



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2017 SEP 14 AM 9:59

# AGENDA REPORT

TO: Sabrina Landreth  
City Administrator

FROM: Serenity Siya Mlay  
City Administrator Analyst

SUBJECT: Oakland Museum of California  
Policies

DATE: September 1, 2017

City Administrator Approval

Date: 9/14/17

## RECOMMENDATION

Staff Recommends That City Council:

- 1) **Adopt An Ordinance Amending Oakland Municipal Code Title II To Add Chapter 2.05, Which Will Establish Procedures For The Acquisition (Also Referenced As "Accession") And Disposition (Also Referenced As "Deaccession") Of Artifacts And Other Items For/From The Listed Holdings Of The Oakland Museum Of California, And**
- 2) **Approve An Ordinance Amending Oakland Municipal Code Chapter 2.04 To Exempt Acquisition (Accession) And Disposition (Deaccession) Of City Of Oakland Personal Property Known As The Oakland Museum Of California Collections, From The Provisions Of The Purchasing Ordinance, Oakland Municipal Code Chapter 2.04, Applicable To Purchase And To Disposition And Disposal Of Surplus Property**
- 3) **Review and Accept The Oakland Museum of California Annual Reports for Fiscal Year 2011 – 12 through 2016 - 17.**

## EXECUTIVE SUMMARY

Due to the unique character and qualities of the Oakland Museum of California (OMCA) collection of artifacts and other items, approval of the proposed ordinances will: 1) provide policy and procedures for the OMCA to acquire (or "accession") and dispose (or "deaccession") of artifacts and other items in the OMCA collection that are owned by the City of Oakland, and 2) exempt artifacts and other items in the OMCA collection from the City's standard purchasing/sale/disposal requirements.

This report also includes OMCA annual reports for the period Fiscal Year 2011-12 through 2016-17. Due to an oversight, past year's reports were not forwarded to the city council.

Item: \_\_\_\_\_  
Life Enrichment Committee  
September 26, 2017

## BACKGROUND / LEGISLATIVE HISTORY

City Council Resolution No. 83442, approved on June 28, 2011, authorizes a 10-year agreement with the OMCA to support its activities for the care, conservation, stewardship and presentation for the collection of art works, historical artifacts and natural science specimens related to California's cultural and environmental history, which are owned by the City of Oakland and held in public trust.

The 10-year agreement between the City of Oakland and the Oakland Museum of California (formerly Oakland Museum of California Foundation) was executed on July 11, 2011 and is effective until June 30, 2021.

## ANALYSIS AND POLICY ALTERNATIVES

The Oakland Museum of California, located at 1000 Oak Street, is a cultural facility that is operated by the Oakland Museum of California (OMCA), a non-profit foundation, whose collection is owned by the City of Oakland and held in trust for the public. The collection consists of close to two million art works, artifacts, and natural science specimens related to California's cultural and environmental history.

OMCA Executive Director, Lori Fogarty has submitted a memorandum, provided as **Attachment A**, that describes the need to formalize the policies and procedures related to the accession and deaccession of artifacts and other items in the OMCA collection. Due to the unique character and qualities of the OMCA collection, the policies and procedures for accession and deaccession will be in accordance with best practices established nationally for the museum industry. Specifically, the OMCA is a member of both the American Alliance of Museums (formerly the American Association of Museums) and the Association of Art Museum Directors. The proposed ordinance provides specific policy that is not covered through the American Alliance of Museums or Association of Art Museum Directors or is otherwise more stringent than the national standards.

**Attachment A** includes the administrative policies and procedures, which may be amended and revised from time to time, that will govern the day-to-day activities related to accession, deaccession, and maintenance of insurance for the OMCA collection as well as the annual reports from Fiscal Year 2011-12 through 2016-17, that are required as part of the 2011 agreement.

The proposed ordinances comply with industry standards of practice established by the American Alliance of Museums and Association of Art Museum Directors and sets forth requirements for the purchase, sale and disposal of artifacts and other items in the OMCA collection, and will establish new Oakland Municipal Code, Chapter 2.05 - Oakland Museum of

Item: \_\_\_\_\_  
Life Enrichment Committee  
September 26, 2017

California Collection Acquisition and Disposition/Disposal Procedures. A companion ordinance amending Oakland Municipal Code, Chapter 2.04, Purchasing System, to exempt museum artifacts/collections from the City's standard requirements and procedures has also been prepared.

The proposed ordinances will assist the OMCA in complying with industry standards of practice and will allow it to make timely decisions on accessions and deaccessions for the collection.

### **FISCAL IMPACT**

The City Council's action on the proposed ordinances related to the accession and deaccession of the OMCA collection of artifacts have no direct fiscal impact to the City.

### **PUBLIC OUTREACH/INTEREST**

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures.

### **COORDINATION**

Staff in the City Administrator's Office worked to coordinate discussions between OMCA, Risk Management Division of Human Resources Management Department, Budget Bureau and Office of the City Attorney in crafting the proposed legislation and policy changes.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** There are positive economic impacts to OMCA, the City and local communities by assuring that the artistic, cultural and historical assets are managed so that their value is maintained.

***Environmental:*** There are no environmental impacts associated with this report.

***Social Equity:*** The policy change will foster a more positive relationship with OMCA and allow for greater opportunity for cultural programming that benefits all Oaklanders. Further, applying best management practices to the collection of California's history and cultural heritage can be safely preserved for the community.

**ACTION REQUESTED OF THE CITY COUNCIL**

**Staff Recommends That City Council:**

- 1) Adopt An Ordinance Amending Oakland Municipal Code Title II To Add Chapter 2.05, Which Will Establish Procedures For The Acquisition (Also Referenced As "Accession") And Disposition (Also Referenced As "Deaccession") Of Artifacts And Other Items For/From The Listed Holdings Of The Oakland Museum Of California, And**
- 2) Approve An Ordinance Amending Oakland Municipal Code Chapter 2.04 To Exempt Acquisition (Accession) And Disposition (Deaccession) Of City Of Oakland Personal Property Known As The Oakland Museum Of California Collections, From The Provisions Of The Purchasing Ordinance, Oakland Municipal Code Chapter 2.04, Applicable To Purchase And To Disposition And Disposal Of Surplus Property**
- 3) Review and Accept The Oakland Museum of California Annual Reports for Fiscal Year 2011 – 12 through 2016 - 17.**

For questions regarding this report, please contact Serenity Siya Mlay at (510) 238-7785.

Respectfully submitted,

---

Serenity Siya Mlay  
City Administrator Analyst

Reviewed by:  
Stephanie Hom  
Deputy City Administrator

**Attachments (1):**

A: Memo dated September 1, 2017 from Oakland Museum of California, Director & CEO Lori Fogarty, regarding Background on Museum Collection Policies.

Item: \_\_\_\_\_  
Life Enrichment Committee  
September 26, 2017



The Story of California. The Story of You.  
Oakland Museum of California

**Memo to:** Sabrina Landreth, City Administrator  
**From:** Lori Fogarty, Executive Director & CEO, Oakland Museum of California  
**Date:** September 1, 2017  
**Re:** Background on Museum Collection Policies

### **BACKGROUND**

One area of policy coordination that was never fully resolved with the transfer of Museum operations from the City of Oakland to the Oakland Museum of California Foundation (reincorporated as the Oakland Museum of California in 2012) were the collection policies that govern processes for acquisition, deaccession, and insurance coverage for the Museum's collections owned by the City of Oakland. Following is background and context for these policies, particularly as they link to the 2011 Grant Agreement executed between the City of Oakland and the Oakland Museum of California.

Per the Grant Agreement, the Museum ensures that policies and practices related to collection care policies adhere to the standards of an accredited museum as defined by the American Alliance of Museums. These policies relate to accession and deaccession, conservation, loans, facility maintenance, security, and insurance, among others. Following the transition of Museum operations from the City, Museum staff revised and updated these policies to reflect the current governance and operations structure. As the collection remains the property of the City of Oakland, the policies related to accession, deaccession and risk management require formal City approval and the deaccession policy requires ongoing City oversight. Museum staff have drafted policies for deaccession and accessions to the collection as well as for insurance and risk management (*see Exhibits 1, 2, and 3*) that outline the Museum's and the City's specific responsibilities and the process for acquiring objects, specimens, or art works into the collection and, in turn, removing objects from the collection per the standards and ethics of museum practice. These policies also outline responsibility for insuring the collection, which remains a responsibility of the City per the Grant Agreement.

**Exhibit 4** is the OMCA Gift Policy. Section VIII, Number 3 (page 5) governs OMCA's review and acceptance of gifts or bequests of tangible property, including art work or artifacts that are not formally accessioned into the Collection and are not restricted by donor designation. These gifts are not subject to the Accession Policy.

The Grant Agreement also included requirements for annual financial and programmatic reporting from the Museum to the City. Again, this process was never determined in the completion of the Grant Agreement. Therefore, we are also proposing a formalized process for submitting these reports through the office of the City Administrator.

## **ANALYSIS**

The proposed approval of updated collection policies will ensure the Museum and the City comply with the standards and ethics for accredited museums as defined by the American Alliance of Museums and the Association of Art Museum Directors. As with most museums, OMCA adds to the collection of artworks, historical artifacts, and natural science specimens through gifts from donors, purchases, bequests and, in the case of natural science specimens, through field collection. All additions to the collection become the property of the City to be held in public trust. OMCA, in turn, is a non-profit corporation that oversees collections care, preservation, presentation and interpretation through the ten-year Grant Agreement. Purchases become the property of the City regardless of the source of the funds for the purchase.

The accessions policies clarify the decision-making process for additions to the collection. Acquisitions are based on the Museum staff's curatorial judgment in the context of the purpose and strategies for collection growth as laid out in the Museum's Collecting Plan and as relevant to the Museum's mission, in relation to other objects already in the Museum's collections, as evaluated to the condition of the object(s,) as measured by the Museum's ability to maintain and preserve the object, and as insurable under the City's fine arts insurance policy. Acquisitions are also subject, as appropriate, to federal laws and regulations (such as the Native American Graves Protection and Repatriation Act) and tax policies. Objects proposed for acquisition proceed through a review process by Museum staff culminating with approval by the Executive Director.

Deaccessions from the collection take place only very rarely and are subject to the rigorous standards and procedures required of accredited museums. Deaccessioning is defined as the process by which a work of art or other object is permanently removed from a museum's collection. As stated by the Association of Art Museum Directors (AAMD), the preeminent body in North America that sets policies for museums with art collections: "Acquisitions to or deaccessions from the museum's collection must be guided by well-defined written collecting goals and acquisition and deaccession principles, procedures, and processes approved by a Museum's Board of Trustees or governing body. Deaccession decisions must be made with great thoughtfulness, care and prudence. The interests of the public, for whose benefit collections are maintained, must always be foremost in making deaccession decisions." The AAMD policies also dictate that member museums not capitalize or collateralize collections and

that funds received from the disposal of a deaccessions work cannot be used for operations or capital expenses. AAMD's policies note: "Such funds, including any earnings and appreciation thereon, may be used only for the acquisition of works in a manner consistent with the museum's policy on the use of restricted acquisitions funds. AAMD recommends that such funds, including any earnings and appreciation, be tracked separately from other acquisition funds." Museums and their governing entities that do not adhere to these guidelines are subject to censure or sanction by AAMD and other museum associations. The AAMD's most current policy on deaccessioning is provided for reference as **Exhibit 5**.

The revised Deaccession Policy proposed for approval by the City Administrator adheres to the standards and policies of AAMD and as established for accredited museums. The policy outlines the specific reasons that works can be considered for deaccessions and sets forth a review and decision-making procedure for deaccession as well as for disposal of the object. In particular, all OMCA deaccessions must be presented for a vote to the Board of Trustees of the Museum and signed and approved of by the Museum Director, Board Chair, and City Administrator of the City of Oakland. The Policy also requires funds generated by deaccession to be placed in a restricted account held by the City of Oakland and requires the City provide annual reports on the status of these funds to the Museum as requested.

Finally, as the Museum's collection is insured by the City of Oakland, OMCA's collection policies also include an "Insurance and Risk Management Policy." The Policy outlines processes for record-keeping, reporting loss or damage, and ensuring proper care and security for the collection as required by the City of Oakland's fine arts insurance policy. The Policy also stipulates that funds received through insurance settlements for either complete loss or reduced value of an object (either through theft or damage) be allocated to the City account that also holds funds from deaccession per the standards of accredited museums. Finally, the Insurance and Risk Management Policy requires the City's Risk Manager to provide annual updates to the Museum containing the fine arts policy terms and overall insurance coverage.

Therefore, in summary, following are the primary differences in the Accession and Deaccession policies from when the Museum was a City department and in the proposed policies now that the Museum operates as an independent entity, but with the collection still owned by the City:

Previous Policies:

- Museum City staff (chief curators) approved all accessions.
- Museum Executive Director and City Administrator signed off on all deaccessions.
- No Museum/Foundation Board involvement with collection policies.
- Museum/City staff accessed funds in deaccession accounts through City accounting system and had access to reports through this system.
- Museum staff did not have access to insurance policies and relied on the Risk Management office for any insurance information.

Proposed New Policies:

- Museum staff approves all accessions. Any accession valued above \$500,000 will require approval from the City Administrator.
- The deaccession process will have museum staff recommend items to the OMCA Board and the City Administrator will have final approval on all deaccessions.
- Regular updates on accessions and deaccessions are submitted to the OMCA Board and the City through annual reports.
- City Administrator's Office will be the point of contact for all communication between the Museum and the City's Finance Department.
- City's Finance Department will provide annual reports on deaccession accounts.
- Insurance reports from the Museum to the City Risk Manager are provided annually.
- City Risk Manager provides updates on policy changes and coverage terms to the Museum annually.

ANNUAL REPORT

A summary report of OMCA activities for Fiscal Year 2011-12 through 2016-17 is attached (**see Exhibit 6**) and the Museum will commence submitting reports to the City Administrator and the Life Enrichment Committee on an annual basis beginning in Fiscal Year 2017-18.

Exhibits (6):

1. *Oakland Museum of California Deaccession Policy*
2. *Oakland Museum of California Accession Policy*
3. *Oakland Museum of California Insurance and Risk Management Policy*
4. *Oakland Museum of California Gift Acceptance Policy Concerning Gifts of Tangible Property*
5. *Association of Art Museum Directors (AAMD) Policy on Deaccessioning*
6. *Oakland Museum of California Fiscal Year 2011-12 through 2016 - 17 Annual Reports Summary*





**Exhibit 1**

**Oakland Museum of California  
Collections Policy: Deaccession & Disposal**

The Oakland Museum of California will, in the deaccession of artworks and artifacts, adhere to the standards of the American Alliance of Museums and Association of Art Museum Directors, as well as the additional standards and/or procedures stated in this policy.

The Oakland Museum of California (Museum) is charged with developing exemplary collections that promote public understanding of California's art, history, and environment. In pursuit of this mission, the Museum solicits and acquires objects for the collections, and occasionally it designates objects for deaccession from the collections. The deaccession of objects from the Museum's collections has been and will remain an exceptional occurrence undertaken with prudence for the protection of the Museum, its staff, the City of Oakland (which holds the collection in public trust), the Oakland Museum of California (OMCA) the non-profit entity which oversees care and stewardship of the collections, and the donors who gave the objects or provided the funds to purchase the objects for the collections. Funds generated by the sale of deaccessioned collections are restricted and must only be used for the purchase of new collections.

**Deaccession**

Curatorial or Collections Staff may recommend the deaccession of objects accessioned into the collection for the following reasons:

1. If they are deemed not relevant to the Museum's mission;
2. In excess of number or type required for anticipated needs;
3. Inferior in quality;
4. In such poor physical condition that proper repairs are not feasible or will render the object essentially false; or

5. Eligible in accordance with the Native American Grave Protection and Repatriation Act (NAGPRA).

Hence they are surplus to the needs of the permanent collections. Additionally, should evidence be presented to the Museum that any object in its possession was acquired in violation of the principles and laws described in the Accession Policy, the Museum will conduct an investigation into the circumstances. If justified by the results of the investigation, the Museum will conduct deaccession procedures and return the object to its rightful or legal owner, to the extent that it is legally possible and practical to do so.

Complete documentation including the accession number, the description of the object(s) with a photograph, details of acquisition, and status of the title to the object(s) will be assembled by collections staff to accompany the written recommendation.

All binding restrictions attached to gifts or bequests will be honored.

All written recommendations will be presented first to the Acquisitions Committee and move forward to the Collections Committee only after a 2/3 approval vote. The Collections Committee will then review the proposal and documentation and present it to the Museum Executive Director only after a consensus vote. The deaccession will be presented for final vote to the OMCA Board of Trustees.

### **OMCA Approval Process**

1. All written recommendations will be presented first to OMCA's Acquisitions Committee and move forward to the Collections Committee only after a 2/3 approval vote.
2. The Collections Committee will then review the legal paperwork and present it to the Museum Executive Director only after a consensus vote.
3. The deaccession will then be presented for final vote to the OMCA Board of Trustees.
4. All deaccessions approved by the OMCA Board of Trustees will be signed and approved by the official representative of the Acquisitions and Collections Committees, and signed and approved by the Museum Executive Director and the Board Chair. The City Administrator will have 30 days following submittal of a deaccession and generally intended disposition plans recommendation to approve or reject. If the City Administrator does not respond within this time period, the Museum will consider the deaccession approved by the City.
5. If the City Administrator rejects the deaccessioning of item (or items) a meeting will be held between the City Administrator and the Museum Executive Director to seek resolution.
6. OMCA staff will proceed with disposal only after acceptance by all the above parties.

### **Disposal**

The Collections Committee may recommend deaccessioned objects be disposed of in the following ways:

1. Exchange with other museums or educational institutions for objects having approximately equal intrinsic and monetary value;
2. Transfer to another museum or educational institution;
3. In the case of objects being repatriated in accordance with the Native American Grave Protection and Repatriation Act, transfer to the appropriate party according to NAGPRA regulations;
4. Sale through a reputable auctioneer or dealer. Sale at public auction is strongly encouraged. If sold through a dealer or means other than public auction, two independent estimates of fair market value must be secured. Deaccessioned objects may not be sold through the Museum store or any other on-premises outlet.

The museum will determine whether to affiliate the name of the institution with a deaccessioned sale, transfer, or other disposition based on the nature of the object.

In accordance with AAMD policy, deaccessioned objects may not be acquired directly or indirectly by Museum staff, members of the Board of the Oakland Museum of California, or anyone whose association with the Museum might give him/her an advantage in acquiring the work, as determined by the Museum.

Disposal of collections that have been treated with hazardous materials or are innately hazardous themselves will be disposed of safely and in accordance with all applicable laws and regulations. If the disposal is by transfer, a transfer document with full disclosure of all known hazardous materials and conditions will be provided and a receipt of acceptance/acknowledgment for conditions will be procured along with a release from liability

Deaccessioned objects, accession numbers removed, may be retained by the museum for use in the classroom or for other educational purposes. Objects will be clearly marked to indicate that they have been deaccessioned.

Deaccessioned objects that have deteriorated and have no further value for research or educational programs, and cannot be sold, will be completely destroyed, donated, or recycled as appropriate.

### **Funds**

Funds obtained from the sale of deaccessioned objects, and accrued interest on those funds, will be deposited in the City of Oakland deaccession account and strictly reserved for the purchase of new objects for the collections. The City of Oakland will provide an annual update to the Museum of funds in the deaccession account(s) and will provide a financial process for accessioning these funds for purchase of collection acquisitions.

Funds from the sale of deaccessioned objects will not be used for collections care, operating, or other expenses of the Museum or the City of Oakland. There are no exceptions to this policy.





**The Story of California. The Story of You.**

Oakland Museum of California

**Exhibit 2**

**Oakland Museum of California  
Accession Policy**

The Oakland Museum of California will, in the accession of artworks and artifacts, adhere to the standards of the American Alliance of Museums and Association of Art Museum Directors, as well as the additional standards and/or procedures stated in this policy.

The Oakland Museum of California (OMCA) adds to the collection of California artworks, historical artifacts, and natural science specimens through gifts of tangible personal property, transfers from institutions or agencies, purchases, bequests, and through field collection. All additions to the collections become the property of the City of Oakland (City), to be held in public trust. The Oakland Museum of California (OMCA) is a non-profit corporation that oversees collections care, preservation, presentation, and interpretation through a grant agreement with the City. Purchases become the property of the City of Oakland, also held in public trust, regardless of the source of the funds used for the purchase. For purposes of this policy, the "Museum" relates to the actual institution overseen by the OMCA Board of Trustees and undertaking of accessions that become the property of the City of Oakland.

The decision to accept gifts or transfers, or to purchase art, artifacts, or specimens, is based on curatorial judgment in the context of the purpose and strategies for collection growth as laid out in the Collecting Plan, the relevance of the object(s) to the Museum's mission, the relation to other objects already in the Museum's collections, conservation evaluation of physical condition of the object(s), and the Museum's ability to maintain and preserve the object(s).

All gifts, bequests, purchases, or transfers to the collection are unconditional and without restrictions, except as noted below.

