

AGREEMENT FOR SALE OF REAL ESTATE

THIS AGREEMENT, by and between the **CITY OF NEW LONDON**, a municipal corporation organized under the laws of the State of Connecticut having its principal office located at 181 State Street, New London, Connecticut, (hereinafter referred to as "Seller"), and **CROSS SOUND FERRY SERVICES, INC.**, a duly authorized Connecticut corporation organized under the laws of the State of Connecticut having its principal office at 2 Ferry Street, New London, CT 06320, (hereinafter referred to as "Buyer");

WITNESSETH:

WHEREAS, the Buyer and the Seller have entered into an agreement with respect to the sale and purchase of certain real property which they desire to formalize in writing;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

P R E A M B L E

1. The subject property is located between lands of the Buyer and lands of the Seller.
2. The parcel is land locked on the easterly side of the railroad tracks (owned by Amtrak) and does not have frontage on a City street.
3. The property is encumbered by a right-of-way for emergency access only from New London's City Pier located to the south to the Water Street crossing of the railroad tracks located to the north.
4. If sold to a separate entity the City of New London would have to grant a right-of-way for ingress and egress over its Waterfront Park from the end of State Street at the

railroad crossing at New London's City Pier in a northerly direction over its Waterfront Park to the subject property.

5. The property has little or no development potential for anyone except Cross Sound Ferry.

6. The Buyer has been leasing the property from Seller for a number of years and has used the parcel for parking spaces for its transportation business.

7. The City's appraisal for the 16,400 square feet area is \$470,000 and the Buyer's appraisal for the subject property was \$330,000.

1. **PROPERTY.** Subject to the terms and conditions hereinafter set forth, the Seller agrees to sell to the Buyer or its nominee, and the Buyer agrees to buy "AS IS" & "WHERE IS" without any representations or warranties whatsoever as to the status of the physical condition or title to the real property described on **Schedule A** attached hereto and made a part hereof (the "Property").

2. **PURCHASE PRICE.** The purchase price of the Property shall be **THREE HUNDRED AND THIRTY THOUSAND (\$330,000.00) DOLLARS**, payable as follows:

Deposit paid herewith, receipt of which is hereby acknowledged by the Seller;

\$ 10.00

Cash, cashier's or certified check at closing (or such greater or lesser amount as may be required after credits, adjustments, and prorations provided for herein):

\$332,990.00

3. **CONTINGENCIES.** All obligations under this Agreement shall be subject to the following provisions;

A. Survey. The Buyer shall perform a survey and locate all easements and City owned structures on the property on the survey.

B. Zoning. This Agreement is made under the expressed condition that the City obtain a Certificate of Zoning from the Zoning Enforcement Officer of the City of New London that the subject property is a pre-existing nonconforming parcel so long as it is used solely as a parking lot as is presently being conducted. If the City fails to obtain said opinion from the Zoning Enforcement Officer, then the Buyer, at its option, may declare this Agreement null and void and any monies paid hereunder shall be returned to the Buyer.

C. City Council Approval. This Agreement is subject to final approval by the New London City Council after compliance with applicable State Law and all Charter provisions, and ordinances of the City.

D. Power of Referendum. This agreement is subject to revocation by the power of referendum as provided for in the Charter of the City of New London.

4. QUITCLAIM DEED. Conveyance by the Seller to the Buyer at the closing as herein provided shall be in the form of a quitclaim deed in the usual Connecticut form for the same with a description substantially as set forth in Schedule A attached hereto, which deed shall be prepared at the expense of the Seller. Buyer may present to Seller a metes and bounds description based on the land records or a recorded survey.

5. EXCEPTIONS TO TITLE. The Property will be conveyed to and accepted by the Buyer subject to:

A. The provisions of any municipal ordinance or regulation, public or private law, including the planning, zoning, inland wetlands and water courses regulations of the City of New London in which the Property is situated.

B. Taxes of the city or town in which the Property is situated, which become due and payable after the date of the delivery of the deed, Buyer will assume and agree to pay as part of the consideration for the deed in addition to the payment for taxes provided for in Paragraph 7 herein.

