



RESOLUTION

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH HOLOCAUST MEMORIAL IN NASHUA, INC. RELATIVE TO THE CONSTRUCTION OF A HOLOCAUST MEMORIAL AT ROTARY COMMON AND AUTHORIZING THE ACCEPTANCE OF THE HOLOCAUST MEMORIAL

CITY OF NASHUA

In the Year Two Thousand and Ten

WHEREAS, Holocaust Memorial in Nashua, Inc. has proposed construction of a holocaust memorial in Nashua dedicated to the memory of innocent victims of mass murder;

WHEREAS, a 12:1 scale model has been constructed showing the architectural details of this memorial;

WHEREAS, this memorial has no religious affiliation and contains no religious symbols;

WHEREAS, this memorial is proposed to be constructed in a park located at 315 Main Street, Nashua, NH at a site known as Rotary Common;

WHEREAS, design and construction will be funded through private donation;

WHEREAS, the city's financial commitment for general site preparation is estimated at \$6,500; and

WHEREAS, it is intended that maintenance will be funded through private donation.

NOW THEREFORE BE IT RESOLVED by the Board of Aldermen of the City of Nashua that the Mayor is authorized to enter into the attached Memorandum of Agreement with Holocaust Memorial in Nashua, Inc. relative to the construction of a holocaust memorial at Rotary Common;

AND FURTHERMORE, BE IT RESOLVED that the City of Nashua is authorized to accept the donation of the holocaust memorial pursuant to the agreement;

AND FURTHERMORE, BE IT RESOLVED that the funding for the City's obligations under the Agreement in the anticipated amount of \$2,000 for materials shall come primarily from account 553-45060 "Street Department – Construction Materials".

LEGISLATIVE YEAR 2010

RESOLUTION: R-10-43

PURPOSE: Authorizing the mayor to enter into an agreement with Holocaust Memorial in Nashua, Inc. concerning the construction of a holocaust memorial at Rotary Common and authorizing the acceptance of the holocaust memorial

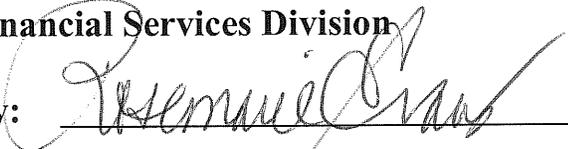
SPONSOR(S): Mayor Donnalee Lozeau

FISCAL NOTE: Donation of the memorial to the city, with a value of approximately \$135,000. The agreement contains a commitment for the city to perform general site preparation and provide parking spaces. The estimated fiscal impact of the city's obligations includes labor costs of \$4,500 and materials costs of \$2,000 for a total of \$6,500.

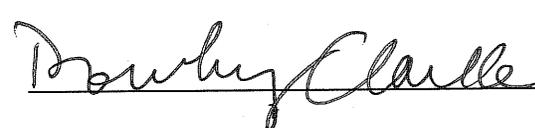
ANALYSIS

This resolution authorizes the Mayor to enter into an agreement with Holocaust Memorial in Nashua, Inc relative to the construction of a holocaust memorial at Rotary Common. The agreement provides for a commitment of city funds and labor. The resolution also authorizes the city to accept the holocaust memorial. See RSA 31:95-e relative to the acceptance of personal property donated to a municipality. This legislation should be referred to the Board of Public Works.

Approved as to account structure, numbers and amount:

Financial Services Division
By: 

Approved as to form:

Office of Corporation Counsel
By: 

Date: July 8, 2010

Memorandum of Agreement

This memorandum of agreement is a legal and binding agreement made and executed by and between:

Holocaust Memorial in Nashua, Inc. (hereinafter referred to as the "Corporation"),
a non-profit corporation incorporated in the State of New Hampshire under RSA Chapter
292 and registered as a Charitable Trust under RSA Chapter 7:28.
Office at 24 Cheyenne Drive, Nashua, NH 03063

and

The City of Nashua (hereinafter referred to as the "City")
City Hall at 229 Main Street, Nashua, NH 03060-1029

The City and the Corporation (collectively referred to as the "parties") hereby agree to design, construct and maintain a Holocaust in Nashua Memorial (hereinafter referred to as "the memorial") at a site known as Rotary Common, located at 315 Main Street, Nashua, NH (hereinafter referred to as "the site") under the following terms and conditions:

Part I. Design

1. The design of the memorial will substantially adhere to the 12:1 architectural scale model constructed for this project, and made a part of this Agreement by reference.
2. The design will be enhanced with granite benches, a stone brick walkway around the memorial, a stone brick walkway for access to the memorial, parking spaces, a plaque, plants and flowers, and security equipment.
3. The security equipment will include alarm, video and audio functions to provide surveillance, guard against vandalism, and help identify vandals.
4. The parties will agree to the final design of the memorial including enhancements prior to proceeding with actual construction.
5. The parties will agree to the final location in Rotary Common, including location of the enhancements, taking account of possible archaeological restrictions and conditions, prior to proceeding with construction.

