



200103160103

, Skagit County Auditor

3/16/2001 Page 1 of 14 3:49:41PM

AFTER RECORDING MAIL TO:

Name CITY OF ANACORTES
Address PLANNING DEPT.
P.O. BOX 547
City / State ANACORTES, WA. 98221

Document Title(s): (or transactions contained therein)

1. LEASE AGREEMENT
- 2.
- 3.
- 4.

Reference Number(s) of Documents assigned or released:

☐ Additional numbers on page _____ of document

Grantor(s): (Last name first, then first name and initials)

1. CITY OF ANACORTES
- 2.
- 3.
- 4.
5. ☐ Additional names on page _____ of document

Grantee(s): (Last name first, then first name and initials)

1. ANDREWS, JOSEPH
2. ANDREWS, JENNIFER
- 3.
- 4.
5. ☐ Additional names on page _____ of document

Abbreviated Legal Description as follows: (i.e. lot/block/plat or section/township/range/quarter/quarter)

CITY LOT 3A LYING SOUTHWESTERLY OF "V" PLACE AS DELINEATED ON THAT CERTAIN
BOUNDARY LINE ADJUSTMENT SURVEY RECORDED AS AUDITOR'S FILE NO. 200005190013.

☐ Complete legal description is on page _____ of document

Assessor's Property Tax Parcel / Account Number(s): 350230 - 0 - 211 - 0006

R33189

NOTE: The auditor/recorder will rely on the information on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

After Recording Return to:
City of Anacortes
Planning Department
PO Box 547
Anacortes, WA 98221

THIS LEASE IS MADE AND ENTERED INTO as of the first day of August, 2000 by and between the City of Anacortes, Washington (hereinafter referred to as "Lessor" and Joseph and Jennifer Andrews (hereinafter referred to as "Lessee").

WITNESSETH:

FOR AND IN CONSIDERATION OF the mutual promises, covenants and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

1. **Leased Premises.**

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor those certain premises, hereinafter called "Leased Premises", which is more particularly described in Attachment A to this Agreement (approximately 11,256 square feet identified as "Lot 3A West of New Street").

2. **Lease Term.** This lease shall be for a term commencing August 1, 2000 and ending at 11:59 P.M. on July 31, 2020 (hereinafter the Initial Term), unless earlier terminated as provided herein in Section 20 or renewed pursuant to Section 19 of this Lease.

3. **Alterations and Improvements.**

A. Lessee agrees that it will make no alterations or improvements on the Leased Premises without the prior written consent of Lessor. All alterations and improvements made by



Lessee (except trade fixtures and temporary structures) and the rights thereto shall become the property of Lessor as of the date of expiration of this lease.

B. In the event Lessor consents in writing to alterations or improvements proposed by Lessee, Lessee agrees to advise Lessor in writing of the anticipated date on which such alterations or improvements are expected to commence. Lessee shall make all alterations and improvements and shall install all trade fixtures in a good and workmanlike manner and shall repair any damage caused to the Leased premises in connection with the making of such alterations, improvements or installations.

4. Rent. Lessee shall pay to the Lessor as rent the sum of \$417 per month plus State Leasehold Tax beginning August 1, 2000; a late payment penalty of \$100 shall be made if payment is not made within 15 days of the due date, which is the first day of each month. The rent shall be adjusted April 1 in years 5, 10, and 15 based upon the percentage of change in the Consumer Price Index -- All Urban Consumers (Seattle-Tacoma-Bremerton) ; to avoid using preliminary figures, the adjustment shall be based on the change from June the preceding year to the June five years before.

5. Taxes. Lessee shall pay all real estate taxes and fees imposed with respect to the Leased Premises, including the state leasehold tax.

6. Utilities. Lessee will pay for all utility service.

7. Operational Maintenance and Repair.

A. Lessee shall at all times throughout the lease term keep the Leased Premises and all improvements placed thereon, in good order, condition and repair.

B. Cost of all operational maintenance or repairs, shall be borne by Lessee.

8. Default. Time is of the essence hereof, and in the event that Lessee shall violate or breach or fail to keep or perform any material covenant, agreement, term or condition of this Lease, or if such default or violation shall continue or shall not be remedied within thirty (30)



days after notice in writing thereof given by the Lessor to Lessee, specifying the nature of the default, Lessor, at its option, may cancel this Lease; provided, however, that if the nature of such default, other than for nonpayment of rent, is such that the same cannot be cured within such thirty (30) day period, Lessee shall not be deemed to be in default if Lessee shall within such period commence such cure and thereafter diligently prosecute the same to completion.

9. Performance of Lessor's Obligations.

If the Lessor defaults in the observance or performance of any term or covenant required to be performed by them under this Lease, the Lessee, after not less than thirty (30) days notice to the Lessor may, but shall not be obligated to, remedy such default, provided that the Lessee shall have the right to remedy such default without notice in the event of an emergency. All sums reasonably expended or obligations reasonably incurred by the Lessee in remedying such default shall be paid by the Lessor to the Lessee upon demand, and if the Lessor fails to reimburse the Lessee, the Lessee may, in addition to any other right or remedy that the Lessee may have, deduct such amount from subsequent monthly rental payments.

10. Liability and Indemnification.

A. Lessee agrees to keep the Leased Premises insured against loss or damage by fire or other perils insurable under the standard form of fire, extended coverage insurance policy, to the extent of ninety percent (90%) or more of the replacement cost as determined from time to time.

B. Lessee shall indemnify and save Lessor harmless of and from all loss, cost, liability, damage and expense, including, but not limited to reasonable attorney's fees, penalties and fines, incurred in connection with or arising from; 1) any default by Lessee in the observance of performance of any of the terms, covenants or conditions of this lease on Lessee's part to be observed or performed, or 2) the use or occupancy or manner of use or occupancy of the premises and any improvements thereon by Lessee or any person claiming through or under Lessee, or 3) acts, omissions or negligence of Lessee or any person claiming through or under Lessee, or the contractors, agents, servants, employees, visitors or licensees of Lessee or any person claiming through or under Lessee, in or about the premises including the improvement



thereto, or 4) any claims by any persons by reason of injury to persons or damage to property occasioned by any use, occupancy, act, omission or negligence referred to herein. This .pa section shall not apply to any loss, injury, death, or damage by reason of the sole negligence of Lessor, its agents or employees.

C. Insurance policies procured hereunder shall be issued by financially responsible insurers duly authorized to do business in the State of Washington. The placement and storage of personal property on said premises shall be the responsibility, and at the sole risk, of the Lessee.

D. The Lessee shall maintain throughout the term of this lease, at its own cost, comprehensive general liability insurance. The insurance shall cover the lease premises, including improvements thereto in a minimum limit of \$2,000,000 for bodily injury and property damage, with an additional \$2,000,000 umbrella policy. No more frequently than every five years, if, in the opinion of Lessor substantiated by prevailing industry standards the limits of the comprehensive general liability insurance coverage are not adequate, Lessor may reasonably require that the amount of insurance coverage be increased. Failure to obtain additional insurance coverage shall be a default by the Lessee hereunder. Lessee shall pay all insurance premiums as they become due. Said policy must specifically name Lessor as an additional insured party thereunder and must stipulate that the coverage as provided by said policy not be terminated, reduced or otherwise changed in any respect without providing at least thirty (30) days prior written notice to Lessor, and filed with Lessor. Notwithstanding any provision herein to the contrary, the failure of the Lessee to comply with the provisions of this section shall subject this lease to the default provisions of this Agreement.

E. Lessor and Lessee hereby grant to each other on behalf of themselves and any or all insurers providing insurance to either of them covering the premises or any portion thereof, a waiver of any right of subrogation any such insurer of one party may acquire against the other by virtue of payment of any loss under such insurance.

F. The Lessee shall provide for the prompt and efficient handling of all claims for bodily injury or property damage arising out of the activities of the Lessee under this lease. Lessee agrees that all such claims, whether processed by the Lessee or Lessee's insurer either directly or by means of an agent, will be handled by one key person.



11. Warranties and Representations. Lessor warrants and represents that:

A. The individual executing this lease on behalf of Lessor has been properly authorized and upon such execution this lease shall constitute a binding obligation of Lessor.

B. Neither the condition of the Leased Premises nor the execution of this lease is in violation of any governmental law, rule, regulations or ordinances, or any contractual obligation of the Lessor.

C. The Leased Premises are free of encumbrances and the Lessor has the right to make this lease in accordance with the accompanying terms and conditions.

12. Quiet Enjoyment. The Lessor covenants that it has the right to make this lease for the term hereof, and if Lessee shall pay the rent and perform all the covenants, terms, conditions and agreements of this lease to be performed by Lessee, Lessee shall during the term created hereunder freely, peaceably and quietly occupy and enjoy the full possession of the Leased Premises without molestation or hindrance by Lessor or any party claiming through or under Lessor.

13. Notices. All notices and written communications required by this lease shall be sent to Lessee, and Lessor at their office addresses as set forth below:

Lessee: Joseph and Jennifer Andrews
3824 Sutton Place
Anacortes, WA 98221

Lessor: City of Anacortes
P.O. Box 547
Anacortes, WA 98221
Attn: Ian Munce

Except as otherwise specifically provided in this lease, any notice hereunder shall be in writing and shall be deemed delivered when served personally on the party to whom addressed, or when deposited in the U.S. Mail registered or certified, postage prepaid, addressed to such party at the address and to the attention of the party as provided in this paragraph, or when deposited with the operator for immediate telegraphic or other electronic communication addressed as set forth above, provided that such electronic communication is promptly followed by written notice



addressed and mailed as aforesaid. Lessor and Lessee shall notify each other within five working days of any address change.

14. Use.

Lessee agrees to maintain its entire operation to confirm and comply with applicable zoning and building regulations; in the event of any change or modification of such regulations that would prohibit, preclude or substantially impair the contemplated use of the Leased Premises by Lessee, Lessee may in its sole discretion terminate this lease effective on the effective date of such changed zoning or building regulations and Lessee's obligation for rental payments shall cease and terminate effective with such date. Lessor shall promptly notify Lessee of any change or proposed change in the zoning or building regulations affecting the Lease Premises.

15. Clean Up. The Lessee shall keep the lease premises from accumulation of debris, rubbish, or other waste material, and from the accumulation of general clutter. At the completion of the lease, the Lessee shall remove all wastes and surplus materials and all his tools and equipment, and shall leave the Leased Premises clean.

16. Liens. Lessee shall not suffer or permit any lien to be filed against the Leased Property or any part thereof or the Lessee's leasehold interest, by reason of work, labor, services or materials performed or supplied to Lessee or anyone holding the Leased Property or any part thereof under Lessee. If any such lien is filed against this Leased Property or against Lessee's leasehold interest, Lessee shall proceed with reasonable diligence to cause the same to be discharged of record.

17. Condemnation. In the event of the taking of all or substantially all of the Leased Premises by condemnation, settlement agreement or other action by and federal, state or local government authority, or if a partial taking renders the said premises unsuitable for the business of Lessee, this Lease shall be deemed to be terminated as of the date of the actual taking of possession by said authority. In the event of a partial taking, or damaging of the lease premises



by condemnation which does not have the effect of rendering the said premises unsuitable for the business of the Lessee, the parties shall promptly negotiate a revision of rental to reflect the diminution, if any, in the rental value of the premises caused by such partial taking or damaging. If the parties are unable to reach an agreement within sixty (60) days from the time that either party requests negotiation on this subject, either party shall have the right to submit the matter to arbitration. In the event arbitration is requested, the Lessor and Lessee shall each nominate an arbitrator, which arbitrators shall designate a third. A decision made by a majority of said arbitrators shall be final and binding for the balance of the lease term.

The Lessee shall be entitled to receive so much of the condemnation award, in the event the condemnation action is pursued to judgment or so much of the settlement payment, if a settlement is made with the condemning authority in any manner short of a judgment, as represents the fair value of the unexpired lease term and Lessee's fixture and equipment. The Lessor shall not accept any award for such damages unless Lessee consents thereto or until the expiration of thirty (30) days after notice to the Lessee thereof; and if Lessee elects to do so, it shall be permitted, at its own expense, to contest such award by appropriate legal proceedings in the name of the Lessor.

18. Sublease and Assignment. Lessee shall not sublet nor assign this Lease or any interest therein without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. The Lessor shall notify any Sub-Lessee of any breach, or other notices sent to Lessee and the Sub-Lessee shall have the right to make payment or any other remedy of the breach on behalf of the Lessee.

19. Option to Renew. Lessor hereby grants to the Lessee exclusive option to renew this Lease for four Renewal Terms of five years each, subject to the following:

A. No Material Default. Lessee shall not be in material default of any of the material terms or conditions of this Lease.

B. Notice. Lessee shall give written notice to Lessor of lessee's election to renew during the Initial Term, but in any event no later than ninety (90) days prior to the



expiration of the Initial term, and no later than ninety (90) days prior to the expiration of any particular Renewal term, if applicable.

C. Rent. The annual rent for any Renewal Term shall be ten percent (10%) of the appraised fair market value of the Leased Property. The same annual rent shall be paid for each year of the appropriate term. The rent shall be payable monthly, in advance.

