



RESOLUTION

AUTHORIZING THE PURCHASE OF LAND AND IMPROVEMENTS AT 11 RIVERSIDE STREET, TAX LOT 75-17 FOR THE SUM OF \$2,250,000, AND PROVIDING FOR PAYMENT OF THE SUM OF \$25,000 AS EARNEST MONEY FROM ACCOUNTS 505-81016 "CIVIC AND COMMUNITY ACTIVITIES - CITY TRANSPORTATION (FY '05)" (\$20,000) AND 374-07250-7222-7105 "CDBG FY '05 – BUS GARAGE" (\$5,000)

CITY OF NASHUA

In the Year Two Thousand and Five

RESOLVED by the Board of Aldermen of the City of Nashua that the Mayor is authorized to enter the attached Purchase and Sale Agreement with Kristiana Corporation, owner of property at 11 Riverside Street, approximately 4.1 acres with buildings and other improvements thereon, Tax Lot 75-17, for the purchase of said property at a price of Two Million Two Hundred Fifty Thousand (\$2,250,000) and upon additional terms and conditions incorporated in the attached Purchase and Sale Agreement. An earnest money payment of \$25,000 shall be paid from Accounts 505-81016 "Civic and Community Activities - City Transportation (FY '05)" (\$20,000) and 374-07250-7222-7105 "CDBG FY '05 – Bus Garage" (\$5,000).

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT made this, the _____ day of _____, 2005, by and between Kristiania Corporation, a New Hampshire corporation having its principal place of business at 11 Riverside Street, Nashua, New Hampshire (the "Seller") and the City of Nashua, New Hampshire (the "Purchaser").

W I T N E S S E T H:

1.00 Purchase, Sale and Description of Premises. Subject to and upon the terms and conditions hereinafter set forth, the Seller agrees to sell, grant and convey to the Purchaser agrees to purchase from the Seller the premises described hereinafter. The premises which are the subject of this Agreement consist of the land and buildings located at 11 Riverside Street, Nashua, New Hampshire which are more particularly described in Exhibit A, attached hereto and incorporated herein by reference (hereinafter referred to collectively as the "Premises").

2.00 Purchase Price and Method of Payment.

2.01 Purchase Price. The purchase price of the Premises shall be TWO MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$2,250,000.00) (the "Purchase Price").

2.02 Method -of Payment. The Purchase Price shall be payable as follows:

(a) Simultaneously with the acceptance of this Agreement, Purchaser shall deposit with Wadleigh, Starr & Peters, P.L.L.C. (the "Escrow Agent"), the sum of Twenty Five Thousand Dollars (\$25,000.00) the receipt of which sum, subject to collection, is hereby acknowledged by the Escrow Agent to be held as earnest money (the "Escrow Proceeds") for application to the Purchase Price at the closing of title or disbursement by the Escrow Agent as provided for hereinafter in the event that this transaction does not close. The Escrow Proceeds shall be deposited in a non-interest bearing account by the Escrow Agent.

(b) TWO MILLION TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$2,250,000.00) at the closing of title by delivering a good, Certified Check, Cashier's or Treasurer's Check or bank draft therefor to Seller.

3.00 Purchaser's Conditions.

3.01 . Hazardous Materials Study. The Purchaser's obligation to close upon this sale shall be conditioned upon the Purchaser's ability to obtain, within forty-five (45) days or less from the date hereof, a written report reasonably acceptable to the Purchaser from a reputable engineering firm selected by Purchaser certifying the absence of Hazardous Materials, as defined hereinafter, on the Premises (the "Hazardous Materials Study"). As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302), and any amendments thereto. The Hazardous Materials Study shall be paid for by the Purchaser, in the first instance, and a copy shall be provided to the Seller. If it is not acceptable to Purchaser, the Purchaser may also elect to terminate this Agreement, in which event the Purchaser shall be refunded the Escrow Proceeds by the Escrow Agent.

3.02 Title to Premises. The Purchaser shall accept title to the Premises subject to the following (the "Acceptable Encumbrances"):

- (a) Private and public utility easements of record, which do not have any material adverse effect on the use or value of the land or building.

To enable the Seller to make conveyance as herein provided, the Seller may use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the recording of the deed, or within a reasonable period thereafter.

For the purposes of this Agreement, the foregoing Acceptable Encumbrances shall not be deemed to be Title Objections.