Part II. Construction

1. The Corporation plans to raise an amount of approximately One Hundred Thirty Five Thousand Dollars (\$135,000) through private donations for the construction of the memorial plus enhancements as defined under Part I of this Agreement, as well as an additional Thirteen Thousand Five Hundred Dollars (\$13,500) (10% of the cost of the project) to initially fund the Maintenance Fund described in Part III of this Agreement.
2. The Corporation will provide and contract the labor, materials, equipment, electrical power and transportation necessary to complete the project.
3. The Corporation will ensure all of its construction work is insured for liability, and bonded for performance.
4. The City will be responsible for implementing the following:
 - a. Not less than four (4) parking spaces, to include handicapped spaces.
 - b. General site preparation in advance of construction of the memorial.
5. Upon completion of construction, the memorial and all enhancements will become the property of the City of Nashua.

Part III. Maintenance

1. After assumption of ownership the City shall be responsible for the maintenance, perpetual care, irrigation, lighting, and upkeep of the memorial, consistent with the city's maintenance, insurance and legal responsibilities for other city parks and park properties.
2. The Corporation shall establish an endowment fund for purpose of maintaining the memorial. \$13,500 (as referenced in Part II) and any additional funds remaining upon completion of construction shall be initially deposited into the maintenance fund. Proceeds from this fund shall be transferred as necessary to the city and deposited into an expendable trust fund designated to maintain the memorial.

Part IV. Project Management

1. The chief architect and project manager for the project is John M. Weidman who acts on behalf of the Corporation to design and construct the memorial as defined in Parts I and II of this Agreement.
2. The City shall appoint an associate project manager, to co-manage the project as defined in this Agreement.
3. The project manager and the associate project manager shall agree to a reasonable construction schedule and budget for all phases of the project.
4. Release of donor funds for Parts I and II of this Agreement shall be approved by the Corporation, as requested by the project manager.
5. Release of city funds for Parts II and III of this Agreement shall be according to standard city policy and procedures, as requested by the associate project manager.
6. The project manager and the associate project manager shall coordinate and accomplish the design, construction and general site improvements as defined in this Agreement.
7. The project manager and the associate project manager shall brief the parties on progress under this Agreement. The City shall designate city staff, elected and appointed officials and public meetings for this purpose.

Part V Termination of Agreement

1. The parties shall review the status of funding when general site improvements in Rotary Park associated with the memorial are ready to proceed. In the event that sufficient funds are not secured by the Corporation to complete the project as budgeted, this Agreement shall be terminated unless an alternative plan can be mutually agreed upon between the parties.
2. In the event that complications arise due to unforeseen environmental and/or archeological issues that create significant additional costs above the budgeted costs, the parties agree to develop a mutually agreeable alternative plan. Failure to agree on an alternative plan shall terminate this Agreement.
3. If this Agreement is terminated, the Corporation will reimburse the City for its costs necessary to undo the site improvements that were incurred on behalf of the project to construct the memorial, exclusive of improvements that may find an alternative use such as parking spaces or an access path.
4. If the Corporation is dissolved prior to completing the memorial, all liabilities will be paid and the City of Nashua will be reimbursed to restore the site. Donations or portions of donations that were donated conditional to completing the memorial will be refunded. Remaining assets will be donated to the City of Nashua for a similar public charitable purpose.

Part VI. Other Terms and Conditions

1. The Corporation shall make a good faith effort to conduct fundraising to finance the design, construction and maintenance of the memorial. To aid in this objective, enhancements such as the granite benches and bricks in the walkways may be inscribed with the names of individuals and/or locations designated by donors.
2. In keeping with the dedication to the memory of the millions of innocent victims of mass-murder, the memorial itself shall not be inscribed with the names of individuals or locations, other than the names of the six death camps shown in the architectural model.
3. This Agreement shall be effective when signed by both the City and the Corporation.
4. Nothing in this Agreement creates any enforceable rights in third parties.
5. No party hereto shall be entitled to assign this Agreement or rights and obligations hereunder without the consent in writing of the other party hereto.
6. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous discussions or understandings relating thereto.
7. No change to this agreement shall be binding unless and until reduced to writing and signed by duly authorized individuals from both the City and the Corporation.

IN WITNESS WHEREOF, the parties have signed this Memorandum of Agreement, this ____ day of _____, 2010.

For the Corporation:

For the City:

Fred S. Teeboom
President
Holocaust Memorial in Nashua, Inc.

Donnalee Lozeau
Mayor
City of Nashua

John M. Weidman
Architect and Project Manager
Operations Officer
Holocaust Memorial in Nashua, Inc.

RESOLUTION R-10-43

Authorizing the mayor to enter into an agreement with Holocaust Memorial in Nashua, Inc. concerning the construction of a holocaust memorial at Rotary Common and authorizing the acceptance of the holocaust memorial

IN THE BOARD OF ALDERMEN

1ST READING JULY 13, 2010

Referred to:

FINANCE COMMITTEE AND BOARD OF PUBLIC WORKS

2nd Reading AUGUST 10, 2010

3rd Reading _____

4th Reading _____

Other Action _____

Passed AUGUST 10, 2010

Indefinitely Postponed _____

Defeated _____

Attest: [Signature]
City Clerk

[Signature]
President

Approved [Signature]
Mayor's Signature

8/11/10
Date

Endorsed by
[Signature] MAYOR
[Signature] PRESSLY
[Signature] CRAFFEY
[Signature] VITALE
[Signature] SHEEHAN
[Signature] TABACSKO
[Signature] MCCARTHY

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President