- Acquisitions with restrictions are taken in very rare instances and must be approved in advance and in writing by the Director of Collections, the Deputy Director, and the

1000 Oak Street • Oakland, CA 94607-4820

tel 510.318.8400 • fax 510.318.8410 • museumca.org

- Museum Executive Director to ensure that the restrictions are appropriate and can be met by the Museum.
- The Museum will not accept or collect scientific specimens that have not been obtained under valid federal or state permits (where permits are required), nor will the Museum obtain or possess specimens in violation of the Endangered Species Act, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Marine Mammal Protection Act, the Migratory Bird Treaty Act, the Bald Eagle Protection Act, or other federal or international regulations governing the collection and possession of flora and fauna, unless proper permits are shown to be in place or if shown to have been collected prior to applicable laws.
- The Museum will not acquire any archaeological, historical, or ethnographic object if there is reasonable cause to believe that the object was illegally imported or that the circumstances of its recovery involved the unscientific or intentional destruction of sites or monuments. This prohibition shall also apply to object(s) reasonably believed to have been illegally excavated in the United States. The Museum will require documented provenance of artifacts imported after November 17, 1970. The Museum will not acquire human remains or associated funerary objects. The Museum will require written provenance history of any future Native American acquisitions and will make this history part of the public information record. Please refer to the Museum's Policy on Collection, Exhibition, and Repatriation of Native American Materials for other guidelines.
- Occasionally, gifts to the Museum will contain restrictions in compliance with state or federal requirements affecting repositories for natural science specimens or in compliance with the federal Native American Graves Protection and Repatriation Act. Any other restrictions applied to gifts offered to the collections require the advance written approval of the Museum Executive Director. (See section on fractional and restricted gifts below.)
- The Museum does not normally accept fractional (also known as partial) gifts. In the rare instance that a fractional gift is accepted, the donation is bound by professional standards regarding these gifts. This includes, but is not limited to the object physically residing on the Museum premises for the percentage of the year that it is gifted. The contract for the fractional gift must clearly state when the remainder of the gift will be transferred to the museum and the duration should not exceed 5 years

### **Bequests**

Bequests made to the Museum will be reviewed by the Collections Committee. Unless restrictions prohibit it, the Museum reserves the right to accession all or part of bequests. If a bequest is made with restrictions, the Museum retains the right to refuse the bequest if it is in its best interests not to honor the restrictions.

## **Gifts**

On occasion the Museum will be offered gifts for sale rather than for addition to its collections. In the rare event these are accepted, they will be received on the Oakland Museum of California (OMCA) gift form and sold through the non-profit organization. These types of gifts will be accepted and tracked through the Center for Philanthropy and Institutional Advancement. Oakland Museum of California/City of Oakland Gift Agreement forms will not be used for this purpose. Under no circumstances will the Museum hold objects to serve the tax benefit of the donor.

If objects accepted for sale were given expressly to support a particular program or activity (restricted gifts), funds realized from the sale will honor the donor's intent and be allocated accordingly with joint review by the Collections Committee and the Museum Executive Director, less any direct costs of the sale incurred. Funds from the sale of unaccessioned, undesignated gifts or bequests may be used for a variety of purposes to benefit the Museum. See Museum Policy Concerning Gifts of Tangible Property for complete policy on objects.

After approval of all acquisitions, originals of all gift agreements, bills of sale, and wills will be processed and held by a registrar. Any accession valued above \$500,000 will require approval from the City Administrator. Objects are considered accessioned once an accession number has been assigned and the accession is recorded. Registrars are responsible for maintaining the collection management system and all original records linked to the accession (see Documentation of Collections policy).

## **Purchase from City Restricted Accession Funds**

For purchase of new acquisitions, the Museum may access City-held deaccession funds by submitting a written request and invoice to the City Administrator.

Reviewed and Approved:

---

Peter Pervere  
Chair, Oakland Museum of California Board of Trustees

Date:

---

Sabrina Landreth  
Oakland City Administrator

Date:

---

Lori Fogarty  
Executive Director & CEO

Date:



**The Story of California. The Story of You.**  
Oakland Museum of California

**Oakland Museum of California  
Collections Policy: Fine Arts Insurance**

**Policy**

It is the policy of the Oakland Museum of California that insurance is provided for the collection of California artworks, historical artifacts, and natural science specimens, owned by the City of Oakland, and held in public trust. Insurance is a dimension of collections care that provides for reimbursement of appropriate restoration or recovery expenses in the event of loss or damage to the collection.

**Insurance**

The City of Oakland maintains a blanket fine arts insurance policy that covers the collection that is managed, interpreted, presented, and conserved by the Oakland Museum of California (OMCA). This policy is procured and administered by the City of Oakland. The policy covers objects in the collection of the City, in the custody of the Museum, on loan to or from the Museum, and works in transit. It covers works on the Museum premises, the Museum Conservation Center, the Museum's offsite storage facility, and any other locations (permanent or temporary) that these works reside. It also covers other art collections owned and managed by the City of Oakland, not in custody of the OMCA.

The City of Oakland (Risk Manager) will provide the OMCA (Registrar) on an annual basis, following the renewal date (June 1) of the policy, a copy of the terms of the Fine Arts insurance policy. The City of Oakland (Risk Manager) will notify the OMCA (Registrar) promptly of any change to carrier or policy specific to the collection in the care, custody and control of OMCA.

**Records**

The OMCA Registrar keeps the records of all OMCA managed objects covered under the insurance policy with accurate and current locations. Current insurance values are assessed



and recorded for all new incoming acquisitions. This value may be assessed by the donor, an appraiser, the purchase documentation, or the curator bringing in the acquisition. All incoming loans will also come in with a current insurance value as set by the lender. All long-term incoming loans will have insurance values reassessed every two years or sooner if instructed by the lender. All outgoing loans of permanent collection objects will be assessed for current market value before being sent out for loan. With the exception of outgoing loans, insurance values, as recorded, are for in-house use only and must under no circumstances be released to any entity. These values must not be provided to the donor for any purpose, tax or otherwise.

The registrar produces an annual insurance report that includes an itemized listing, to the extent practicably feasible, with the value of all acquisitions, temporary exhibitions, loans, increases in collections values, and values at all locations in the collection. The OMCA Registrar sends this report to the City of Oakland (Risk Manager) annual no later than March 31. The registrar will report promptly to the City of Oakland (Risk Manager) any accessioned object valued over \$500,000.

### **Loss or Damage**

All loss or damage must be reported immediately to appropriate collections and curatorial staff, as outlined in procedure documents. In the case of an object on loan, the registrar or curator will contact the lender. In the event that the loss or damage is the result of theft or vandalism, the Head of Security (Facilities), Director of the Center for Administration and Business Operations, and Museum Director will be notified immediately as well. A registrar is responsible for documenting the incident and maintaining all records of the insurance claim. The Director of Collections will notify the City Risk Manager and act as liaison to the Risk Manager for the purpose of notifying the insurance carrier to a covered loss. The Risk Manager will be the sole point of contact with the insurance company in negotiating claims and securing/modifying coverage to ensure consistent reporting of loss information to the insurer.

In the event of a loss that results in an insurance payout (either a total loss or damage that results in a loss of value), the funds realized as a result of said loss shall be deposited into the City of Oakland/OMCA managed deaccession account. These funds, and the accrued interest may only be used for repair or replacement (either of a like item or of an item chosen by curatorial staff to fulfill the intention of the original object). When possible, the credit line of the object associated with the loss will be used on any new item purchased with said funds. Funds may not be used for any other purpose. In the case of damage to a loaned object, all funds will be paid directly to the lender by the City of Oakland or the Insurance Carrier.

### **Risk Management**

As insurance must always be viewed as a last resort, it can never be a substitute for sound risk management. In keeping with accreditation guidelines from the American Alliance of Museums, the Museum has in place policies addressing the full scope of risk management. These policies include, but are not limited to, the Collections Policy, Ethics Policy, Integrated Pest Management

protocols, Document Retention Policy, Security protocols, and Emergency Plan including plans to care for collections in the case of emergencies or disasters. It is the responsibility of all individuals who come in contact with the collections to report situations or conditions that possibly jeopardize the safety and security of collections. Staff must follow professional standards of collections care as set by the American Alliance of Museums (AAM).

The museum will strive to make all collections secure from vandalism, theft, and damage, whether in storage, in transit, on exhibit, or on loan. The Museum's Operations Department is responsible for overall security of Museum buildings, personnel, and collections. Museum security policies and procedures are periodically reviewed by the Security Team, which includes senior collections staff. Additionally, all decisions regarding security of collections and objects in custody of the Museum must be made in collaboration with the Director of Collections. Security is required when a gallery is open to the public. Volunteers or interns must not perform security functions. In addition, the Museum must provide its lenders with assurances of security for objects on loan up to and including additional security, special alarms, stanchions, platforms, etc., as needed.

The Museum ensures that works on outgoing loan are protected fully in accordance with current professional standards. To this end, the general facilities reports of entities borrowing objects from the Museum must be fully reviewed by collections staff. This report must show adherence to current standards of care. Additionally, the Museum shall receive a Certificate of Insurance for the full insurance value of the loan that lists the City of Oakland and Oakland Museum of California "additionally insured" and "loss payee" as appropriate. While it is preferable to lend only to AAM-accredited museums, loans will be considered to non-accredited institutions provided they can meet all security, climate, and condition requirements.

The Museum maintains and implements a current and separate Emergency Plan. This plan is essential to recovery from potential hazards such as natural disasters, vandalism, fire, theft, and mechanical system failure.

Additional policies are in place to mitigate conditions that put the collections at risk. These include the Museum's Pen and Pencil Policy, Food and Beverage Policy, and Film and Photography Policy. These policies are included in the Collections Management Policy. Incoming and outgoing registration procedures are critical in managing all risks. They include regular spot inventories, condition reporting, proper use of incoming and outgoing receipts and forms, and proper tracking of all collections and loans. The registrar is responsible for ensuring that staff is educated in these procedures and to ensure adherence to these policies and procedures.

Reviewed and Approved:

---

Peter Pervere  
Chair, Oakland Museum of California Board of Trustees

Date:

---

Sabrina Landreth  
Oakland City Administrator

Date:

---

Lori Fogarty  
Executive Director & CEO

Date:



**The Story of California. The Story of You.**  
Oakland Museum of California

**Oakland Museum of California  
Gift Acceptance Policies and Guidelines**

The mission of the Oakland Museum of California (OMCA) is to inspire all Californians to create a more vibrant future for themselves and their communities. OMCA is a private not-for-profit corporation chartered under the laws of the State of California and created to operate the Museum, whose facilities and collections are owned by the City of Oakland.

**I. Purpose of Policies and Guidelines**

The Board of Trustees of the Oakland Museum of California and its staff solicit current and deferred gifts from individuals, corporations, foundations, and government agencies to support the needs of the Museum. This policy governs the acceptance of gifts by OMCA in order to ensure that the Museum's interests are fulfilled and protected and that donors are in agreement and understand how their gift will be utilized. The provisions of this policy shall apply to all gifts received by OMCA for any of its programs or services.

**II. Responsibilities**

The OMCA Board of Trustees (Board) is responsible for the approval of gift policies.

The OMCA Executive Committee (Executive Committee) provides oversight to the implementation of this policy and has responsibility to develop, modify, and endorse a gift policy for Board approval.

The Gift Acceptance Committee (GAC) reviews and approves or denies acceptance of any gifts with significant issues that conflict with this policy and guidelines. The GAC is composed of the Director and CEO; Chief Financial Officer; Director of Philanthropy; Board Chair (or their designate) and Finance Committee Chair (or their designate) and is responsible for reviewing and accepting gifts that are exceptions to the policies as noted below. Any gift acceptance issues that significantly conflict with this policy will be reviewed and endorsed by the GAC to the Executive Committee and then to the Board for final approval.

Center staff, with review by the Director of Philanthropy may accept gifts that fall within these policy guidelines.

The Director of Philanthropy, working in coordination with the Director and CEO and CFO is responsible for developing gift agreements (where appropriate), administration of gifts including issuing gift acknowledgments and documenting the purpose of all charitable gifts, in compliance with IRS codes, and in accordance with ethical principles and standards. The Director of Philanthropy is also responsible for donor stewardship.