The title shall be marketable and insurable (in ALTA form). Seller will deliver such affidavits relating to mechanic's liens as may be necessary to enable Buyer to obtain said title insurance with deletion of the standard exception relating to mechanic's liens.

Within thirty (30) days from the date hereof, the Purchaser, at the Purchaser's sole cost and expense, may cause the title of the Seller to the Premises to be examined. The Purchaser shall notify the Seller of any apparent objection to

the Seller's title to the Premises save for the Acceptable Encumbrances [the "Title Objection(s)"] within such thirty (30) day period (the "Notice of Title Objections"). The Seller shall have thirty (30) days from the date of the Notice of Title Objections to cure the Title Objections specified therein. If the Seller fails to cure any of the specified Title Objections within the thirty (30) day period provided therefor or notifies the Purchaser of the Seller's unwillingness or inability to cure any one or more of such Title Objections, whichever shall first occur, either party may terminate this Agreement, in which event Escrow Proceeds shall be refunded to the Purchaser by the Escrow Agent forthwith and neither party shall thereafter have any financial liabilities or obligations to, or demands, claims, equitable rights or cause or causes of action against the other arising under, from, out of or incidental to this Agreement.

3.03. Financing. The Purchaser's obligation to purchase the Premises is contingent upon the Purchaser being able to secure financing as follows:

A. Purchaser's bond counsel authorization to issue a municipal bond in an amount up to Two Million Dollars (\$2,000,000.00).

B. A grant from the Federal Transportation Administration under the provisions of Section 5307 for 80% of the purchase price of the portion of the property to be occupied for transit purposes.

Upon the signing of this Agreement, the Purchaser shall immediately begin applying for the necessary financing. The Board of Aldermen has already passed local legislation intended to authorize the municipal bond. If, within ninety (90) days from the date of this agreement, Purchaser has been unable to secure the specified financing, then the Purchaser may terminate this Agreement in which event the Purchaser shall be refunded the Escrow Proceeds by the Escrow Agent.

3.04. Waiver. The Purchaser may waive any of the conditions to the sale upon written notice to the Seller. Without limiting the foregoing, Purchaser may waive the provisions of Section 3.01 hereof by confirming in writing Purchaser's acceptance of the existing Hazardous Materials Study of the Premises by ADR Environmental Group, Inc., dated December 19, 2003 and the Environmental Systems Engineering Co. report Project No. 04031 of July 2004, copies of which have been provided to Purchaser. Additionally, the failure to notify the Seller in writing prior to the expiration date of any condition that the condition has not been satisfied shall be deemed a waiver thereof.

4.00 Condition of Premises. Inspection. Purchaser may make a complete and thorough and full examination of the Premises and conduct any and all engineering, architectural and related studies and examinations of the Premises as the Purchaser deems necessary or desirable including, but not limited to, the purpose of planning for reuse of the Premises. The Seller shall allow the Purchaser, its agents and consultants access to the Premises upon reasonable oral notice for purposes of conducting such surveys, tests, and inspections as Purchaser may require provided that they shall be conducted in such a manner as not to unreasonably interfere with normal business operations on the Premises, and further provided that upon Purchase completion of the survey, test or inspection, the Purchaser shall promptly restore the Premises to its prior condition. Purchaser agrees to indemnify and hold Seller harmless from any and all liability, loss, cost, damage, or expense arising from conducting such survey, test or inspection. If the Purchaser is not satisfied with the condition of the Premises after such inspections, the Purchaser may, within forty-five (45) days hereof, elect to terminate this Agreement in which event the Purchaser shall be refunded the Escrow Proceeds by the Escrow Agent. The Premises are being sold by the Seller in a "as is--where is" condition and the Seller makes no representations or warranties with respect to the structural integrity, maintenance or condition of the improvements situated on the Premises.

5.00 Casualty, Losses and Condemnation.

5.01 Casualty Losses. Until the closing of title or the termination of this Agreement, Seller shall continue to insure any building and other insurable improvements constituting a portion of the Premises, if any, under a policy of fire insurance with a so-called extended coverage against damage or loss to, or the destruction of such building or other improvements by reason of fire or any of the other casualties against which coverage is customarily afforded under such a policy of insurance [the "Insured Casualty(ies)"]. In the event that such building or other insurable improvements shall be damaged or destroyed by an insured Casualty prior to the closing of title, all sums recoverable under the policy of insurance then in effect, shall be paid or assigned to the Purchaser by the Seller simultaneously with the delivery of the Seller's deed to the Premises unless such insurance proceeds have been expended toward the restoration or reconstruction of the Premises in which event any balance of such proceeds shall be assigned to the Purchaser at the closing; provided, however, that in the event the amount of such casualty loss exceeds the sum of \$100,000.00, then the Purchaser, at its option, may terminate this Agreement and the full amount of the Escrow Proceeds shall thereupon be refunded to the Purchaser.

