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Eugene "Gene" Moore Fee: \$46.00
Cook County Recorder of Deeds
Date: 09/19/2003 10:29 AM Pg: 1 of 12

DAVID D. GREGG
GOODSMITH, GREGG &
UNRUH
105 WEST ADAMS, SUITE
2600
CHICAGO, ILLINOIS 60603

LHYVES # 78-61-782-D1

THIRD AMENDMENT TO CONSTRUCTION LOAN AGREEMENT, AMENDED AND RESTATED PROMISSORY NOTE, CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS AND LOAN DOCUMENTS

This Amendment ("Amendment") is made as of August 27, 2003, among DIVERSEY/CENTRAL, L.L.C., an Illinois limited liability company ("Borrower"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Lender").

RECITALS:

A. Pursuant to that certain Construction Loan Agreement (the "Loan Agreement") dated as of January 8, 2001, by and between Borrower and Lender, Lender extended to Borrower a credit facility (the "Credit Facility") in the amount of Five Million Four Hundred Ninety-Six Thousand and No/100 Dollars (\$5,496,000.00) allocated as follows: (i) a Four Million Four Hundred Thousand and No/100 Dollars (\$4,400,000.00) loan (the "Loan") as evidenced by that certain Promissory Note (the "Original Promissory Note") dated as of January 8, 2001, executed by Borrower payable to the order of Lender in the original principal amount of Four Million Four Hundred Thousand and No/100 Dollars (\$4,400,000.00) and (ii) Lender agreed to issue for the account of Borrower a Letter of Credit (the "Letter of Credit") not to exceed the Letter of Credit liability of One Million Ninety-Six Thousand and No/100 Dollars (\$1,096,000.00) in favor of American Drug Stores, Inc. and Borrower agreed to reimburse Lender for any draws on the Letter of Credit pursuant to that certain Letter of Credit Demand Note (the "Original Letter of Credit Note") dated as of January 8, 2001, executed by Borrower payable to the order of Lender in the original principal amount of One Million Ninety-Six Thousand and No/100 Dollars (\$1,096,000.00) (the Original Promissory Note and the Original Letter of Credit Note are hereinafter individually and collectively referred to as the "Original Notes").

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B. The Credit Facility evidenced by the Original Notes is secured by: (i) a Construction Mortgage and Security Agreement with Assignment of Rents (the "Mortgage") dated as of January 8, 2001, executed by Borrower in favor of Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on January 23, 2001, as Document No. 0010056872, as amended by a Modification of Construction Mortgage and Security Agreement with Assignment of Rents and Assignment of Leases and Rents (the "Modification") dated as of January 17, 2001 by and between Borrower and Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on January 26, 2001, as Document No. 0010071217, encumbering the property legally described on Exhibit A attached hereto and made a part hereof ("Mortgaged Premises"), (ii) an Assignment of Leases and Rents ("Assignment of Rents") dated as of January 8, 2001, executed by Borrower in favor of Lender encumbering the Mortgaged Premises, which was recorded with the Recorder of Deeds for Cook County, Illinois on January 23, 2001, as Document No. 0010056873, as modified by the Modification.

C. The Credit Facility is also secured by (i) a Security Agreement dated as of January 8, 2001, executed by Borrower in favor of Lender; (ii) a Guaranty of Payment and Performance and Indemnification (the "Guaranty of Payment and Performance") dated as of January 8, 2001, executed by Gary A. Pachucki, Gerald Lee Nudo and Laurence Weiner (individually and collectively referred to as "Guarantor") in favor of Lender; (iii) a Guaranty of Completion (the "Guaranty of Completion") dated as of January 8, 2001, executed by Guarantor in favor of Lender, (iv) an Environmental Indemnity Agreement dated as of January 8, 2001, executed by Borrower and Guarantor in favor of Lender, and (v) such other collateral documents delivered in connection with the Notes.

D. Borrower and Lender entered into an Amendment to Construction Loan Agreement Construction Mortgage and Security Agreement with Assignment of Rents and Loan Documents (the "First Amendment") dated as of August 15, 2001, by and between Borrower and Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on September 6, 2001, as Document No. 0010829214, which provided for, among other things, an increase the availability of the Credit Facility from Five Million Four Hundred Ninety-Six Thousand and No/100 Dollars (\$5,496,000.00) to Five Million Seven Hundred Sixty-One Thousand and No/100 Dollars (\$5,761,000.00).

