



AGENDA REPORT

Meeting Date: September 8, 2011
Item Number: F-7
To: Honorable Mayor & City Council
From: Chief Timothy Scranton, Beverly Hills Fire Department
Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS RATIFYING AN AGREEMENT WITH THE PORT AUTHORITY OF NEW YORK & NEW JERSEY FOR THE TRANSFER OF A STEEL ARTIFACT FROM THE FORMER WORLD TRADE CENTER FOR THE BEVERLY HILLS 9/11 MEMORIAL GARDEN

Attachments: 1. Resolution

RECOMMENDATION

It is recommended that the City Council adopt the "Resolution of the Council of the City of Beverly Hills Ratifying an Agreement with The Port Authority of New York & New Jersey for the Transfer of a Steel Artifact from the Former World Trade Center for the Beverly Hills 9/11 Memorial Garden."

INTRODUCTION

The Beverly Hills Fire Department was entrusted with a steel artifact from the former World Trade Center. This resolution ratifies the agreement executed by the Fire Department for the receipt at that artifact.

DISCUSSION

In December 2009, the Beverly Hills Fire Department informed the City Council that it was entrusted to receive one of the steel artifacts from the former World Trade Center ("Artifact"). The Artifact measures 196"L x 66"W x 51"H and weighs approximately 1,800 pounds.

In order to obtain the Artifact, the Fire Department went through a lengthy application process with The Port Authority of New York and New Jersey ("Port Authority"). The process required that the United States District Court, Southern District of New York, grant the Port Authority with authorization to transfer the Artifact to the Fire Department.

The Port Authority then required the Fire Department to enter into a letter agreement that sets forth the terms and conditions of the Artifact's transfer to the City. The Port Authority also required that the Fire Department not alter the Artifact and display the Artifact in a respectful manner.

The proposed resolution ratifies the letter agreement executed by the Fire Department for receipt of the artifact. In addition, the proposed resolution accepts the transfer of the Artifact as required by the Government Code. Government Code Section 37354 provides that the legislative body may accept any donation made to the City or any of its officers in their official capacity. In this case, the transfer was facilitated by the Fire Chief in his official capacity on behalf of the City of Beverly Hills.

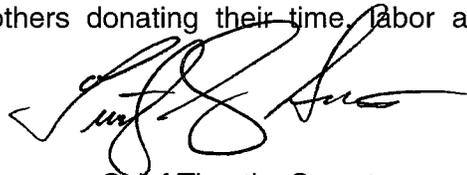
As the City Council is aware, the Artifact will be displayed at the Beverly Hills 9/11 Memorial Garden located adjacent to the Fire Department at 445 North Rexford Drive on the North/West corner of Rexford and South Santa Monica Blvd. Adjacent to the monument with the Artifact, will be a flagpole which will fly our Nation's Colors and a walking path that will traverse the memorial site. Twin Tower replicas, the Pentagon and the field near Shanksville, Pennsylvania will all be represented to honor those who perished. Benches will be aesthetically placed, allowing visitors to view the memorial while contemplating the meaning and magnitude symbolized throughout the Beverly Hills 9/11 Memorial Garden.

As the City Council is aware, a volunteer group of respected residents and employees was established to oversee this project in addition to the fundraising efforts and community outreach. Due to the generosity of the community, no city funds were utilized in constructing this memorial.

The unveiling of the Beverly Hills 9/11 Memorial Garden will take place September 11, 2011 at 4:00 p.m. in commemoration of the 10th anniversary of the attacks on the World Trade Center. The community is invited to gather in front of the Beverly Hills Fire Department on Rexford Drive at that time.

FISCAL IMPACT

There is no fiscal impact in approving the proposed resolution. A generous donation by the Beverly Hills Rotary Club was secured to pay for the transportation of the Artifact from New York to Beverly Hills. Funds for the memorial were privately raised by the volunteer group with many trade groups and others donating their time, labor and product so that no City funds were utilized.



Chief Timothy Scranton

Approved By

Attachment 1

RESOLUTION NO. 11-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS RATIFYING AN AGREEMENT
WITH THE PORT AUTHORITY OF NEW YORK &
NEW JERSEY FOR THE TRANSFER OF A STEEL
ARTIFACT FROM THE FORMER WORLD TRADE
CENTER FOR THE BEVERLY HILLS 9/11 MEMORIAL
GARDEN

The Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. The City of Beverly Hills Fire Department ("Fire Department") submitted an application to The Port Authority of New York & New Jersey ("Port Authority") to receive an artifact from the former World Trade Center site for display at the corner of Rexford Drive and South Santa Monica Boulevard in the City of Beverly Hills.

Section 2. In 2009, the Fire Department's request was approved and the Port Authority was granted permission by the United States District Court, Southern District of New York, to transfer legal ownership of a certain piece of steel of the former World Trade Center identified as I-0137 contained in the Port Authority's WTC Artifacts Inventory Archive to the Fire Department ("Artifact"). The Fire Department subsequently entered into a letter agreement with the Port Authority for the transfer of the Artifact ("Letter Agreement"). The Letter Agreement sets forth the terms and conditions of the Artifact's transfer to the City of Beverly Hills ("Letter Agreement"). A copy of the court order and the Letter Agreement are hereby attached as Exhibit A.

Section 3. The City Council hereby ratifies the Letter Agreement executed by the Fire Department on behalf of the City of Beverly Hills for the transfer of the Artifact.