The CFO is responsible for proper accounting of gifts and endowment funds, reviews financial statements and reports for planned gifts, and complies with all IRS, accounting, and audit requirements for donated funds.

### **III. Gift Acceptance**

OMCA will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are consistent with the Museum's stated mission, purposes, and priorities. Because the acceptance of a gift involves a legal obligation to use the gift for the specified purposes of OMCA and may involve commitments that will exist in perpetuity, the authority to accept gifts is held by the Board. The Board, Director and CEO, and Museum staff are subject to the policies and guidelines set forth in this document. The GAC is delegated the authority to accept gifts on behalf of the Board. The GAC will be convened as needed and decisions will be made by consensus.

Under these policy guidelines, a gift may be accepted by staff (with joint review by the Director of Philanthropy) if the gift meets the requirements outlined in the guidelines. Other gifts or exceptions will require review and approval of the GAC.

**Collectable Objects/Artifacts** – Gifts of collectable objects or artifacts designated for addition to the collections will follow the process described in the Museum's Accessions Policy.

### **IV. Gifts with Restrictions**

Gifts as determined by the GAC to be overly restrictive in conditions will not be accepted. Gifts that are overly restrictive may include gifts that are difficult to administer, gifts that are for purposes outside the Museum mission/priorities or gifts that include extraordinary display or recognition requirements. The GAC will report any gifts that are to be turned down to the Executive Committee.

Gifts that are restricted to a purpose or with conditions not associated with a planned/approved program/exhibit or activity of the Museum will be accepted only with the approval of the GAC.

**Endowment or "Planned" gift restrictions** - It is the intent of the Museum to minimize restrictions on endowment gifts. Donors are encouraged to make gifts to the endowment without restrictions. However, a donor who makes a restricted endowment gift will be encouraged to

include a clause allowing the Board to redirect the revenue if the original program or purpose ceases to be appropriate for the Museum. The principal of specifically restricted endowment gifts will be maintained in perpetuity or until such time or such occurrence as specified or agreed to by the donor at the time of the gift.

Donors who disclose a planned gift to OMCA will be encouraged to indicate the unrestricted or specific purpose of their gift. When the gift is received by OMCA, if no specific purpose is stated, planned gifts and bequests greater than \$25,000 will automatically be allocated to the Board Designated Fund (see IX Definitions). Undesignated planned gifts and bequests under \$25,000 will be allocated at the discretion of the Director and CEO. The Director and CEO may request other designation for bequests between \$25,000 and \$100,000 and the Executive Committee has the authority to approve these requested designations. For any gifts greater than \$100,000 other designation must be approved by the Board.

## **V. Miscellaneous Provisions**

**Securing appraisals and legal fees for gifts to OMCA.** It will be the responsibility of the donor to secure appraisals (when required) and independent legal counsel for all gifts. OMCA generally does not pay legal fees for advice to donors or for the preparation of documents for an estate planned gift.

**Valuation of gifts for development purposes.** OMCA will record a gift received at its valuation for gift purposes on the effective date of gift.

**Responsibility for IRS Filing upon sale of gift items.** The CFO is responsible for filing IRS Form 8282 upon the sale or deposition of any asset sold within two years of receipt when the charitable deduction value of the item is more than \$5,000. The Museum must file this form within 125 days of the date of sale or disposition of the gifted asset.

## **VI. Conflict of Interest**

Staff and volunteers of OMCA will urge prospective donors to seek the assistance of legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. OMCA will comply with the *Model of Standards of Practice for the Charitable Gift Planner* of the Partnership on Philanthropic Planning and the *Donor Bill of Rights* of the Association of Fundraising Professionals.

## **VII. Use of Legal Counsel**

OMCA and its Board of Trustees shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate as part of its fiduciary responsibility. Legal counsel should be independent. In general, legal advice for *donors* is not obtained or paid for by the Museum. However, review by counsel is recommended for the following gifts and transactions:

- 1) Closely held stock transfers that are subject to restrictions or buy-sell agreements.

- 2) Gifts transactions involving contracts or legal documents, such as bargain sales, remainder interests in property, or other gift documents requiring OMCA to assume obligation.
- 3) Gift transactions with potential conflicts of interest involving the Board or staff. (These might include use of board members as sales agents in transactions, leases of gift property to staff or board, etc.)
- 4) Other instances in which use of counsel is deemed appropriate by the Board.

## VIII. Types of Gifts

A gift is defined as anything of assignable value that is voluntarily and legally transferred to OMCA's ownership and possession. A gift is a contribution to OMCA that is donative in intent, bestowed voluntarily, without expectation of tangible compensation, for which, in general, contractual or grants requirements are not imposed. Gifts are made irrevocably.

The following types of assets and gift methods are acceptable.

### Types of gifts:

- Cash
- Securities
- Tangible Personal Property
- Real Estate
- Life Insurance
- Retirement Funds
- In Kind

### Gift methods:

- Outright gift
- Pledge
- Charitable Lead Trust
- Bequest
- Retirement Plan Beneficiary Designation
- Charitable Remainder Trust
- Pooled Income Fund
- Charitable Gift Annuity
- Bargain Sale
- Remainder Interest in Real Property (Retained Life Estate)

The following briefly describes the types of gifts accepted by OMCA , gift criteria governing the acceptance of gifts, and (in italics) accounting standards for recording gift income in the financial statements of the Museum.

### Types of Gifts

- 1) **Cash.** Cash is acceptable in any form, currency, coins, checks, credit card sales, drafts, travelers' checks, and money orders. Checks, drafts and money orders shall be made payable

to OMCA and shall be delivered to the Center for Philanthropy and Institutional Advancement.

*Cash gifts are reported in the amount given as of the date OMCA receives them.*

2) **Securities.** OMCA can accept both publicly traded securities and closely held securities.

**Publicly Traded Securities** - Marketable securities may be transferred to an account maintained by OMCA at one or more brokerage firms (e.g. Schwab & Co.) or delivered physically with the donor's signature on a separate stock power. As a general rule, all marketable securities shall be sold upon receipt.

*Marketable securities are recorded in the donor database at the average of the high and low quoted trading prices (or the average of the bid/ask in the case of certain securities) on the date the donor relinquishes dominion and control of the assets in favor of OMCA. Accounting records the sale price.*

**Closely Held Securities** - Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies, or other ownership forms, can only be accepted subject to the approval of the Gift Acceptance Committee. These gifts must be reviewed by members of the Directors of Philanthropy and CFO prior to acceptance to determine:

- There are no restrictions on the security that would prevent OMCA from converting the asset into cash;
- The security is marketable; and
- The security will not generate any undesirable tax consequences for OMCA.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional and legal counsel may be sought before making a final decision on acceptance. Closely held securities will be sold as quickly as possible.

*Gifts of closely held stock exceeding \$5,000 in value are reported at the fair value placed on the stock by a qualified independent appraiser as required by the IRS for valuing gift of stock not publicly traded. OMCA may obtain the appraiser's valuation figure from IRS Form 8283, on which the donor must obtain the signature of the appraiser. Gifts of less than \$5,000 may be valued at the per-share cash purchase price of the most recent transaction. (Normally, this transaction is the redemption of the stock by the corporation issuing the stock.)*

3) **Tangible Personal Property.** This includes personal or business property (except securities and real property), works of art, books, scientific, and other equipment, not for the collection. These gifts are generally reported at fair market value as determined by an independent appraiser or other reliable market indicator. The acceptance of property donated for the collections of the Museum shall be governed by the Accession Policy approved by OMCA



and the City of Oakland. All tangible personal property gifts shall be examined according to the following criteria:

- Does the property help further the mission and goals of OMCA?
- Is the property marketable?
- Are there restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?

*Gifts of tangible personal property are reported at their full fair-market value regardless of the value the donor may be able to claim as a charitable deduction. IRS requirements for gift substantiation note that the donor has the responsibility for valuing property for tax deduction purposes. Gifts of tangible personal property given to OMCA with a fair-market value of more than \$5,000 should be counted at the values placed on them by qualified independent appraisers, as required by the IRS for valuing non-cash charitable contributions and reported to the IRS on form 8283.*

- 4) **In Kind Gifts of Services.** In kind gifts of services may be accepted by staff. In kind gifts of significant value such as construction management will be reviewed by the GAC.
- 5) **Real Estate.** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a life interest. In general, real estate will not be retained by OMCA, but will be sold immediately. Contiguous property may be considered for acquisition rather than sale. Because of the staff, legal and financial costs of evaluating real property, a gift will generally need to have an equity value in excess of \$100,000 to be evaluated by OMCA. Additionally, the donor will be asked to complete a Letter of Understanding indicating that if the property is acceptable, it will be donated, prior to OMCA undertaking the time consuming and costly task of evaluating the property.

Prior to acceptance of real estate, OMCA shall require an initial environmental review of the property to ensure that the property has no environmental damage. In the event that the initial inspection reveals a potential problem, OMCA shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environment audit(s) shall generally be borne by the donor.

When appropriate, a title report shall be obtained by OMCA prior to the acceptance of the real property. The cost of the report shall generally be an expense of the donor.

Prior to final acceptance of real property, the Gift Acceptance Committee shall review and approve the gift. Criteria for acceptance of the property shall include:

- Is the property marketable? Is there clear title?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?
- Are there any carrying costs, which may include insurance, property taxes, mortgages, or notes, etc. associated with the property?
- Does the environmental audit reflect that the property is not damaged?

- Additional information will be requested with real estate information checklists and evaluation criteria.

*Gifts of real property that qualify as charitable deductions for a donor are recorded at the appraised fair-market value, as valued by an independent appraiser immediately prior or following the completed gift transaction. IRS requirements for substantiation note that the donor has the responsibility for valuing real property for tax deduction purposes and reporting the gift on IRS form 8283.*

- 6) **Life Insurance.** OMCA will accept gifts of insurance policies when it is named as both beneficiary and irrevocable owner of an insurance policy. The insurance gift will be valued at its cash surrender value upon receipt. If the donor contributes future premium payments, OMCA will consider the entire amount of the additional payment as a gift in the year that it was made.

If the donor does not elect to continue to make gifts to cover the premium payments on the life insurance policy, OMCA may:

- Continue to pay the premiums;
- Convert the policy to paid up insurance; or
- Surrender the policy for its current cash value.

OMCA may also be named beneficiary of a life insurance policy and while there will be no immediate gift, the proceeds will benefit the Museum at the policy's termination.

*For accounting purposes, the face value of a life insurance policy should not be counted in fundraising totals before the death of the donor, even if OMCA is the owner and irrevocable beneficiary of the policy. Premiums paid by the donor should be reported as gift income. Realized death benefits from a policy, less any previously reported cash surrender values and premiums paid by the donor, should be recorded as a gift on the date OMCA receives the net proceeds of the policy.*

- 7) **Retirement Plan Beneficiary Designations.** Friends of OMCA will be encouraged to make qualified outright gifts to the Museum and to name OMCA as beneficiary of their retirement plans. Outright transfers from IRAs must conform to current IRS regulations including age of participant and maximum cumulative transfers. The gift must be made directly to OMCA .