E. In connection with the First Amendment, Borrower executed and delivered to Lender (i) an Amended and Restated Promissory Note (the "Amended and Restated Promissory Note") dated as of August 15, 2001, in the original principal amount of Four Million Five Hundred Sixty-Five Thousand and No/100 Dollars (\$4,565,000.00) payable to the order of Lender, and (ii) an Amended and Restated Letter of Credit Demand Note (the "Amended and Restated Letter of Credit Note") dated as of August 15, 2001, in the original principal amount of One Million One Hundred Ninety-Six Thousand and No/100 Dollars (\$1,196,000.00) payable to the order of Lender and Guarantor executed and delivered to Lender a Reaffirmation of Guaranty dated as of August 15, 2001. The Borrower and Lender executed and delivered that certain Second Amendment to Construction Loan Agreement, Amended and Restated Promissory Note, Construction Mortgage and Security Agreement with Assignment of Rents and Loan Documents dated as of January 10, 2003 which was recorded with the Recorder of Deeds of Cook County, Illinois on April 24, 2003 as Document No. 0311411087 (the "Second Amendment"). The documents set forth in Recitals A - E above, together with any amendments, modifications, extensions or renewals thereof, are hereinafter individually and collectively referred to as the "Loan Documents".

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F. As of the date hereof, the outstanding principal balance of the Loan as evidenced by the Amended and Restated Promissory Note is \$3,001,069.13.

G. Borrower and Lender desire to further amend the Loan Documents to provide for, among other things, the extension of the stated maturity date of the Loan to October 10, 2003, and other certain terms and provisions as hereinafter provided.

H. Borrower and Lender deem it to be in their best interests to modify the Loan Documents as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing recitals, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The Recitals are hereby incorporated into and shall become part of this Amendment.
2. All capitalized terms used herein shall have the same meaning as when used in the Loan Documents.
3. Notwithstanding anything to the contrary contained in the Loan Documents, the stated Maturity Date of the Loan is hereby extended to October 10, 2003. All references in the Loan Documents to the stated Maturity Date of the Loan are hereby amended to refer to October 10, 2003. THIS IS A BALLOON MORTGAGE. Borrower and Lender agree that Borrower shall not receive any principal disbursements of the Loan (other than protective advances made at the discretion of Lender) in excess of the amount described in Recital F hereof.
4. Borrower shall concurrently herewith deliver to Lender, in form and substance satisfactory to Lender, the following items as a condition to the modification of the Loan as provided above: (i) an endorsement to the title policy issued to Lender and insuring its interest in the Mortgaged Premises, providing for coverage through the date of recording with no additional exceptions and amending the insured instrument to cover this Amendment; (ii) payment of the fee described in paragraph 5 hereof; and (iii) payment of all expenses incurred by Lender in connection with this Amendment, including reasonable attorneys' fees.
5. In addition to all other payments due from Borrower to Lender in connection with this Amendment, in consideration for Lender extending the Loan pursuant to this Amendment, Lender has earned a loan service fee of Three Thousand One and No/100 Dollars (\$3,001.00) ("Earned Loan Service Fee"), which has been fully earned by Lender and shall be payable by Borrower to Lender concurrent with the execution and delivery of this Amendment.
6. Borrower hereby restates and reaffirms Borrower's agreements, representations, covenants and warranties contained in the Loan Documents. Borrower confirms the liens granted in favor of Lender and agrees that such liens continue to secure the obligations described in the Loan Documents.
7. Borrower represents and warrants that no Event of Default has occurred under the Loan Documents, as hereby amended, and Borrower hereby reaffirms all of its

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representations, covenants, agreements and obligations under the Loan Documents, as hereby amended, which amended Loan Documents secure Borrower's obligations under the Loan.

8. In all other respects, the terms and provisions of the Loan Agreement and Loan Documents, as hereby amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

BORROWER:

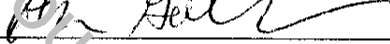
DIVERSEY/CENTRAL, L.L.C., an Illinois limited liability company

By: 

Its Managing Member

LENDER:

U.S. BANK NATIONAL ASSOCIATION, a national banking association

By: 

Its Assistant Vice President

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JOINDER

The undersigned, being the Guarantors under that certain Guaranty of Payment and Performance and Indemnification, that certain Guaranty of Completion, and that certain Environmental Indemnity Agreement (collectively, the "Guaranty Documents") referred to in the Third Amendment to Construction Loan Agreement, Amended and Restated Promissory Note, Construction Mortgage and Security Agreement with Assignment of Rents and Loan Documents (the "Amendment") to which this Joinder is attached, hereby consent to the extension of the stated Maturity Date of the Credit Facility as provided in the Amendment (and all amendments and modifications prior thereto) and the other terms thereof and hereby reaffirm and restate the Guaranty Documents, as hereby amended. Guarantor acknowledges that the Guaranty Documents are in full force and effect in accordance with their respective terms and are hereby reaffirmed and restated. Guarantor hereby acknowledges that their obligations, covenants and agreements under the Guaranty Documents are not diminished, discharged or adversely affected by the Amendment and the transactions referred to in such document. Guarantor hereby acknowledges that the Guaranty Documents shall apply to the indebtedness, liabilities and obligations of Borrower under the Loan Documents as modified by the Amendment. Guarantor hereby agrees that all of their covenants, agreements, representations and warranties and liabilities and obligations as set forth in the Guaranty Documents with respect to the Credit Facility are hereby incorporated by reference herein and apply to the Credit Facility as modified by the Amendment.