Section 4. Pursuant to Government Code Sections 37354, the City Council hereby accepts the transfer of the Artifact made to the Fire Department on behalf of the City.

Section 5. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

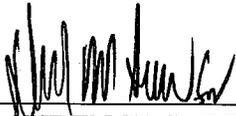
Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

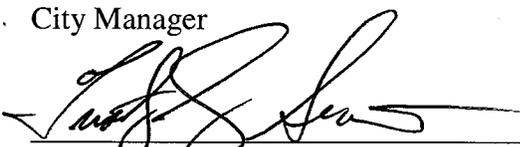
(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager


TIMOTHY SCRANTON
Fire Chief

EXHIBIT A



THE PORT AUTHORITY OF NY & NJ

IRIS L. GOLDSTEIN

(212) 435-3414
igoldstein@panynj.gov

December 8, 2009

Mr. Michael Liongson
Beverly Hills Fire Department
445 N. Rexford Drive
Beverly Hills, CA 90210

Re: **Steel Transfer Agreement and Court Order for the Beverly Hills Fire Department**

Dear Mr. Liongson:

Enclosed please find a fully executed copy of our World Trade Center Steel Transfer Agreement along with the signed Court Order for your records. Please feel free to be in touch with me should you have any further questions. To arrange the transfer of the steel, please call Peter Miller at 212-435-3791.

Sincerely,

Iris L. Goldstein, Esq.

Encl.



October 19, 2009

The Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

The purpose of this letter is to confirm and memorialize the full and complete legal transfer by and The Port Authority of New York and New Jersey (the "Port Authority") to the Beverly Hills Fire Department of that certain piece of steel of the former World Trade Center, identified as I-0137 in the Port Authority's World Trade Center Archive: Artifact Inventory Report of January 31, 2007 (the "Steel"). The Beverly Hills Fire Department has requested that the Steel be made available to them, in its present condition.

1. A property interest in the above-described Steel is hereby conveyed, and full and complete legal ownership of the Steel is given.
2. The Port Authority makes no representation or warranty whatsoever as to the condition or fitness of the Steel, either express or implied, and no Commissioner, officer, agent, or employee of the Port Authority is authorized to make any representation or warranty as to the Steel. The Beverly Hills Fire Department shall have no claim against the Port Authority for any defect or other condition of the Steel and agrees to accept the Steel "as is." There are no warranties, express or implied.
3. The Beverly Hills Fire Department agrees to defend, indemnify and hold the Port Authority, its Commissioners, officers, representatives and employees harmless from and against all losses, liabilities, damages, injuries, claims, demands, costs, attorney fees, and other expenses incurred by the Port Authority and/or its Commissioners, officers, representatives and employees in any manner resulting from or arising with respect to the Beverly Hills Fire Department's possession, use or operation of the Steel or the possession, use or operation of the Steel by any person under the control and authority of the Beverly Hills Fire Department.
4. The Beverly Hills Fire Department will be responsible for all costs of the removal and transportation of the Steel to its facility.

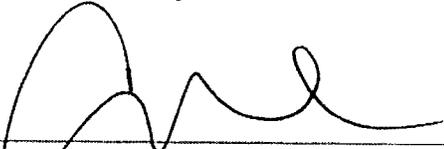


To confirm the agreement of the Port Authority with the foregoing, kindly sign a counterpart of this letter in the space provided below, and return such signed counterpart to the attention of the undersigned.

Very truly yours,

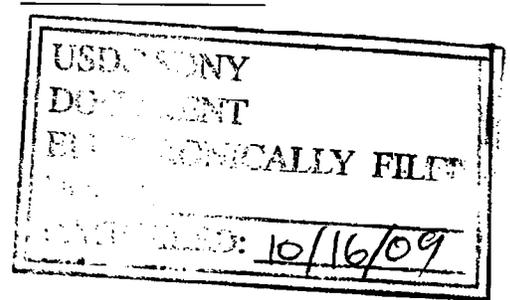
Timothy J. Scranton
Fire Chief
The Beverly Hills Fire Department

The Port Authority of New York and New Jersey

By: 

Title: Executive Director

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



_____ X

IN RE: SEPTEMBER 11 LITIGATION

21 MC 97

_____ X

_____ X

IN RE: SEPTEMBER 11 PROPERTY DAMAGE
AND BUSINESS LOSS LITIGATION

21 MC 101

_____ X

_____ X

IN RE: WTC DISASTER SITE LITIGATION

21 MC 100

_____ X

ORDER

Upon consideration of the application of the Port Authority of New York and New Jersey (the "Port Authority"), and an opportunity having been given to all parties in the above-entitled action to object, it is hereby

ORDERED, that the Port Authority is permitted to transfer full and complete legal ownership of a section of steel labeled I-0137 to the Beverly Hills Fire Department, 445 North Rexford Drive, Beverly Hills, California 90210, contained in the Port Authority's WTC Artifacts Inventory Archive, and it is further

ORDERED, that the transfer and the Beverly Hills Fire Department possession of a certain WTC Artifact, a section of steel labeled I-0137, will be subject to the right of

any party to the September 11 Litigations or their representatives to inspect and test said steel artifact upon ten days notice to the Beverly Hills Fire Department and the Port Authority.

Dated: New York, New York

~~October 16~~, 2009

A handwritten signature in black ink, appearing to read "Alvin K. Hellerstein". The signature is fluid and cursive, with a long horizontal stroke at the end.

THE HON. ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE