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KATHY HILL  
SKAGIT COUNTY CLERK

RETURN TO:

WARREN M. GILBERT  
314 Pine St.  
Mount Vernon, WA 98273

99 MAR 15 P2:57

RECORDED \_\_\_\_\_ FILED \_\_\_\_\_  
REQUEST OF *HW*

9903150124

DOCUMENT TITLE(S) (or transactions contained herein):

Lease

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

[ ] ADDITIONAL REFERENCE NUMBERS ON PAGE \_\_\_\_\_  
OF DOCUMENT.

GRANTOR(S) (Last name, first name and initials):

1. STEWART, GARY & Sandy
- 2.
- 3.
- 4.

[ ] ADDITIONAL NAMES ON PAGE \_\_\_\_\_ OF DOCUMENT.

GRANTEES (Last name, first name and initials):

1. SKAGIT PARTNERS IV, INC.
- 2.
- 3.
- 4.

MAR 15 1999

By: *Sp*  
Skagit County Treasurer

[ ] ADDITIONAL NAMES ON PAGE \_\_\_\_\_ OF DOCUMENT.

LEGAL DESCRIPTION (Abbreviated: L.e., lot, block, plat or quarter, quarter, section, township and range):

SECTION 19 Twp 33, Range 4  
TAX 43 PTN N 1/2 NE 1/4 LY E OF 6N RLY/RWDT 17 DK 3  
& W OF OLD PAC HWY & N OF FIRE ISL RD 7 EXC RD R/W

[ ] ADDITIONAL LEGAL(S) ON PAGE \_\_\_\_\_ OF DOCUMENT.

ASSESSOR'S PARCEL/TAX I.D. NUMBER:

P16910

[ ] TAX PARCEL NUMBER(S) FOR ADDITIONAL LEGAL(S) ON PAGE \_\_\_\_\_ OF DOCUMENT.

9903150124

BK1958PG0501

L E A S E

This lease and agreement is made on this 8<sup>th</sup> day of Feb, 1999, by and between SKAGIT PARTNERS IV, INC., a corporation organized and existing under the laws of the State of Washington, having its principle place of business in Mount Vernon, Washington, as Lessee and GARY STEWART and SANDY STEWART as Lessors, in the manner following:

The parties agree as follows:

Description and use of the property:

- A. The Lessor agrees to lease to the Lessee and the Lessee hereby leases from the Lessor, that real property situated in Skagit County, State of Washington, described as follows:

Section 19, Township 33, Range 4  
TAX 43 PTN N 1/2 NE 1/4 LY E OF GN RLY R/WDT 17 DK 3  
& W OF OLD PAC HWY & N OF FIR ISL RDD 7 EXC RD R/W

TERM: This Lease shall be for a period of twenty (20) years, commencing on the 8<sup>th</sup> day of Feb, 1999. The Lease shall terminate, unless extended as herein provided, 240 months after the store is first opened for business.

RENT:

- A. Feasibility Period. For a period of not more than sixty (60) days the Lessee shall conduct a feasibility study regarding the property. During the feasibility period, the Lessee shall determine whether a convenience store/gas station is feasible. In the event Lessee determines that the project is not feasible, Lessee shall inform Lessor in writing and the Lease shall be terminated without cost to either party.

B. Construction and Initial Start-Up. Upon completion of the Feasibility Period, the Lessee shall inform the Lessor in writing that Lessee intends to go forward with the project. The Construction and Initial Start-Up period shall be for a period of six (6) months from the notice required in the above Feasibility Period. It is anticipated that, during the Construction and Initial Start-Up phase, Lessee will construct and open a convenience store on the property. There will be no lease payments during the construction and Initial Start-Up Phase.

