

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

COUNCIL BILL NO. CB11-0456  
COMMITTEE OF REFERENCE:  
Business, Workforce & Sustainability

**A B I L L**

**for an ordinance approving a proposed Agreement between the City and County of Denver and Sotheby's, Inc., for sale of four Clyfford Still works and authorizing officials of the City and County of Denver to take all action necessary to carry out the transactions contemplated hereby.**

**BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** The proposed Agreement between the City and County of Denver and Sotheby's, Inc., in the words and figures contained and set forth in that form of Agreement, filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 18th day of August 2011, City Clerk's Filing No. 2011-0679 is hereby approved.

**Section 2. *Delegated Powers for Private Treaty Sale; Additional Documents.*** For private treaty sale as described in the Agreement, the following powers are hereby delegated to the Director of Arts and Venues Denver (Director) without further consultation or approval of Council:

(a) The Director is authorized to determine whether to accept an offer for private treaty sale, so long as the price exceeds the minimum price of Twenty Five Million Dollars (\$25,000,000.00).

(b) In the event that the Director receives a private treaty sale offer in excess of the minimum price, the Director is authorized to determine whether to accept the offer or to proceed to public auction with guarantee.

(c) The Director is authorized to set the private treaty sale commission for Sotheby's, Inc., so long as such commission does not exceed either five percent (5%) of the private treaty sale price or Seven Million Five Hundred Thousand Dollars (\$7,500,000.00), whichever is less.

(d) In the event that a private treaty sale is successfully completed, the Director is authorized to execute and deliver for and on behalf of the City any and all additional documents and to perform all other acts that the Director may deem necessary or appropriate in order to implement and carry out the transactions for sale of the works and other matters authorized by this ordinance.

1 **Section 3. Delegated Powers for Public Auction with Guarantee; Additional Documents.**

2 In the event the Director determines to proceed to public auction with guarantee as described in the  
3 Agreement, the following powers are hereby delegated to the Director without further consultation or  
4 approval of Council:

5 (a) The Director is authorized to agree to a guarantee price and a reserve price for  
6 public auction for each work to be individually auctioned, so long as the aggregate guaranteed  
7 price for all four works to be individually sold exceeds the total minimum price of Twenty Five  
8 Million Dollars (\$25,000,000.00).

9 (b) The Director is authorized to set the guaranteed selling commission for Sotheby's,  
10 Inc., so long as such commission, including any buyer's premium as set forth in the  
11 Agreement, does not exceed fifteen percent (15%) of the aggregate auction purchase price or  
12 Fifteen Million Dollars (\$15,000,000.00) whichever is less.

13 (c) In the event that a public auction with guarantee sale is successfully completed, for  
14 each individual work so sold, the Director is authorized to execute and deliver for and on  
15 behalf of the City any and all additional documents and to perform all other acts that the  
16 Director may deem necessary or appropriate in order to implement and carry out the  
17 transactions for sale of the works and other matters authorized by this ordinance.

18 COMMITTEE APPROVAL: August 24, 2011

19 MAYOR-COUNCIL DATE: August 23, 2011

20 PASSED BY THE COUNCIL \_\_\_\_\_ 2011

21 \_\_\_\_\_ - PRESIDENT

22 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2011

23 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
24 EX-OFFICIO CLERK OF THE  
25 CITY AND COUNTY OF DENVER

26 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2011; \_\_\_\_\_ 2011

27 PREPARED BY: Laurie Heydman - ASSISTANT CITY ATTORNEY - August 18, 2011

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
30 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to §3.2.6  
31 of the Charter.

32 Douglas J. Friednash, City Attorney

33 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney - \_\_\_\_\_ 2011