C. Any state of facts, which an accurate survey of the Property might disclose.

D. Easements, covenants, declaration, agreements and restrictions as of record may appear subject to Paragraph 6 hereof.

6. **TITLE.** The Seller shall furnish title to the Buyer to the Property that is capable of being insured to the full purchase price by a reputable title insurance company authorized to do business in the State of Connecticut. Within 45 days from the effective date of this Agreement, Buyer agrees to conduct, at its own cost and expense, an examination of the Seller's title as it deems necessary to determine the existence of any title defects. In the event that the Buyer, upon examination, find that the title does not comply with the above, the Buyer shall, prior to the time set for the delivery of the deed, notify the Seller of his objections to the title. In the event of such title objections, the Seller shall have a reasonable time within which to cure them. Upon the seller's failure to furnish such title within a reasonable period of time, the Buyer shall have the option to (1) cancel this agreement and receive back the deposit paid in advance without interest, or (2) proceed with the performance of the agreement accepting the title in the condition in which it exists. Unless Buyer terminates this Agreement pursuant to this paragraph, Buyer shall be deemed to have agreed to purchase the Property subject to any matter. Buyer accepts or is deemed to have accepted under this paragraph.

Buyer's acceptance of the Deed from Seller for the Property shall conclusively establish that Seller conveyed the Property to Buyer as required by this Agreement and shall discharge in full Seller's obligations under this paragraph with respect to title to the Property.

Cross-Easements. The Property will be conveyed together with and subject to existing cross-easements set forth in Volume 775 at Page 73 of the New London Land Records that will benefit and burden both Buyer and Seller's property so as to provide pedestrian and emergency vehicle access and egress over the parcel so as to connect the Water Street Crossing area of Amtrak with the lower State Street crossing of Amtrak at City Pier. Notwithstanding the foregoing, Buyer may relocate the twenty foot emergency access and utility easements referenced in Volume 775, Page 73 to another location on the Property prior to the closing provided that such relocation provides comparable rights as approved by the Seller, which approval shall not be unreasonably withheld, and is shown clearly on the survey prepared by Buyer. Buyer reserves the future right to relocate the easement on the Property, provided such relocation provides comparable rights as approved by the Seller, which approval shall not be unreasonably withheld, and is shown on a survey to be recorded on the land records.

7. PRORATIONS AND ADJUSTMENTS. Buyer recognizes that the property being owned by the City of New London is presently tax-exempt and agrees pursuant to the authority of General Statute §12-81(a) to pay real estate taxes from the date of closing for each and every day thereafter until the next tax bill that will be issued by the City of New London.

8. CLOSING. The transactions shall be closed and the deed shall be delivered at the law office of Conway & Londregan, P.C., 38 Huntington Street, New London, Connecticut, thirty (30) days after all approvals by the City of New London to the transfer, or at such other location as may be mutually agreed by the parties.

9. REPRESENTATIONS AND COVENANTS.

A. The Buyer agrees that the Property has been examined and that the Buyer is fully satisfied with the physical condition thereof and that neither the Seller nor any representative of the Seller has made any representation upon which the Buyer relies either with respect to the condition of the Property conveyed by this agreement or with respect to the boundaries or locations thereof except to the extent that they may be written herein. Buyer agrees that it is purchasing said Property in "AS IS", "WHERE IS" condition, and that Buyer is assuming all risk of loss associated with any structural, physical or environmental impairment (whether known or unknown) existing as of the date of closing.

The parties agree that if the use as a parking lot changes in any substantial manner and if any improvements, docks, or structures are constructed on the property then the Buyer must comply with all of the City's zoning regulations and make applications for such changes to the Planning and Zoning Commission.

B. As part of the consideration stated herein, the parties agree that an assessment of \$349,000 shall remain fixed until such time as the City revalues the lot at \$470,000 or higher. In that event, the Buyer shall pay taxes on the higher valuation.

C. As part of the consideration stated herein, Buyers will not claim a right-of-way over Seller's land to the south, with the exception of (1) the emergency vehicle access right-of-way already agreed to between the parties and (2) a right-of-way for pedestrian use only.

D. As part of the consideration for the conveyance herein the Buyer, its successors and assigns, accept the conveyance of the above-described property subject to covenant and restrictions that said premises will remain on a taxable list for the City of New London and neither the Buyer, its successors or assigns, shall make any application pursuant to Chapter 203 of the Connecticut General Statutes for an exemption from taxation without the prior vote of New London City Council and the property's use will be part of the Company's interstate ferry service business by the Buyer or its affiliated companies.