D. Determination of Fair Market Value. At or about the time of Lessee's exercise of its option to renew for the applicable Renewal Term, the parties shall agree on a fair market value of the Leased Property. If the parties *cannot agree* on the fair market value of the Leased Property, Lessor shall choose a qualified real estate appraiser (MAI or equivalent) who shall prepare an independent appraisal ("Lessor's Appraisal"). If Lessor's Appraisal is acceptable to Lessee, it shall be used for determining the rent for the entire applicable Renewal Term. If Lessor's Appraisal is not acceptable to Lessee, Lessee shall choose a qualified real estate appraiser (MAI or equivalent), who shall prepare an independent appraisal ("Lessee's Appraisal"). If Lessor's Appraisal and Lessee's Appraisal are within five percent (5%) of each other, then the fair market value shall be two and one-half percent (2 1/2%) above the lower appraisal. If Lessor's Appraisal and Lessee's Appraisal are not within five percent (5) of each other, then either party may accept the other party's appraisal, or the parties shall mutually agree on the selection of a third qualified appraiser (MAI or equivalent) who shall perform an independent appraisal to determine the fair market value of the Leased Property, which appraisal shall be final and binding on both parties. Each party shall pay the cost of its appraisal. If the third appraisal is required, each party shall pay one-half (1/2) of its cost. In any determination of the fair market value of the leased Property, whether by the parties or an appraiser, said determination shall be as of the date the option to renew is exercised, shall be applicable for the entire Renewal Term, and shall be exclusive of any personal property of Lessee on the leased Property, it being agreed that said personal property is not to be considered in determining the fair market value.

Nothing herein shall prevent Lessee from using the Leased Property during any term while the fair market value is being determined. If the rent for any term has not been fixed at the time the Renewal Term begins, Lessee shall continue its use of the Leased Premises, and shall



continue to pay rent in the amount as that last paid until the appropriate rent is fixed. Once the rent is fixed, the appropriate additional rent or refund shall be made by the appropriate party.

20. Termination. The lease may be terminated by either party only for a material breach of the material terms of this agreement.

21. Arbitration. The parties agree that any dispute arising out of or in connection with this lease, including without limitation, any question regarding its existence, validity, termination, interpretation, construction, or a determination of the rights or obligations of either of them that cannot be settled amicably within ninety (90) days after it has been first raised in writing shall be finally resolved by binding arbitration in accordance with the arbitration rules of the American Arbitration Association ("AAA Rules") and the provisions of this section. To the extent the terms of this section conflict with the AAA Rules, the terms of this section shall control.

The arbitration shall be conducted in Seattle, Washington by one arbitrator. The arbitrator shall be selected in accordance with the AAA Rules, have a minimum of 15 years experience as a lawyer primarily focusing in the area of real property law, and have their primary office of practice in King County Washington ("the Arbitrator").

Any notice of arbitration, response or other communication given to or by a party to the arbitration shall be given and deemed received as provided in the AAA rules. The costs to be paid to the Arbitrator for conducting the arbitration shall be paid by the non-prevailing party as determined by the Arbitrator. If the Arbitrator is not able to determine a non-prevailing party, the Arbitrator's fee shall be shared equally by the parties. The parties agree that the Arbitrator's decision regarding any dispute shall be final and binding on the parties. Additionally, except as expressly provided herein, the parties agree that neither of them will institute any legal proceedings arising out of or in connection with this Lease, except only to (i) enforce in a recognized competent court having jurisdiction over any award rendered by the Arbitrator or (ii) obtain injunctive relief until such time as an award is rendered. Venue shall be in Skagit County, Washington. In any event any legal proceedings are instituted in any court to enforce any arbitration award, the party against whom enforcement of that arbitration award is sought shall



pay all costs, including without limitation the costs of legal fees and other related collection costs of the party seeking to enforce the arbitration award.

22. Holdover. If Lessee maintains possession of the Premises for any period after the termination of this Lease with the approval of the Lessor ("Holdover Period"), Lessee shall pay to the Landlord a lease payment for the Holdover Period based on the terms of this Lease. Such holdover shall constitute a month-to-month extension of this Lease.

23. Option to Purchase: Lessee shall have the exclusive right to purchase the Leased Premises at any time prior to July 31, 2002 with any lease payments made prior to the purchase being credited against the purchase price.

23A. Purchase Price: \$56,280.00 (11,256 square feet x \$5.00 per square foot). Fifty six thousand, two hundred eighty dollars.

24. Right of First Refusal. In the event that Lessor decides to sell the Leased Premises on or after August 1, 2002 (during the Initial Term or a Renewal Term), Lessee shall have the first right to purchase the property upon the same terms and conditions as agreed upon between Lessor and prospective purchaser. In the event that Lessee declines to exercise the right of first refusal within thirty (30) days of notice being mailed by the Lessor, Sub-Lessee shall have the same thirty (30) days notice and opportunity to purchase offered to the Lessee.