5.02 Condemnation. From and after the date of this Agreement, the Seller shall bear all risk of loss to the Premises resulting from the taking of all or any portion thereof, for a public use or purpose by condemnation or any exercise of the power of eminent domain. The Seller shall promptly notify the Purchaser in writing of the commencement of any condemnation or eminent domain proceeding pertaining to the Premises and attach to such notice a copy of the Declaration of Taking and other pleadings or notices received by the Seller. In the event that all, or any portion of the Premises are, or may be taken by condemnation or any exercise of the power of eminent domain prior to the closing of title, all awards and the proceeds thereof shall be paid or assigned to the Purchaser by the Seller simultaneously with the delivery of the Seller's deed to the Premises at the closing of title. In the event of condemnation, Purchaser, at its option, may terminate this Agreement and the full amount of the Escrow Proceeds shall thereupon be refunded to Purchaser.

6.00 Closing, Documents to be Delivered at Closing of Title and Delivery of Possession.

6.01 Closing of Title. The closing of title shall occur at the offices of Wadleigh, Starr & Peters, P.L.L.C., 95 Market Street, Manchester, New Hampshire within five (5) days of purchaser's satisfaction of the financing detailed in Section 3.03, but not later than ninety-five (95) days from the date hereof; provided, however, that either party may extend the date of closing for a period not exceeding 10 days by giving written notice to the other party no later than five (5) days prior to the scheduled closing. Purchaser and Seller both acknowledge that time is of the essence to this Agreement.

6.02 Documents to be Delivered at Closing of Title. At the closing of title, the following documents (the "Closing Documents") shall be delivered to:

(a) The Purchaser by the Seller:

(1) A statutory Warranty Deed to the Premises in proper form for recordation with the Hillsborough County Registry of Deeds so as to convey to the Purchaser a good, clear record and marketable title thereto, free and clear of any and all mortgages, liens, attachments and encumbrances of any nature whatsoever, save for the Acceptable Encumbrances.

(2) A Bill of Sale for any fixtures and

appliances.

(3) An Affidavit of Non-Foreign Status; and

(4) Affidavits to the Buyer and to the title insurance company for the Buyer that there are no parties in possession and that no work has been done on the Premises which would entitle anyone to claim a statutory lien or to file notice of contract relating to the property.

(b) The Seller by the Purchaser:

(1) The Purchase Price as set forth in Paragraph 2 hereof.

6.03 Possession. The Seller shall deliver Possession of the Premises to the Purchaser at the closing subject only to the Acceptable Encumbrances.

7.00 Pro-rations and Costs and Expenses.

7.01 Pro-rations. The following items of costs and expenses shall be pro-rated on a per diem basis as of the date of the closing of title:

(a) Real estate taxes shall be prorated as of the date of closing and transfer of title. If the amounts of the charges or assessments relating to the Premises is not known at the time of transfer of title, prorations shall be done on the basis of charges or assessments for the preceding year. Adjustments for these items shall occur at closing.

(b) All other items of costs and expense customarily prorated and adjusted in connection with the sale of real property similar to the Premises.

7.02 Costs and Expenses of Closing. Each party shall bear and pay all of the costs and expenses incurred by such parties in connection with the negotiations and preparation of this Agreement and the consummation of the transaction contemplated hereby including, without limiting the generality of the foregoing:

(a) In the case of the Purchaser, the costs and expenses of having the title of the Seller to the Premises examined pursuant to Paragraph 3.02 and the costs of the Hazardous Materials Study provided for in Paragraph 3.01.

(b) In the case of each party, the costs of purchasing the

Transfer Tax Stamps required under Chapter 78-B of the Revised Statutes Annotated.

(c) in the case of each party, its own legal fees.

8.00 Escrow.

8.01 Closing. In the event that the closing of title shall occur, the Escrow Agent shall credit the Escrow Proceeds against the Purchase Price as provided in Paragraph 2.02(a).

8.02 Permissible Termination. If the closing of title shall not occur due to the termination of this Agreement as provided herein, the Escrow Agent shall pay over the Escrow Proceeds to the party entitled thereto hereunder.