 GERALD LEE NUDO, Individually



 LAURENCE WEINER, Individually

 GARY A. PACHUCKI, Individually

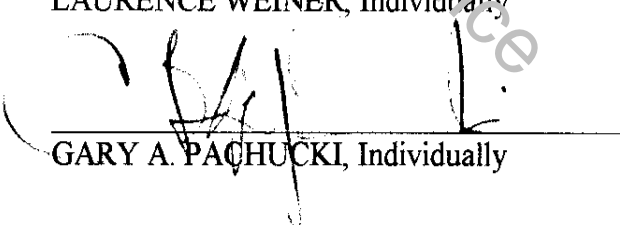
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JOINDER

The undersigned, being the Guarantors under that certain Guaranty of Payment and Performance and Indemnification, that certain Guaranty of Completion, and that certain Environmental Indemnity Agreement (collectively, the "Guaranty Documents") referred to in the Third Amendment to Construction Loan Agreement, Amended and Restated Promissory Note, Construction Mortgage and Security Agreement with Assignment of Rents and Loan Documents (the "Amendment") to which this Joinder is attached, hereby consent to the extension of the stated Maturity Date of the Credit Facility as provided in the Amendment (and all amendments and modifications prior thereto) and the other terms thereof and hereby reaffirm and restate the Guaranty Documents, as hereby amended. Guarantor acknowledges that the Guaranty Documents are in full force and effect in accordance with their respective terms and are hereby reaffirmed and restated. Guarantor hereby acknowledges that their obligations, covenants and agreements under the Guaranty Documents are not diminished, discharged or adversely affected by the Amendment and the transactions referred to in such document. Guarantor hereby acknowledges that the Guaranty Documents shall apply to the indebtedness, liabilities and obligations of Borrower under the Loan Documents as modified by the Amendment. Guarantor hereby agrees that all of their covenants, agreements, representations and warranties and liabilities and obligations as set forth in the Guaranty Documents with respect to the Credit Facility are hereby incorporated by reference herein and apply to the Credit Facility as modified by the Amendment.

GERALD LEE NUZZO, Individually

LAURENCE WEINER, Individually



GARY A. PACHUCKI, Individually

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Exhibit A

Legal Description

Attached

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PARCEL 1:

LOTS 11 THROUGH 17 BOTH INCLUSIVE, IN BLOCK 1 IN THE DIVERSEY HIGHLAND, A SUBDIVISION OF THE NORTH $\frac{1}{4}$ OF THE NORTH $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOTS 1 THROUGH 9, INCLUSIVE, IN BLOCK 1 OF FULLERTON AVENUE MANOR, A SUBDIVISION OF THE SOUTH $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

PINS: 13-29-407-006; 13-29-407-022; 13-29-407-023; 13-29-407-024
13-29-407-029; 13-29-407-030; 13-29-407-031; 13-29-407-032
13-29-407-033; 13-29-407-035; 13-29-407-036; 13-29-407-040

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GARY A. PACHUCKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Managing Member of DIVERSY/CENTRAL, L.L.C., an Illinois limited liability company, appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of August, 2003.

Carrie L. Libman
Notary Public

My Commission Expires: 8-15-2005



STATE OF ILLINOIS)
)
COUNTY OF COOK)

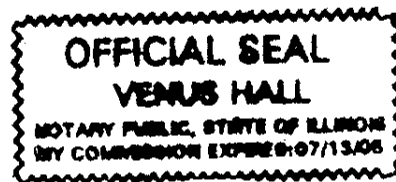
Katherine Callaghan
I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that ~~CATHERINE A. SWIDERSKI~~, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice-President of U.S. BANK NATIONAL ASSOCIATION, a national banking association, appeared before me and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said national banking association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 26 day of August, 2003.

Venus Hall
Notary Public

My Commission Expires:

7/13/05



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STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GARY A. PACHUCKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of August, 2003.

Carrie L. Libman
Notary Public

My Commission Expires: 8.15.2005



STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GERALD LEE NUDO, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2003.

Notary Public

My Commission Expires:

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GARY A. PACHUCKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2003.

Notary Public

My Commission Expires:

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GERALD LEE NUDO, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of August, 2003.

Christine M Ross

Notary Public

My Commission Expires:



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STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that LAURENCE WEINER, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 19th day of August, 2003.

Christine M Ross
Notary Public

My Commission Expires:

