Board members, employees, or committee members any issue, matter, or transaction in which the OCT Board or committee has determined he/she has a conflict of interest unless specifically asked by the OCT Board or an OCT Board committee to give information on the issue, matter, or transaction;
- To absent himself or herself from OCT Board and committee discussions on any issue, matter or transaction involving a conflict of interest, unless requested by the OCT Board or committee to give information on the issue, matter or transaction;
- To abstain from voting on any such issue, matter or transaction; and
- If there is an instance where it is necessary and prudent for the person who has a potential conflict of interest to step down from the OCT Board of Trustees or applicable committee until such time as the matter giving rise to the conflict of interest has been resolved; the OCT Board Trustees in office at any meeting of the Trustees acting upon the recommendation of the OCT Governance Committee by the vote of three-quarters (3/4) of the OCT Board may require that the conflicted person resign from the OCT Board of Trustees or applicable committee. When, in the opinion of the OCT Board upon the

affiliations include any person, corporation, or organization controlling, controlled by or under common control with the covered person. Other affiliations include entities in which the covered person serves on the OCT Board or has a decision-making position, such as other nonprofits, funders, municipalities or state or federal governments.

recommendation of the OCT Governance Committee, the matter has been sufficiently resolved, the Trustee may be invited to rejoin the OCT Board or committee.

5. Failure to Disclose a Potential Conflict of Interest

Any failure to disclose a potential conflict of interest known to the covered person may result in removal from the OCT Board, committee or staff if the OCT Board decides it is warranted. In the case of a staff member, any such decision is further subject to any procedures outlined in other employment policies.

D. Obligations of the OCT Board in Preventing Undue Influence Over Decisions

1. Actions with the Potential for Undue Influence

Whenever an action taken by the Trust benefits an individual, the OCT Board must be certain that the private benefit is incidental and that the primary purpose of the action is to advance the mission of the Trust. Actions involving certain persons whose relationship with the Trust suggests an ability to influence its decisions are subject to a higher level of scrutiny to guard against undue influence. Such actions include conflict of interest situations as described above, and also situations where the person receiving the benefit has no duty of loyalty to the Trust but has a close relationship with the Trust or access to confidential information. These persons, referred to in this policy as “**influential persons**,” include:

- a. Persons subject to conflict of interest requirements as defined above in Paragraph B-1;
- b. Anyone who has served as an officer, Trustee or staff member within the five years preceding the date of the action;
- c. Donors whose contributions within one year preceding the action exceed \$1,000 or whose total contributions to the Trust exceed \$25,000;
- d. Family members of all the above, including spouses, parents and grandparents and their spouses, children and grandchildren and their spouses, and siblings and their spouses; and
- e. Business affiliations, including any person, corporation, or organization controlling, controlled by or under common control with any of the above.

2. Requirements of the OCT Board or Committee to Prevent Undue Influence

When the OCT Board acting upon the recommendation of the OCT Governance Committee has determined that an action being considered involves a conflict of interest or has the potential to benefit an influential person, it may require that the person concerned be recused from any discussions of, and/or vote on, the action. In the case of a substantial conflict of interest, the Board acting upon the recommendation of the OCT Governance Committee may request that the conflicted person resign or take a leave of absence if the nature and magnitude of the conflict warrants it.

The OCT Board acting upon the recommendation of the OCT Governance Committee will approve the action only after making specific findings (recorded in the minutes) that:

- a. The action is fair and benefits OCT and its objectives;
- b. Any consideration received by the Trust is at least equal in net value to any economic benefit offered in exchange;
- c. The action is approved with the OCT Board's full knowledge of its financial or other benefit to the influential person involved;
- d. The influential person involved did not receive special treatment because of his/her relationship with the Trust;
- e. When the influential person is an OCT Board, staff or committee member, that person did not participate in the vote approving the action and was absent both during the discussion of the action and when the OCT Board or committee voted on it; and
- f. A more advantageous arrangement could not have been obtained with reasonable effort.

E. Documentation

Covered persons subject to the conflict of interest provisions shall sign the Orleans Conservation Conflict-Of-Interest Disclosure Statement attached as **Attachment A** acknowledging that they have read and understand this Orleans Conservation Trust Conflict of Interest Policy and disclosing any known potential conflicts. These statements will be renewed annually and updated as needed in the interim.

Applications of the OCT Conflict of Interest Policy will be recorded in the minutes of the OCT Board or committee meeting, including any action taken by the OCT Board to resolve the conflict. The minutes should include specific findings as described in Section C-4.

This policy was adopted by the OCT Board of Trustees on the 21st of January, 2020 at a duly constituted meeting at which a quorum was present.



Signature of authorized officer

1/21/20

Date