C. Lessee agrees to pay monthly rent as follows:

1. Lease payments will be calculated beginning the first day the convenience store opens to the public. The first month's lease payment shall be pro-rated based on the number of days open during that month.
2. For months one through sixty, the base rent shall be \$2,500.00 per month.
3. For months sixty-one through one hundred twenty, the base rent shall be \$3,500.00 per month.
4. For months one hundred twenty-one through two hundred forty, the base rent shall be \$5,000.00 per month

D. In addition to Rent, Lessee agrees to employ Lessor pursuant to a management agreement that is set forth in a separate document.

USE OF PREMISES: It is understood that the leased premises will be utilized as a convenience store. The Lessee will not use the premises for any illegal purposes.

USE OF 1672 SPRUCE STREET PROPERTY: Lessor owns and operates a grocery, Conway Foods, located at 1672 Spruce Street, Conway, Washington. As part of the consideration for Lessee's decision to construct and operate a convenience store on the property herein, Lessor has agreed to



close Conway Foods. Lessor further agrees and covenants not to lease to or otherwise allow a grocery business/convenience store on the 1672 Spruce Street site that will in any fashion compete with Lessee's business on the property herein.

UTILITIES: Lessee agrees to pay all charges of water, electricity, gas and other utilities as may be used by Lessee.

ASSIGNMENT:

- A. Lessee may, with the written consent of the Lessor, assign this Lease or sublet the premises, but this Lease shall not be assignable by operation of law. The Lessor will not unreasonably withhold consent to an assignment or sublease.
- B. It is anticipated that the Lessee will enter into financing agreements with Tosco, Inc., and/or one of several banks. These agreements may require that the Lessee execute an assignment to Tosco and/or the bank in the event Lessee defaults on its obligations to Tosco and/or the bank. The Lessor agrees in advance to allow Tosco and/or the bank, its successors and assigns to lease the property under the same terms and conditions set forth herein.

REPAIRS: As a part of the consideration to be paid for the leased premises, Lessee agrees to keep the premises in clean and good condition.

TAXES: The Lessee shall pay the real property taxes for the leased property.

FIRE AND OTHER CASUALTY: If the premises or buildings are destroyed by any cause whatsoever, during the term of the Lease, then the Lessee shall, so long as commercially reasonable to do so, rebuild or repair the same. Total destruction shall be damage or injury to the extent of sixty percent (60%) of the fair market value of the building at time of such casualty. Lessee shall have not

more than sixty (60) days after such destruction to determine whether to rebuild and give written notice to Lessor. If Lessee elects to rebuild or repair, they shall do so without unnecessary delay. During such period that the premises are under construction, the rent for the premises shall be abated. Should the Lessee elect not to repair or rebuild then this Lease shall immediately terminate and the Lessee shall remove their improvements and return the property to a marketable condition.

DEFAULT: If Lessee shall violate any of the provisions of this Lease at any time hereafter, the Lessor at their option, may serve upon the Lessee Lessor's election to terminate this Lease upon specified date not less than sixty (60) days after giving such notice.

In case of such termination or by summary proceedings otherwise or in the event of abandonment or vacating the premises by the Lessee, the Lessor, their agents, employees or representatives, may immediately or at any time thereafter, re-enter and resume possession of the premises or any part thereof and remove any person and property therefrom without being liable for any damage therefore. Notwithstanding such notice or the re-entry, the liability of the Lease, as provided herein, shall not be extinguished for the balance of the term of the Lease. If Lessor retains an attorney in connection with the default under this Lease, Lessee shall pay the Lessor reasonable attorney fees, in connection with such default and any actions taken therewith. Venue of all such actions shall be laid in Skagit County, Washington.

WAIVER OF SUBROGATION: Lessor hereby releases Lessee from every and all right, claim and demand that Lessor may hereafter have against Lessee or Lessee's successors or assigns out of or in connection with any loss or losses occasioned by fire and such items as are included under the normal extended coverage clauses of fire insurance policies and do hereby waive all rights of subrogation in favor of insurance carriers against Lessee arising out of any losses occasioned by fire and such items as are included under the normal extended clauses of fire insurance policies and sustained by Lessor in or around the premises.