Outright transfers will be recorded as gifts on the date when the transfer is made to OMCA .

*Beneficiary designations will not be recorded as gifts to OMCA unless the beneficiary designation is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.*

## **Gift Methods**

- 1) **Outright gifts.** Are immediately available for the purposes of OMCA and can fulfill the donor's intention as soon as completed.

*Gift accounting will reflect the nature of the property contributed as outlined above.*

- 2) **Pledges.** Pledges are gifts to be paid in installments by a donor within an agreed upon time frame. Pledges must be in writing.

*Pledges are reported as assets at their net present value at the time of receipt by OMCA.*

- 3) **Charitable Lead Trusts.** OMCA may accept a designation as income beneficiary of a charitable lead trust. OMCA generally will not serve as trustee of a charitable lead trust.

*Because charitable lead trusts are not deferred gifts, but are immediate gifts in trust that pay over a period of time, the face value is reported and counted as a pledge.*

- 4) **Bequests.** Friends of OMCA will be encouraged to make bequests through their wills and trusts.

*Bequests will not be recorded as gifts to OMCA until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.*

- 5) **Charitable Remainder Trusts.** OMCA may accept designation as remainder beneficiary of a charitable remainder trust. Generally, OMCA will not serve as trustee of a charitable remainder trust, but will provide information to donors regarding charitable remainder trusts and assist them in identifying an appropriate trustee.

*Gifts made to establish charitable remainder trusts, where the remainder is not subject to change or revocation, should be credited as deferred gifts at both the discounted net present value of the remainder interest allowable as a deduction by the IRS and at the fair-market value.*

- 6) **Pooled Income Funds.** OMCA may accept designation as remainder beneficiary of the Pooled Income Fund maintained by OMCA.

*Gifts made to the pooled income fund should be credited as deferred gifts at both the discounted net present value of the remainder interest allowable as a deduction by the IRS and at the fair-market value.*

- 7) **Bargain Sales.** OMCA will enter into a bargain sale arrangement for gifts of real property in instances in which the bargain sale furthers the mission and purposes of the Foundation. The real property will be subject to the acceptance provisions stated above. All bargain sales must be reviewed by the Gift Acceptance Committee and approved by the Board. To determine the appropriateness of the transaction OMCA must:

- Obtain an independent appraisal substantiating the value of the property. The gift portion must be at least 50% of the gift or \$100,000.
- Determine that it will use the property, or that there is a market for sale of the property, allowing sale within 12 months of receipt.
- Calculate the costs to safeguard, insure, and expense the property (including property taxes) during the holding period.

*The gift portion of a bargain sale qualifies for a charitable tax deduction. The deduction equals the difference between the fair-market value and the reduced price—the transaction is thus part sale and part gift to OMCA. The gift to OMCA is counted as the amount of cash received from the transaction.*

- 8) **Remainder Interest in Property.** OMCA will accept a remainder interest in a personal residence, farm, or vacation property subject to the real property provisions stated above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, OMCA may use the property or sell it. The donor or primary beneficiary is responsible for expenses for maintenance, real estate taxes, insurance, and property indebtedness, the donor or the primary beneficiary is to pay. The property must be inspected each year by OMCA and a checklist reviewed with the donor and/or primary beneficiary to ensure that maintenance, taxes and insurance are current.

*A gift of a remainder interest in a personal residence, farm, or vacation property should be reported as a deferred gift at both the remainder (net present) value recognized as an allowable deduction by the IRS and at the fair-market value.*

- 9) **Charitable Gift Annuity.** OMCA may be designated as the beneficiary of a charitable gift annuity written by a sponsoring organization. OMCA is not authorized to offer gift annuities.

*Gifts made to establish charitable gift annuities, where the remainder is not subject to change or revocation, should be credited as deferred gifts at both the discounted net present value of the remainder interest allowable as a deduction and at the fair market value.*

**Any gift method not described in these policies shall be subject to review by the Gift Acceptance**

**Committee. IX.**

### **Definitions**

**TANGIBLE PROPERTY**—gifts of personal or business property (except securities and real property), including gifts of research collections, libraries, works of art, books, animals, historical objects, natural history specimens, and scientific and other equipment.

**SECURITIES**—stocks, mutual funds, index shares, bonds, insurance policies, and promissory notes.

**BEQUEST OR TESTAMENTARY TRUST**—any donation given to OMCA by provisions of a will or by court order at the distribution of estate assets following a donor's death.

**REAL ESTATE**—real estate, including land, buildings, and other improvements, and oil, mineral, and related rights.

**DEFERRED OR PLANNED GIFT**—a charitable contribution to OMCA made through bequest, charitable trust, pooled income fund, life estate agreement, retirement plan, life insurance, or similar vehicle.

**ENDOWMENT**—a fund derived from a gift or bequest, the terms of which stipulate that the fund principal must remain inviolate in perpetuity and is to be invested for the purpose of producing present and future income, which may be expended or added to principal according to the donor's wishes. If any restriction is placed upon the use of the funds it must be observed, unless language has been included by the donor that permits the Museum to redirect the purpose if it becomes unfeasible or obsolete.

**BOARD DESIGNATED FUND**—a fund, the principal of which has been set aside by administrative action of the Board to be invested in long-term investment accounts. The decision to utilize Board Designated Funds is subject to the vote of the full Board of Trustees.

#### **X. Changes to Gift Acceptance Policies**

These policies and guidelines have been reviewed and accepted by the Executive Committee of the Board of Trustees of the Oakland Museum of California. The Board must approve any changes to, or deviations from, these policies.



# **AAMD Policy on Deaccessioning**

**June 9, 2010**

**Amended 10/2015**

## AAMD Mission Statement

The Association of Art Museum Directors promotes the vital role of art museums throughout North America and advances the profession by cultivating leadership and communicating standards of excellence in museum practice.

### Preamble

Deaccessioning is defined as the process by which a work of art or other object (collectively, a "work"), wholly or in part, is permanently removed from a museum's collection. Disposal is defined as the transfer of ownership by the museum after a work has been deaccessioned; in the case of false or fraudulent works, or works that have been irreparably damaged or cannot practically be restored, removal from the collection and disposition is determined by the museum and may include destruction of the work.

AAMD recognizes the unique challenges museums face in managing and developing collections largely built through gift and bequest by private donors. Most art museums continue to build and shape their collections over time to realize more fully and effectively their mission. Acquisitions to or deaccessions from the museum's collection must be guided by well-defined written collecting goals and acquisition and deaccession principles, procedures, and processes approved by a museum's Board of Trustees or governing body. These goals, principles, procedures, and processes must conform to AAMD's *Professional Practices in Art Museums* and AAMD's Policy on Deaccessioning\*.

---

\* Canadian and Mexican member museums should follow applicable legal restrictions and policies of national associations and, to the extent not inconsistent with either of the foregoing, AAMD's *Professional Practices in Art Museums* and AAMD's Policy on Deaccessioning.

Deaccession decisions must be made with great thoughtfulness, care, and prudence. Expressions of donor intent should always be respected in deaccession decisions and the interests of the public, for whose benefit collections are maintained, must always be foremost in making deaccession decisions.

### **Policy Statement**

- A. AAMD requires member museums\* to develop clear written collections management policies including written collection goals and acquisition and deaccession principles, procedures and processes, as well as those that address preservation, conservation and collection care.
- B. AAMD encourages member museums to accept into the collection only gifts of works that support the mission of the institution and to be thoughtful about accepting gifts of works with restrictions.
- C. Member museums must comply with all applicable laws, including, if applicable to the AAMD member museum, the filing of required Internal Revenue Service forms, in deaccessioning and disposing of works from the collection.
- D. Member museums should not capitalize or collateralize collections or recognize as revenue the value of donated works. In 1992, following proceedings involving the museum profession, the Financial Accounting Standards Board (FASB) established standards regarding how museums (and other entities) that are subject to FASB<sup>†</sup> may account for their collections assuming certain conditions are met. As a result, in 1993, FASB issued Statement No. 116. The Statement, as amended, provides

---

\* "Member museums" means those museums whose director is a member of the AAMD.

<sup>†</sup> Museums that follow other accounting rules, such as those of the Government Accounting Standards Board (GASB), or are subject to contrary legal restrictions, may be required to treat collections for financial statement purposes in a different manner, but museums still should not collateralize their collections.



that contributions of works of art, historical treasures, and similar assets need not be recognized as revenue or capitalized if the donated items are added to collections that are (a) held for public exhibition, education, or research in furtherance of public service; (b) protected, kept unencumbered, cared for and preserved; and (c) subject to an organizational policy that requires the proceeds from sales of collection items to be used to acquire other items for the collection.

- E. When recommending a work to the museum's Board of Trustees for deaccessioning, a member museum's staff should provide thorough research on prior ownership history, an explanation of expressed donor intent, if any, current scholarly evaluation, and relevance to the existing collection and future collecting goals.
- F. A member museum should publish on its website within a reasonable period of time works that have been deaccessioned and disposed of.

### **Application**

#### **I. Purpose of Deaccessioning and Disposal**

- A. Deaccessioning is a legitimate part of the formation and care of collections and, if practiced, should be done in order to refine and improve the quality and appropriateness of the collections, the better to serve the museum's mission.
- B. Funds received from the disposal of a deaccessioned work shall not be used for operations or capital expenses. Such funds, including any earnings and appreciation thereon, may be used only for the acquisition of works in a manner consistent with the museum's policy on the use of restricted acquisition funds. In order to account properly for their use,

AAMD recommends that such funds, including any earnings and appreciation, be tracked separate from other acquisition funds.

## **II. Criteria for Deaccessioning and Disposal**

There are a number of reasons why deaccessioning might be contemplated.

Primary among these are:

- A. The work is of poor quality and lacks value for exhibition or study purposes.
- B. The work is a duplicate that has no value as part of a series.
- C. The museum's possession of the work may not be consistent with applicable law, *e.g.*, the work may have been stolen or illegally imported in violation of applicable laws of the jurisdiction in which the museum is located or the work may be subject to other legal claims.
- D. The authenticity or attribution of the work is determined to be false or fraudulent and the object lacks sufficient aesthetic merit or art historical importance to warrant retention. In disposing of or retaining a presumed forgery, the museum shall consider all related ethical issues including the consequences of returning the work to the market.
- E. The physical condition of the work is so poor that restoration is not practicable or would compromise the work's integrity or the artist's intent. Works damaged beyond reasonable repair that are not of use for study or teaching purposes may be destroyed.
- F. The work is no longer consistent with the mission or collecting goals of the museum. The Board of Trustees or governing body of the museum must exercise great care in revising a museum's mission or reformulating collecting goals.

- G. The work is being sold as part of the museum's effort to refine and improve its collections, in keeping with the collecting goals reviewed and approved by the museum's Board of Trustees or governing body.
- H. The museum is unable to care adequately for the work because of the work's particular requirements for storage or display or its continuing need for special treatment.