8.03 Default. In the event of an alleged default by either party hereunder, which is disputed by the other party, the Escrow Agent may (i) retain the Escrow Proceeds in the Escrow Agent's client trust account; or (ii) commence an interpleader action and pay the Escrow Proceeds into Court in connection therewith.

9.00 Default.

9.01 Default by Purchaser. In the event that the Purchaser defaults under this Agreement, all conditions to be met by the Seller having been satisfied, the Seller's remedy shall be limited to the Seller's right to terminate this Agreement immediately by giving written notice of such termination to the Purchaser, in which event the Seller shall be given the Escrow Proceeds by the Escrow Agent which Seller may retain as liquidated damages and neither party shall thereafter have any financial liabilities or obligations to, or demands, claims, equitable rights or cause or cases of action against the other arising under, from, out of or incidental to this Agreement.

9.02 Default by Seller. In the event that the Seller defaults under this Agreement, all conditions to be met by the Purchaser having been satisfy, the Purchaser may, at its option, terminate this Agreement by giving written notice thereof to the Seller, in which event the Purchaser shall be given the Escrow Proceeds by the Escrow Agent, or Purchaser may commence an action for specific performance due to the Seller's default.

10.00 Miscellaneous.

10.01 Notice. All notices herein required or permitted to be given hereunder shall be in writing and effective when delivered, received by FAX or mailed, postage prepaid, addressed as follows:

(a) If to the
Purchaser: City of
Nashua

with a copy to:

(b) If to the Seller: Kristiania Corporation
11 Riverside Street
Nashua, NH03062

with a copy to:
Eugene M. Van Loan III
Wadleigh, Starr & Peters,

P.L.L.C.

95 Market Street
Manchester, NH 03101

10.03 Assignment. Neither party may assign this Agreement or its rights or obligations hereunder to a third party without the prior written consent of the other party.

10.04 Brokerage Commissions. The Purchaser and Seller warrant and represent to each other that they have not dealt with any real estate agent, broker or finder in connection with the transaction contemplated by the Agreement and that no other party is entitled to a commission or other fee upon the execution of this Agreement the consummation of the contemplated transaction. The Purchaser and Seller agree that if any claim is made for a finder's fee, broker's commission or other fee by any finder, broker or other person by, through or on account of such person's actions or the actions of such persons or employees, servants or agents, then Purchaser or Seller, as appropriate, will defend, indemnify and hold the other party harmless of and from any and all liability, loss, damage or expense of any nature whatsoever incurred in connection therewith.

10.05 Governing Law and Captions. The interpretation of this Agreement, and the rights and obligations of the Purchaser and Seller hereunder, shall be governed by, construed in accordance with and enforced under the law of the State of New Hampshire. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or any provision

hereof.

10.06 Non-Survival of Covenants. Except for Paragraph 10.04 of this Agreement and the covenants and agreements thereof, no provision of this Agreement or any obligation of either party hereunder shall survive the closing of title, and the acceptance of the Closing Documents by the Purchaser and Seller shall constitute an acceptance by them of performance by the parties hereunder.

10.07 Entire Agreement. All understandings and agreements heretofore had between the parties hereto are merged in this Agreement, which alone fully and completely expresses their agreement on all terms, including their respective obligations of good faith and fair dealing. This Agreement is being entered into after full investigation, neither party relying upon any statement or representation, not embodied in this Agreement, made by the other.

10.08 Amendment of Agreement. This Agreement may not be amended, changed or modified except by a written document executed by each party or such party's duly authorized agent.

10.09 Definitions. The following definitions and rules of construction shall be used in the interpretation of this Agreement:

(a) All words, terms and phrases defined by being placed in parentheses and capitalized shall have the meaning attributed thereto in the paragraph in which any such word, term or phrase is so defined in this Agreement.

(b) Where necessary or appropriate to the meaning of this Agreement, the singular shall be deemed to include the plural, the plural to include the singular, the masculine to include the feminine and neuter, the feminine to include the masculine and neuter and the neuter to include the masculine and feminine.

11.00 Benefit. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, legal representatives or assigns, subject to the provisions of Paragraph 10.03, but it shall not otherwise be for the benefit of or enforceable by any third party.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and date first above written.

WITNESS:
Corporation (as Seller)

Kristiania

by _____, its President

City of Nashua (as Purchaser)

By _____, duly
authorized

EXHIBIT A

Copy of deed from _____ to Kristiania Corporation to the Premises at 11 Riverside Street, Nashua, New Hampshire.