Lessee hereby releases Lessor from any and all right, claim and demand that Lessee may hereinafter have against Lessor or Lessor's successors or assigns arising out of or in connection with any loss or losses occasioned by fire and such items as are included under the normal extended coverage clauses of fire insurance policies and do hereby waive all rights of subrogation in favor of insurance carriers against Lessor arising out of any losses occasioned by fire and such items as are included under the normal extended covered clauses of fire insurance policies, and sustained by Lessees to their trade fixtures, equipment and merchandise in the premises. The waivers provided for in this paragraph shall be applicable and effective only in the event such waivers are obtained from the insurance carriers concerned.

INSPECTION FEES: It is agreed that any and all inspection fees incurred during the term of the Lease, which are due the City of Mount Vernon, Skagit County, State of Washington or the Federal Government, are the sole obligation of the Lessee.

HOLD HARMLESS AGREEMENT: Lessee agrees to hold harmless Lessor and their agents from all damages of every kind whatsoever that may be claimed or may arise by reason of any accident on, in or about the leased premises and areas adjacent thereto as a result of the Lessee's business activities or caused by the acts or neglects of the Lessee or any agent of the Lessee.

OPTION TO RENEW: Tenant shall have the option to extend the Lease term for two (2) additional periods of ten (10) years each after the end of the Lease term, provided, however, (1) that Lessee is in possession of the Property (2) that Lessee is not in default at the time of exercise of the option, and (3) with respect to the second ten (10) year option period, that Lessee has exercised the first ten (10) year option. Such option shall be exercised by written notice from Lessee delivered or mailed to Lessee at the address where rent hereunder is paid, not later than one hundred eighty



(180) days prior to the expiration of the Lease term or the extended term then in effect. The terms and conditions of the Lease applicable at the expiration date shall govern the extended terms, except for Minimum Rent which is hereinafter defined. The Minimum Rent for the option periods shall be the then fair market rental value of the Land, as the parties may agree. If the parties are unable to agree on a fair market rental within sixty (60) days after Lessee's election to exercise its option to extend, then fair market value shall be determined by an MAI appraiser selected by the parties. If the parties are unable to select an appraiser within ninety (90) days after Lessee's election to exercise its option to extend, then each party shall select an appraiser and the two (2) thus chosen shall select a third appraiser who shall determine the fair market rental. Notwithstanding anything to the contrary contained herein, under no circumstances shall the Minimum Rent for the option term be less than the Minimum Rent for the Lease Year or extended term just ended and Lessee shall continue to pay Percentage Rent, hereinafter defined, during each option period, at the same percentage, hereinafter defined, in effect at the expiration of the initial Lease Term. Upon termination of the Lease, Lessee shall leave the property in a marketable condition.

OPTION TO PURCHASE: In further consideration of the obligations herein, the adequacy of which is expressly acknowledged, the Lessor grants the Lessee the First Right of Refusal of any sale of the premises by the Lessor, his successors, assigns or devises under the same terms and conditions thereof. The legal description set forth on page 1 hereof is the legal description of the property subject to this option.

LESSOR OPTION TO PURCHASE: In further consideration of the obligation herein the Lessee grants the Lessor the First Right of Refusal of any sale of the business by the Lessee under the same terms and conditions thereof.

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first above written.

DATED this 8 day of Feb, 1997.

GARY STEWART

LESSOR

SANDY STEWART

LESSOR

Scott Peterson

LESSEE

LESSEE

STATE OF WASHINGTON )

SS

COUNTY OF SKAGIT )

On this day personally appeared before me Gary Stewart & Sandra Stewart and Scott Peterson, to me known to be the individuals described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 8 day of Feb, 1997.

[Signature]  
Notary Public in and for the State of Washington  
residing at Mont Vernon

9903150124