**III. Authority and Process**

- A. Deaccessioning and disposal must comply with all applicable laws of the jurisdiction in which the museum is located and must observe any terms or obligations that pertain to the acquisition of the work by the museum.
- B. The final authority for the deaccessioning and disposal of works rests with the Board of Trustees or governing body or its designee.
- C. The process of deaccessioning and disposal must be initiated by the appropriate professional staff and any recommendations, with full justification, presented to the director, who will review the facts and circumstances of the proposed deaccession and disposal. As part of this process, the staff must undertake a thorough review of all records to determine donor intent, clear title, donor restrictions, and current market value. If the director determines that deaccessioning is appropriate, the proposal shall be presented to the Board of Trustees or governing body or its designee in accordance with the steps outlined in the museum's collection policy with regard to deaccessioning.
  - 1. The director shall exercise care to assure that the recommendations are based on authoritative expertise.

2. Third-party review and appraisal may be considered in the case of objects of substantial value.
  3. In the case of work(s) by a living artist, special considerations may apply.
- D. The timing and method of disposal should be consistent with the museum's collection policy. Attention must be given to transparency throughout the process.
- E. No member of a museum's board, staff, or anyone whose association with the museum might give them an advantage in acquiring the work, shall be permitted to acquire directly or indirectly a work deaccessioned, wholly or in part, by the museum, or otherwise benefit from its sale or trade; provided, however, that the foregoing shall not apply to a sale by a museum of its interest in a work to one or more of the co-owners of such work.
- F. If a museum is proposing to dispose of less than all of its interest (sometimes known as fractional deaccessioning) in a deaccessioned work (unless the interest to be retained is insubstantial\*), the disposal should only be made to an organization† or organizations that are open to the public. Examples of the foregoing are provided on Annex A.

#### **IV. Selection of Methods of Disposal**

The following may be taken into account in selecting a method of disposal:

- A. Preferred methods of disposal are sale or transfer to, or exchange with another public institution, sale through publicly advertised auction, and

---

\* For example rights of reproduction or the right to borrow the work.

† "Organization" means a museum or institution exempt from federal income tax and classified as a public charity or a private operating foundation (or substantially similar organization in Canada or Mexico) or governmental entity or agency.

sale or exchange to or through a reputable, established dealer. Every reasonable effort should be taken to identify and evaluate the various advantages and yields available through different means of disposal.

- B. In the case of a work of art by a living artist, consideration may be given to an exchange with the artist.
- C. While it is understood that museums must fulfill their fiduciary responsibilities and act in the museum's best interests, museums may give consideration to keeping a deaccessioned work in the public domain.

**V. Interests of Donors and Living Artists / Notifications**

- A. Museums should notify the donor of a work, when practicable, under consideration for deaccessioning and disposal. Circumstances may warrant extending similar courtesy to the heirs of a donor.
- B. When a work by a living artist is deaccessioned, consideration must be given to notifying the artist.

**VI. Documentation**

When a work is deaccessioned, all electronic and paper records must be updated. Prior to disposal, an image should be taken of the work and retained in the museum's records. As works are disposed of, the method of disposition, including possible consignee, new owner, sale price and location, if known, should be recorded according to the museum's collection management policy.

**VII. Special Circumstances**

AAMD recognizes that part of the mandate of a contemporary arts organization is to expand the definition of what constitutes a work of art, as well as to question traditional exhibition practices. Therefore, if the organization's written policy provides for the sale of deaccessioned works, the funds derived from such sales

may in exceptional cases be used for purposes analogous to the purchase or commission of works of art, specifically the creation of new works, including some that may not be collectible. Expenditure of these funds for operations or capital expenses is precluded.

#### **VIII. Sanctions**

In the event an AAMD member or museum violates one or more of the provisions of this policy, the member may be subject to censure, suspension, and /or expulsion; and the museum may be subject to censure and /or sanctions in accordance with the relevant provisions of the code of ethics of the AAMD, which have been amended consistent with the following:

Infractions by any art museum may expose that institution to censure and /or sanctions, as determined by the Board of Trustees of the AAMD (the "Board"), that may, in the case of sanctions, include, without limitation, suspension of loans and shared exhibitions between the sanctioned museum and museums of which the AAMD members are directors.

Prior to censuring or recommending suspension or expulsion of a member or censuring or issuing any sanction against an art museum, the Board shall provide to the director or museum in question the opportunity to be heard and to explain the reason for the actions considered for censure, suspension, expulsion, or sanction; such presentation to be by the affected director unless otherwise determined by the Board or, in the case of a museum, the director or any member of the board of trustees or governing board of the museum, as determined by the museum with the concurrence of the Board. If the Board determines to censure or recommend suspension or expulsion of a member or to

censure or sanction a museum, the Board shall, contemporaneously with the issuance of a censure or sanctions or the recommendation of suspension or expulsion, determine and advise the affected director or museum of the process that may be followed, as the case may require, to allow the censure to be rescinded or modified, the suspension to be lifted, the expulsion to not bar a subsequent application for admission or the sanction to be lifted.

In the event that the museum is not a legal entity but rather part of an entity or controlled by another entity, any censure or sanction may be issued against the museum, the entity of which the museum is a part, the entity controlling the museum, or, as applicable, all of the foregoing as the Board shall determine **(collectively, a “museum”)**

**IX. Process for Review of Sanctions**

The process to be followed for a censure against a member or museum to be rescinded, a sanction against a museum to be modified or rescinded, a suspension of a member to be lifted, or an expulsion of a member to not bar a subsequent application for admission, shall be as follows.

- A. Censured Member or Museum. If a censure has been issued against a member or museum, the Board may, at any time, on its own motion or at the written request of the affected member or museum, after due deliberation, rescind, modify or declare as no longer in effect any censure.
- B. Suspended Member. If a member has been suspended from membership in good standing with the AAMD, such suspension shall

remain in place for the period, if any, specified in the suspension as issued or subsequently modified. If no period is indicated, the suspension shall remain in place indefinitely. Prior to the expiration of a stated suspension period, the Board should determine if the suspension should be extended and, if so, if the suspension should be modified. For suspensions with an indefinite period, the Board should review the suspension not less than every two years from the inception date of the suspension and determine if the suspension should be modified, terminated or remain in place.

At any time, the suspended member may deliver a request in writing, addressed to the Executive Director of the AAMD, asking that the Board lift the suspension and reinstate the member as a member in good standing. In order to be considered by the Board, the request should (i) articulate the reasons that the suspension should be lifted, (ii) affirm that there are no continuing adverse effects caused by the action or actions of the member that resulted in the issuance of the suspension in the first instance, (iii) affirm that the suspended member has ceased practicing the sanctioned behavior and will not practice the sanctioned behavior in the future, and (iv) confirm that the member meets all of the qualifications for reinstatement as a member in good standing of the AAMD. Generally speaking, the Board shall be guided by the following considerations with respect to the lifting of suspension of a member: (a) if the violation that resulted in the suspension or the negative effects of such violation are not continuing at the time of the request and (b) the member has agreed to



be vigilant in using his or her best efforts to avoid or prevent any future violation of the provisions of the Professional Practices in Art Museums.

- C. Expelled Member. If a former member has been expelled from membership, after a period of five years has elapsed since the issuance of the expulsion, that person may deliver a request in writing, addressed to the Executive Director of the AAMD, requesting that the Board permit the former member to submit a subsequent application for admission as a member in good standing with the AAMD. In order to be considered by the Board, the request should articulate the reasons for seeking permission to submit a subsequent application for admission and, in connection therewith, shall confirm that there are no continuing adverse effects caused by the action or actions that resulted in the expulsion in the first instance and that the expelled member has ceased practicing the sanctioned behavior and will not practice the sanctioned behavior in the future. Generally speaking, the Board shall be guided but not bound by the following considerations with respect to permitting the submission of a subsequent application for admission as a member: (a) if the violation that resulted in the expulsion or the negative effects of such violation are not continuing at the time of the request or personal appearance and (b) the former member has agreed to be vigilant in using his or her best efforts to avoid or prevent any future violation of the provisions of the Professional Practices in Art Museums.
- D. Sanctioned Art Museum. If a sanction has been issued against an art museum, such sanction shall remain in place for the period, if any,

specified in the sanction as issued or subsequently modified. If no period is indicated, the sanction shall remain in place indefinitely. Prior to the expiration of a stated sanction period, the Board should determine if the sanction should be extended and, if so, if the sanction should be modified. For sanctions with an indefinite period, the Board should review the sanction not less than every five years from the inception date of the sanction and determine if the sanction should be modified, suspended, terminated or remain in place.

At any time, an authorized representative of the art museum (e.g., the director or any member of the board of trustees or governing board of the museum) may deliver a written request to the Executive Director of the AAMD, asking that the Board modify, suspend or terminate the sanction. The request should articulate the specific steps that the museum has taken to ameliorate the conduct which gave rise to the sanctions. Generally speaking, the Board shall be guided but not be bound by the following considerations with respect to modifying, suspending or terminating sanctions against a museum: (a) if the representative has introduced new facts not previously disclosed that are of such significance that they would, in the view of the Board, cause the Board to change its initial determination of the imposition of the sanction or (b) if the museum has ceased the activity that gave rise to the sanctions, has affirmed that it will not practice the sanctioned conduct in the future and has demonstrated that it has taken the appropriate steps to avoid a repetition of the conduct that gave rise to the sanctions.

E. General.

1. Board Review of Petitions; Delegation of Authority. The Board may delegate to (i) a committee of the Board, or (ii) the Executive Director acting in conjunction with the President, (A) the authority to review and make recommendations to the Board with respect to any requests referenced herein, (B) to determine, in the Board's stead, whether any request for personal appearance should be granted and, (C) if granted, to attend in the Board's stead, any such personal appearance.

2. Personal Appearance. Any request made in accordance with this Section IX may include a request to make a personal appearance before the Board to afford the requesting member, former member or museum to explain his, her or its position regarding the matters addressed in the request; provided, however, that the sole purpose of any such personal appearance shall be to elucidate the points made in the request and in no event shall such personal appearance take the place of the request itself. The Board or its delegates shall review any such request for personal appearance and determine, in its sole discretion, whether or not to grant a personal appearance. If a personal appearance is permitted, the person to appear shall be given notice and a mutually convenient time shall be scheduled by the Executive Director for the person to personally appear to present the request. In the case of a museum, the director or any member of the board of trustees or governing board of the museum may appear on the museum's behalf if a request for a personal appearance is made and granted.

3. Counsel. At any personal appearance under Subsection E(2) above, the person to appear may be accompanied by counsel at such person's expense; provided that ten (10) days' advance notice of the appearance of counsel at such personal appearance is provided to the Executive Director. If properly noticed, such counsel may accompany the person making the personal appearance; however, unless the Board otherwise determines, only the person requesting the personal appearance will be permitted to address the Board or its delegates to articulate his, her or its position with respect to the request during the personal appearance.

4. Board Determination; Timing. Normally, the Board will issue its determination with respect to the requests properly submitted hereunder within 120 days after the regularly scheduled Board meeting next following (i) the delivery of the written request to the Executive Director or, in the event of a personal appearance, (ii) the date of the personal appearance. Written notice of the determination of the Board will be provided in writing to the person making the request. The decision to rescind a censure, the issuance or subsequent review of any censure, sanction, suspension or expulsion or rescind, suspend or modify a sanction, lift a suspension or allow an expulsion not to bar a subsequent application for admission and the imposition of any conditions or limitations as to any of the foregoing are solely within the discretion of the Board, and the Board may take into account any facts it deems relevant to its decision and may conduct, or not conduct, any investigation it may

deem relevant. Any determination of the Board with respect to a request delivered hereunder will be final and non-appealable.

5. No Third Parties. Professional Practices in Art Museums and its Appendices, as well as Guidelines and Policies of the AAMD, are solely for the benefit of AAMD Members, and no third party shall have any right to enforce or demand that the AAMD enforce any provision of any of the foregoing.

#### X. **University and College Museums**

University and college museums play a significant role in acquiring, preserving and presenting collections. While the primary focus of the university or college is education, it must also adhere to professional standards and ethics when operating a museum.

- A. The director is responsible for the development and implementation of policy related to all aspects of the museum's collections, including acquisition, deaccessioning and disposal, preservation, conservation, and exhibition, as well as scholarly research and interpretation. The director is responsible for ensuring that the university or college is aware of its ethical responsibilities to the art museum's collection, including issues around its deaccessioning, use, and the physical conditions under which it is maintained
- B. Deaccessioning and disposal from the collection must result from clear museum policies that are in keeping with the AAMD's Professional Practices (see also the section on The Collection and Appendix B). Deaccessioning and disposal from the art museum's collection must

never be for the purpose of providing financial support or benefit for other goals of the university or college or its foundation. In no event should the funds received from disposal of a deaccessioned work be used for operations or capital expenditures.

- C. Policies developed by the director with regard to acquisition and deaccession should be adopted or ratified by the central governing authority of the university or college.



The Story of California. The Story of You.  
Oakland Museum of California

## Oakland Museum of California Annual Summary Report of Fiscal Year 2011-2016

### Overview

June 30, 2017 marked the conclusion of the sixth year since transition of the operations of the Oakland Museum of California from the City of Oakland to an independent non-profit corporation. The following summary report provides an overview of the first five fiscal years since the City transition. An annual report on Fiscal Year 17 with an audited financial statement will be presented to the City of Oakland in early 2018. This report will be submitted to the City Administrator's Office together with audited financial statements for Fiscal Year 12 through Fiscal Year 16.

Over the past several years, the Oakland Museum of California has continued to grow and thrive, presenting an annual program of dynamic exhibitions and educational programs; acquiring new works for the collection while stewarding its holdings of close to 2 million objects, photographs, artifacts, art works, and natural science specimens; and planning for its future guided by its strategic plan and its focus on financial sustainability and public impact. During the period of time of this report, the Museum audience grew from approximately 122,000 visitors in 2011-12 to 160,000 in 2015-16, with school audiences remaining steady at approximately 35,000 students, teachers and adult chaperones each year. In addition, the Museum attracts well over 100,000 visitors annually on its Friday Nights @ OMCA in non-ticketed attendance.

The Board of Trustees, a diverse body of that averages approximately 32 members, approved a strategic plan, conducted a feasibility study for a major comprehensive fundraising campaign and oversaw a balanced operating budget for each of the years since the City transition.

### Exhibitions and Programs

The Museum presents an annual exhibition program of between six and eight temporary exhibitions each year while continually rotating exhibits and objects within its 90,000 square feet of core collection galleries. The period of this report included the culmination of the Museum's

\$63 million capital campaign for renovation of its landmark building and complete reinstallation of the collection galleries with the opening of the Natural Sciences Gallery in May 2013  
Among the major exhibitions during this period were:

### **2011-13**

*Question Bridge: Black Males*

*The 1968 Exhibit*

*All of Us or None: Social Justice Posters of the San Francisco Bay Area*

### **2012-13**

*Playing with Fire: Art of the California Glass Movement*

*We/customize*

*Summoning Ghosts: The Art of Hung Liu*

### **2013-14**

*Above and Below: Stories of our Changing Bay*

*Peter Stackpole: Bridging the Bay*

*Super Awesome: The Art of Giant Robot*

*Vinyl: The Sound and Culture of Records*

### **2014-15**

*Fertile Ground: Art and Community in California*

*Songs and Sorrows: Dias de los Muertos 20<sup>th</sup> Anniversary*

*Bees; Tiny Insect, Big Impact*

*Who is Oakland?*

*Pacific Worlds*

### **2015-16**

*Who is Oakland?*

*Days of the Dead 2015: Rituals & Remembrance*

*Yo-Yos and Half-Squares: Contemporary California Quilts*

*Altered State: Marijuana in California*

Notably, during this period the Museum received regional and statewide recognition for its exhibitions including an award from the American Alliance of Museums for Excellence in Exhibitions for the *Pacific Worlds* exhibition.



## **Public and Educational Programming and Community Engagement**

In addition to an active exhibition program, the Museum presents public programs ranging from its beloved annual community festivals, such as Dias de los Muertos and Lunar New Year, to weekly family programming and activities, to performances and lectures. In January 2013, the Museum launched *Friday Nights @ OMCA* in order to meet the need for diverse Oakland families to enjoy affordable cultural and educational experiences. Over the past few years, *Friday Nights* attendance has consistently grown, attracting an average 15,000 monthly visitors. In 2015-16, the Museum expanded the program during summer months, from April through October, and saw weekly average attendance between 4,000 and 5,000 visitors. Surveys of Friday Nights participation have found that visitors feel are highly engaged with Museum activities and the program achieves OMCA's goal of extending an invitation and welcome to the surrounding community.

During the most recent year of this report, OMCA's school programs and tours served a total of 35,218 students and teachers. Of these, 26% were from Oakland Unified School District (OUSD). For all OMCA school programs and tours, activities include participatory tours and hands-on workshops in the art, natural science, and history disciplines, all of which have direct correlations to the recently adopted Common Core State Standards and Next Generation Science Standards. The Museum works with local teachers to make the educational experiences at OMCA accessible to all Bay Area children, but continues to receive feedback that it has become increasingly difficult for teachers to take their classes on fieldtrips due to chaperone scarcity, decreased funding, and transportation issues. In an effort to combat this lack of access, OMCA awarded 25 bus scholarships for schools in Richmond and Oakland where at least 75% of the student population qualified for free or reduced lunch.

In addition to on-site programming, the Museum launched in 2013 a new initiative, *OMCA Connect*, offering a slate of offsite participatory art-making programs and community engagement efforts. These efforts originated from the fundamental belief that the Museum must extend directly into the community and connect with individuals and families in their order neighborhoods in order to create a sense of trust and relevance. The Oakland Rover plays a central role in *OMCA Connect*. Specifically, the Rover focuses on connecting with residents in Oakland's San Antonio district, Chinatown, Uptown/Downtown, Fruitvale, and West Oakland through attendance at a series of annual festivals held in those neighborhoods. Additional activities and projects are developed for the Rover through the Museum's organizational partnerships and feature participatory activities that foster creativity and encourage the expression of personal and community identities. OMCA's community engagement team focuses on delivering high impact programs through the Rover by offering activities that encourage a deep level of participant engagement.

## **Audiences Served**

During the 2015-16 Fiscal Year, the most recent year of this report, OMCA welcomed a total of approximately 160,000 visitors. On average, 45% of Museum visitors are from Oakland, 22%

are from other places in Alameda County, 11% are from Contra Costa County, 6% are from San Francisco County, 11% are from other California areas and 5% are from outside of California. This audience comprises 68% adults and 32% children and family. Museum admission is free to children ages 8 and younger and discounted for youth ages 9 to 17. OMCA's First Free Sundays have drawn an average of 2,000 each Sunday on a monthly basis.

OMCA continually strives to ensure that perspectives and people who have not traditionally seen museums as relevant and accessible - in particular low income and communities of color - are central to OMCA's programming and participation. While the vision for expanded engagement embraces all Museum audiences and participants, OMCA continues to focus on adults and families who live in the most immediate neighborhoods adjacent to the Museum. These individuals are residents of the Chinatown, Fruitvale, San Antonio, Uptown and West Oakland neighborhoods, which are among Oakland's most culturally and economically diverse regions, characterized by a significant proportion of multi-racial and multi-generational families. Over the last 3 years, OMCA has successfully engaged over 80,000 new Museum visitors in total. According to Museum exit surveys, 7% of new visitors live in our target neighborhoods.

### **Collections**

OMCA acquired 3,048 individual objects, art works and specimens into the collection from the period July 1, 2011 to June 30, 2016. Notable acquisitions include 26 photographs by Berkeley-based photographer, Richard Misrach, of the 2011 Oakland fire, a commission of an Ohlone basket by California Native American basket-maker, Linda Yamane, and the commission of art works by Bay Area artists, Alicia McCarthy and Ruby Neri, in conjunction with the *Fertile Ground* exhibition.

The single deaccession to take place during this period related to a claim through the Native American Grave and Repatriation Act. A frog crest hat that had been in the Museum's collection is one of the most important ceremonial and sacred objects belonging to the Kaach ádi clan of the Tlingit in Wrangell, Alaska. The hat was returned to the clan as an item of sacred and cultural patrimony in 2014.

In addition to collection acquisitions, the Museum performed important conservation, cataloguing and digitizing activities during this period. Hundreds of objects were rehoused and storage reconfigured within the California Collections and Research Center to enable better access for curatorial staff and visiting scholars. Close to 25,000 digital images in the All of Us Or None political poster collection were catalogued and placed on the Museum's collection Web site. Finally, the Museum began the process of conversion of its entire collection database to a new collections information system, C-Space, an open source programming that will allow for better data tracking and sharing of the collection with the broader public.

### **Strategic Plan: Inspiring California's Future**

In October 2013, the OMCA Board of Trustees approved a new mission statement and strategic plan that officially articulate OMCA's commitment to community engagement and underscore the Museum's role as a catalyst for community health and well-being. OMCA's new mission is "to inspire all Californians to create a more vibrant future for themselves and their communities." Museum trustees, staff, and volunteer representatives partnered to develop the new strategic plan now being executed throughout the institution. The Museum's four central goals are to: 1. create relevant experiences that diverse audiences value, 2. connect with diverse partners to respond to community needs and to inspire California's future stewards, citizens, creators, and innovators, 3. utilize collections to share the stories of California's past, present, and future with communities around the world, and 4. achieve the financial and organizational capacity to ensure our future presence and influence in California.

OMCA has made significant progress in all goal areas, particularly with increasing and diversifying its audience, creating programming that is relevant and connected to the community, and building its local, regional and national reputation for innovation and impact among museums.

### **Financial Status**

OMCA's operating budget has grown from \$13.3 million in Fiscal Year 12 to \$15.0 in Fiscal Year 16. The organization has achieved a balanced budget with a modest surplus for each of the past several years. City support to the Museum was \$5 million per year in Fiscal Year 12, Fiscal Year 13, and Fiscal Year 14, declining to \$4.8 million in Fiscal Year 15, and \$4.6 million in Fiscal Year 16. The Museum currently employs approximately 150 staff members and 750 volunteers participate as docents, community guides, and ambassadors. The single largest source of support, in addition to the City of Oakland, is the Oakland Museum Women's Board through proceeds of the annual White Elephant Sale.