25. Waivers. The waiver by Lessee or Lessor of any breach of any term, covenant, condition or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of same or of a breach of any other term, condition, agreement herein contained.

26. Headings. The headings of paragraphs and subparagraphs contained in this lease are used for convenience and ease of reference and in no way define, limit or describe the scope and/or intent of the lease or any of the terms, conditions or provisions.

27. Complete Agreement.

This lease constitutes the entire agreement between Lessor and Lessee and there are no terms, conditions or provisions either oral or written between the parties hereto other than those herein contained or as attached hereto as exhibits and this lease supercedes any and all oral or written representations, inducements or understandings of any kind or nature between the parties hereto and this agreement shall be construed according to the laws of the State of Washington.

28. Binding on Successors.

The covenants and conditions herein contained shall apply to and be binding upon the successors and assigns of Lessor and Lessee.

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

LESSOR:

CITY OF ANACORTES

2/14/01

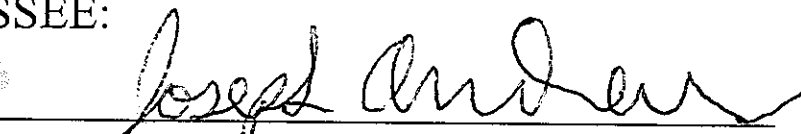
By



H. Dean Maxwell, Mayor

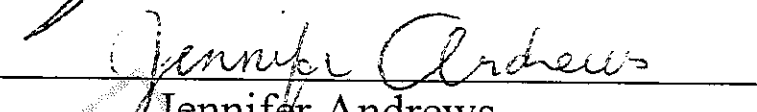
LESSEE:

By



Joseph Andrews

By



Jennifer Andrews

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

MAR 16 2001

Amount Paid \$
Skagit County Treasurer
By:  Deputy



200103160103

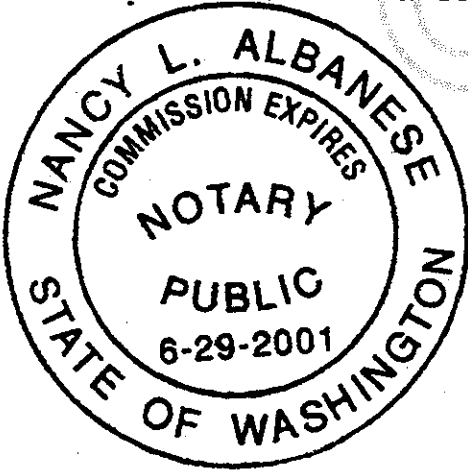
Skagit County Auditor

ACKNOWLEDGEMENT - Individual

STATE OF WASHINGTON,)
County of Skagit) ss.
)

On this day of personally appeared before me Joseph Andrews & Jennifer Andrews to me known to be the individual (s) described in and who executed the within and foregoing instrument, and they acknowledged that they signed the same as (~~his/her~~/their) free and voluntary act and deed, for the uses and purposes therein.

GIVEN under my hand and official seal this 14 day of Feb 2001.



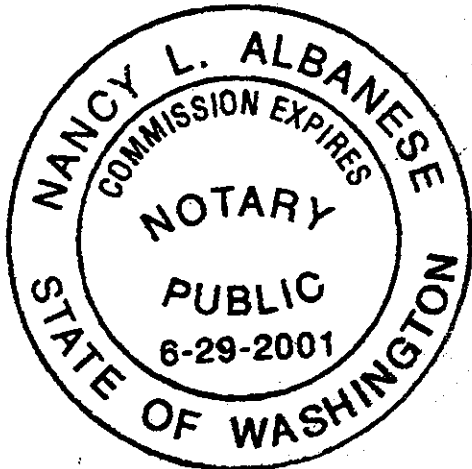
Nancy L Albanese
Notary Public in and for the State of Washington,
Residing at Anacortes
My appointment expires 6-29-2001

STATE OF WASHINGTON, }
County of Skagit } ss.

ACKNOWLEDGMENT - Representative Capacity

I certify that I know or have satisfactory evidence that H. Dean Maxwell is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Mayor of City of Anacortes to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal the day and year last above written.



Nancy L Albanese
Notary Public in and for the State of Washington,
residing at
My appointment expires 6-29-2001



200103160103
Skagit County Auditor

EXHIBIT "A"

City Lot 3A lying Southwesterly of "V" Place as delineated on that certain Boundary Line Adjustment Survey recorded as Auditor's File No. 200005190013.



200103160103

Skagit County Auditor

3/16/2001 Page 14 of 14 3:49:41PM