10. POSSESSION. Possession of the Property will be delivered by the Seller to the Buyer at the time of closing.

11. DEFAULT. On default of this agreement by the Buyer, the Seller shall be entitled to a payment of ONE THOUSAND (\$1,000.00) DOLLARS as liquidated damages,

and the rights of all of the parties hereunder shall terminate. The parties acknowledge and agree that anticipated damages are uncertain in amount and difficult to prove, and they wish to liquidate said damages in advance, and the monies paid pursuant to this Agreement are not greatly disproportionate to the damages reasonably anticipated in the event of default by the Buyer. On default of this agreement by the Seller, the Buyer may reclaim his deposit and all of the rights of all of the parties hereunder shall terminate.

12. GENERAL PROVISIONS.

A. PARTIES. This Agreement shall apply to and bind the heirs, executors, successors and assigns of the parties hereto, and may be modified only by written agreement signed or initialed by both of the parties. Neither this Agreement nor any provision hereof may be waived, amended, discharged or terminated except in writing signed by the party against which the enforcement of such waiver amendment discharged or termination is sought, and only to the extent set forth in such writing.

B. EFFECTIVE DATE. This Agreement shall be binding and effective only upon the signing of the same by all of the parties involved and the payment of the deposit provided for herein.

C. SUCCESSION AND SURVIVAL OF RIGHTS. This Agreement and the representations and covenants by the parties, unless otherwise expressly limited, shall survive the closing.

D. GOVERNING LAW. Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the laws of the

State of Connecticut. This Agreement shall be construed without regard to any rule regarding that ambiguities will be resolved against the party by or for whom it was drafted.

E. NOTICE. Any notice required to be given by any party, shall be given by certified mail, return receipt requested, as follows:

Seller : City of New London
c/o City Manager
181 State Street
New London, CT 06320

Copy to: Thomas J. Londregan. Esq.
38 Huntington Street
New London, CT 06320

Buyer: Cross Sound Ferry
2 Ferry Street
New London, CT 06320

Copy to: Attorney Robert Tobin
43 Broad Street
New London, CT 06320

F. CAPTIONS. The captions over each section of this Agreement are for convenience of reference only and shall not define or limit the contractual provisions or affect, in any way, their construction or application.

G. ENTIRETY. Parties acknowledge and agree that this agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof.

H. WAIVER. The failure of any party to insist in any one or more instances upon performance of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or of the future

performance of any such term, covenant or condition; but the obligations of the parties with respect thereto shall continue in full force and effect.

I. JURISDICTION. The parties further agree to be contractually bound to submit themselves to the personal jurisdiction of the Courts of Connecticut, the venue for any court proceedings shall be in the judicial district of New London, at New London, Connecticut.

J. COMMERCIAL TRANSACTION/WAIVER OF JURY. (I) THE BUYER AGREES THAT THIS IS A COMMERCIAL AND NOT A CONSUMER TRANSACTION AND HEREBY WAIVES ANY RIGHT TO A NOTICE AND A HEARING UNDER CHAPTER 903A OF THE CONNECTICUT GENERAL STATUTES, OR POSTING BOND, OR AS OTHERWISE ALLOWED BY ANY STATE OR FEDERAL LAW WITH RESPECT TO ANY PREJUDGMENT REMEDY WHICH SELLER MAY USE, (II) THE BUYER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT FOR THE SALE OF REAL ESTATE AND/OR ANY CLAIM OF INJURY OR DAMAGE.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, this ____ day of _____, 2008.

"SELLER":
City of New London

By: _____ L.S.
Martin H. Berliner, duly authorized
Its City Manager

"BUYER":
Cross Sound Ferry

By: _____ L.S.

Its

STATE OF CONNECTICUT)
) ss.
COUNTY OF NEW LONDON)

On this the ____ day of _____, 2008, before me, _____,
the undersigned officer, personally appeared Martin H. Berliner, duly authorized New
London City Manager, known to me (or satisfactorily proven) to be the persons whose
name he subscribed to the within instrument and acknowledged that he executed the
same for the purposes therein contained, as his free act and deed and the free act and
deed of the City of New London.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Commissioner of Superior Court

STATE OF CONNECTICUT)
) ss
COUNTY OF NEW LONDON)

On this the ____ day of _____, 2008, before me, _____,
the undersigned officer, personally appeared _____, who acknowledged
himself to be the _____ of Cross Sound Ferry, _____, a corporation, and that he,
as such _____, being authorized so to do, executed the foregoing instrument for the
purposes therein contained, by signing the name of the corporation by himself as
_____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Commissioner of Superior Court

SCHEDULE A
(Description of Property)

See Exhibit A attached

SCHEDULE B
(description of personal property)

None

SCHEDULE C
(Contracts or Agreements affecting the Property)

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