With City support declining per the terms of the Grant Agreement, the Museum has focused in the past few years on long-term financial sustainability. In May 2015, the Board of Trustees voted to approve the launch of a comprehensive fundraising campaign to build long-term financial sustainability and capitalization; provide ongoing program and operating support, and make possible facility improvements to activate the Museum's entire campus and further transform it into a welcoming public gathering space. The "All In: Campaign for OMCA" is grounded in the case that: museums should be places for everyone and that they make a real difference in the lives of people and in the health of a community; that the need for an inclusive museum is critically important in a place like Oakland with its great diversity, but also great divides in equity and access; that OMCA can have a real public impact as a place that brings community together in shared understanding and dialogue; and that our vision is to be indispensable to our community and a leader statewide and beyond as a true "museum of the people." As of August 2017, the Museum has achieved close to \$39 million in outright gifts, multi-year pledges, and testamentary or planned gifts towards its goal of \$85 million.

2017 SEP 14 AM 9:59

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE II TO ADD CHAPTER 2.05, WHICH WILL ESTABLISH PROCEDURES FOR THE ACQUISITION (ALSO REFERENCED AS "ACCESSION") AND DISPOSITION (ALSO REFERENCED AS "DEACCESSION") OF ARTIFACTS AND OTHER ITEMS FOR/FROM THE LISTED HOLDINGS OF THE OAKLAND MUSEUM OF CALIFORNIA (OMCA)**

**WHEREAS**, the Oakland Museum of California (OMCA), located at 1000 Oak Street, at 10<sup>th</sup> Street in Oakland, CA, is a cultural facility which is operated by the Oakland Museum of California (OMCA), a non-profit foundation, whose collection is owned by the City of Oakland and held in trust for the public; and

**WHEREAS**, the City of Oakland and the OMCA Oakland Museum of California Foundation ("Foundation") entered into a ten-year funding Agreement in 2011, approved by Resolution No. 83442 C.M.S, that, among other things, sets forth the terms under which the Foundation and its successor organization, the OMCA, will care for, conserve, steward, research and provide scholarly and interpretive expertise in support of the Collection of close to two million art works, artifacts, and natural science specimens related to California's cultural and environmental history; and

**WHEREAS**, the 2011 funding agreement stipulated that all activities carried out by the OMCA will be in accordance with the standards of the American Alliance of Museums (formerly the American Association of Museums), and that the City and the OMCA agree to abide by and comply with the standards of the American Alliance of Museums and Association of Art Museum Directors on all regulations concerning acquisitions and disposition of the Collection; and

**WHEREAS**, the OMCA develops the Collecting Plan (Plan), purpose and strategies for collection growth as laid out in the Plan and adds to the collection of California artworks, historical artifacts, and natural science specimens (Collection) through gifts of tangible personal property, transfers from institutions or agencies, purchases, bequests, and through field collection; and

**WHEREAS**, the OMCA is charged with developing an exemplary Collection that promotes public understanding of California's art, history, and environment, and the OMCA solicits and acquires objects for the Collection, and occasionally it designates objects for deaccession from the Collection; and

**WHEREAS**, such acquisitions of new properties for the Collection become the personal property of the City of Oakland that are held in public trust regardless of the source of the funds used for the purchase; and

**WHEREAS**, the decision to accept gifts or transfers, or to purchase art, artifacts, or specimens, is based on curatorial judgment in the context of the purpose and strategies for collection growth as laid out in the Collecting Plan and relevance of the object(s) to the OMCA's mission and relation to other objects already in the Collection, a conservation evaluation of physical condition of the object(s), and the OMCA's ability to maintain and preserve the object(s); and

**WHEREAS**, the collection of the Oakland Museum of California, which currently numbers close to two million objects, date back more than 100 years to the collection of three predecessor institutions – the Oakland Public Museum, the Oakland Art Gallery, and the Snow Museum of Natural History, all operated by the City of Oakland – have been added to substantially over the years and have been occasionally refined through deaccession; and

**WHEREAS**, the Collection is primarily created through the generosity of donors through contributions of works for the Collection or through philanthropic support for purchase of collection objects with the intent of making them available to the public, no City taxpayer funds are ever utilized for collection purchases, and deaccession proceeds are held by the City in an OMCA-acquisition designated fund, which never receives revenue from the City; and

**WHEREAS**, Oakland Charter Section 808 provides that the City Council shall establish by ordinance the conditions and procedures for any purchase or contract; and

**WHEREAS**, items of interest to the OMCA to add to the Collection are typically distinctive and therefore not suitable to the City's standard purchasing requirements such as bidding or other solicitation processes for personal property; and

**WHEREAS**, the City and OMCA wish to establish acquisition and disposition procedures suitable to museum collections; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Oakland Municipal Code Title II is hereby amended to add Chapter 2.05, *Oakland Museum of California Collection Acquisition and Disposition/Disposal Procedures*, to establish procedures for the acquisition (accession) and disposition (deaccession) of property to or from the listed holdings of the Oakland Museum of California, as follows:

## **Chapter 2.05 - Oakland Museum of California Collection Acquisition and Disposition/Disposal Procedures**

### **2.05.010. Title and Purpose.**

This Chapter shall be known as "Oakland Museum of California Collection Acquisition and Disposition/Disposal Procedures" and shall set forth requirements and procedures for the acquisition, sale, auction, transfer, trade, disposal or other disposition of the Oakland Museum of California Collection.

### **2.05.020. Definitions.**

The following words and phrases whenever used in this article shall be construed as defined in this section:

"Accession" means the acquisition of new objects, items or artifacts to be officially added to the listed holdings of the Collection.

"City" means the City of Oakland, a municipal corporation of the State of California.

"Collection" means the art works, historical artifacts, photographs and natural science specimens, including all listed holdings, that are owned by the City of Oakland.

"Collecting Plan" means the document used as a guide on collecting to ensure that future acquisitions meet the needs, mission and goals of the OMCA.

"Deaccession" means official removal of objects, items, artifacts or other property from the listed holdings of the Collection through sale, auction, transfer, donation or other means of disposal as authorized by this Ordinance and museum standard and policy guidelines referenced herein.

"OMCA" means the non-profit corporation charged with operating the Oakland Museum of California and preserving, stewarding, interpreting and presenting the Collection.

### **2.05.030. Authority of the City Administrator.**

The City Administrator is authorized to provide final approval of OMCA accession/acquisition and sale, donation, disposal or other disposition of objects and art works from the Collection provided the transactions are carried out in compliance with the standards, requirements and procedures set forth herein.

### **2.05.040. No requirement to advertise, invite bids or issue request for proposals.**

Acquisitions of objects and art works for the Collection shall not be subject to advertising, bidding, request for proposal/qualification or other competitive solicitation requirements, including those in OMC 2.04, except when the City Administrator, on the recommendation

and advice of the OMCA Director, determines such processes are appropriate for a specific purpose.

**2.05.050. Funds generated by disposal of items.**

- A. Funds generated by the disposal of deaccessioned items shall be used in accordance with the standards of the American Alliance of Museums and Association of Art Museum Directors, attached to the Agenda Report accompanying this item, as amended and revised from time to time. The City and OMCA will maintain current copies of the policy in the City Administrator's Office and at the OMCA.
- i. Funds generated by the sale or disposal of deaccessioned items are restricted and must only be used for the purchase of new collections and shall not be used for collection care, operating, or other expenses of the OMCA or the City of Oakland.
  - ii. Such funds, and accrued interest on those funds, shall be deposited in the City of Oakland account(s) established for the OMCA and strictly reserved for the purchase of new objects for the Collection.
  - iii. The City of Oakland will provide a financial process and disperse funds to the OMCA for using these funds for purchase of objects for the Collection and provide an annual update to the OMCA of funds in the account(s).
- B. Funds generated by objects acquired for sale.
- i. If objects accepted for sale were given expressly to support a program or activity (restricted gifts), funds realized from the sale will honor the donor's intent and may be allocated accordingly upon the recommendation of the OMCA Director, less any direct costs of the sale incurred.
  - ii. Funds from the sale of gifts or bequests of art work or artifacts that are not formally accessioned into the Collection and are not restricted by donor designation may be used for a variety of purposes to benefit the OMCA in accord with the OMCA Policy Concerning Gifts of Tangible Property, attached to the Agenda Report accompanying this item, as amended from time to time. The City and OMCA will maintain current copies of the policy in the City Administrator's Office and at the OMCA.

**2.05.060. Accession (acquisition) of property for the Collection.**

The City Administrator will approve OMCA policies governing the accession of property for the Collection that will be in accordance with the standards of the American Alliance of

Museums and Association of Art Museum Directors, attached to the Agenda Report as amended and revised from time to time. The City and OMCA will maintain current copies of the policy in the City Administrator's Office and at the OMCA.

The OMCA adds to the Collection of California artworks, historical artifacts, and natural science specimens through gifts of tangible personal property, transfers from institutions or agencies, purchases, bequests, and through field collection. All additions to the Collection, regardless of the source of funds used for the acquisition, become the property of the City of Oakland, to be held in public trust.

The OMCA will accept gifts or transfers, purchase art, artifacts, or specimens, based on curatorial judgment in the context of the purpose and strategies for collection growth as laid out in the Collecting Plan, and the relevance of the object(s) to the OMCA's mission, the relation to other objects already in the Collection, an evaluation of physical condition of the object(s), and the OMCA's ability to maintain and preserve the object(s).

The City Administrator shall approve the accession of property to the Collection valued over \$500,000 (five hundred thousand dollars) at the time of acquisition.

#### **2.05.070. Deaccession (disposition/disposal) of property from the Collection.**

The deaccession of objects from the Collection has been and will remain an exceptional occurrence the Oakland Museum of California Board of Trustees and City Administrator shall undertake with prudence for the protection of the OMCA, the City of Oakland, and the donors who gave the objects or provided the funds to purchase the objects for the Collection.

The City Administrator will approve OMCA policies governing the deaccession of property from the Collection that will be in accordance with the standards of the American Alliance of Museums and Association of Art Museum Directors, as amended and revised, and include:

- A. Objects acquired in violation of acquisition requirements in section 2.05.060. Should evidence be presented to the OMCA that any object in its possession was acquired in violation of the principles and laws described in section 2.05.060, above, OMCA, or City Administrator, will investigate the circumstances. If justified by the results of the investigation, OMCA will conduct deaccession procedures and the City and OMCA will return the object to its rightful or legal owner, to the extent that it is legally possible and practical to do so.
- B. Restrictions. All binding restrictions attached to gifts or bequests will be honored in recommendations for disposition/disposal.



- C. Approval process for deaccessions. The OMCA will present the City Administrator with proposed deaccessions and generally intended disposition plans. If sale at public auction is selected as the final disposition, the OMCA will present the City Administrator with the plan for proposed auction sale. The City Administrator shall accept or reject proposals within 30 days of receipt. After 30 days, no response will constitute acceptance by the City Administrator.
- D. Annual Report. The OMCA shall issue an annual report to the City which shall include a report of all deaccessions done during the period covered by the annual report.

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA:

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
 City Clerk and Clerk of the Council of the City of  
 Oakland, California

Date of Attestation: \_\_\_\_\_

**NOTICE AND DIGEST**

**ORDINANCE TITLE (Indent half inch both sides and justified)**