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Doc#: 0329345055
Eugene "Gene" Moore Fee: \$44.00
Cook County Recorder of Deeds
Date: 10/20/2003 01:01 PM Pg: 1 of 11

Patzik, Frank & Samotny Ltd.
Suite 900
150 South Wacker Drive
Chicago, Illinois 60606
Attn: James M. Teper, Esq.

THIRD AMENDMENT TO CONSTRUCTION LOAN AGREEMENT, NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS

THIS THIRD AMENDMENT TO CONSTRUCTION LOAN AGREEMENT, NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS ("Third Amendment") is made and entered into as of the 28th day of June, 2003, by and among NORTH RIVER GROUP LLC, an Illinois limited liability company ("Borrower"), JAMES P. GRUSECKI ("J. Grusecki"), and THOMAS D. GRUSECKI ("T. Grusecki") [J. Grusecki and T. Grusecki are each hereinafter individually referred to as a "Guarantor" and collectively as the "Guarantors"] and LASALLE BANK NATIONAL ASSOCIATION, a national banking association ("Lender").

RECITALS

A. As of the date hereof, Borrower is presently indebted to Lender in the principal sum of Sixteen Million Eight Hundred Forty-Eight Thousand Nine Hundred Ninety-Nine and 48/100 Dollars (\$16,848,999.48) ("Loan"), which indebtedness is evidenced by that certain Amended and Restated Promissory Note ("Note") in the original principal amount of Seventeen Million Eight Hundred Eighty-Two Thousand Five Hundred and No/100 Dollars (\$17,882,500.00), dated as of October 28, 2001, and executed by Borrower in favor of the Lender. The Note amends and restates that certain Promissory Note in the original amount of the Loan, dated as of October 29, 1999, executed by Borrower in favor of Lender.

B. The indebtedness evidenced by the Note is secured by, among other documents, the following:

(i) Construction Loan Agreement dated as of October 29, 1999, by and among Borrower, Guarantors and Lender ("Loan Agreement");

(ii) Mortgage Securing a Construction Loan dated October 29, 1999, executed by Borrower in favor of Lender and recorded on November 3, 1999, in the Recorder's Office of Cook County, Illinois, as Document No. 09034686 ("Mortgage");

Box 333

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(iii) Assignment of Leases and Rents dated October 29, 1999, executed by Borrower in favor of Lender and recorded on November 3, 1999, in the Recorder's Office of Cook County, Illinois, as Document No. 09034687 ("Assignment of Rents");

(iv) Security Agreement dated October 29, 1999, executed by Borrower in favor of Lender ("Security Agreement");

(v) UCC-1 Financing Statement and UCC-2 Financing Statement executed by Borrower, as debtor, in favor of Lender, as secured party ("Financing Statements");

(vi) Environmental Indemnity Agreement dated October 29, 1999, executed by Borrower and Guarantors in favor of Lender ("Environmental Indemnity");

(vii) Guaranty of Payment and Performance dated October 29, 1999, executed by J. Grusecki in favor of Lender ("J. Grusecki Guaranty");

(viii) Guaranty of Payment and Performance dated October 29, 1999, executed by T. Grusecki in favor of Lender ("T. Grusecki Guaranty") [the J. Grusecki Guaranty and T. Grusecki Guaranty are hereinafter collectively referred to as the "Guaranty"];

(ix) Letter Agreement dated October 29, 1999, executed by Borrower and Guarantors in favor of Lender whereby Borrower and Guarantors waive their right to elect the permanent loan financing as provided in the Loan Agreement ("Letter Agreement");

(x) First Amendment to Construction Loan Agreement, Note, Mortgage and Other Loan Documents dated October 28, 2001, by and among Borrower, Guarantors and Lender ("First Amendment"); and

(xi) Second Amendment to Construction Loan Agreement, Note, Mortgage and Other Loan Documents dated April 28, 2003, by and among Borrower, Guarantors and Lender ("Second Amendment").

The Note, Loan Agreement, Mortgage, Assignment of Rents, Security Agreement, Financing Statements, Environmental Indemnity, Guaranty, Letter Agreement, First Amendment and Second Amendment, together with all other documents evidencing or securing the Loan including this Third Amendment, are sometimes hereinafter collectively referred to as the "Loan Documents."

C. The Mortgage, as amended hereby, constitutes a valid first lien on the real property described on Exhibit A attached hereto and made a part hereof ("Property").

D. Borrower has requested that Lender agree to extend the Maturity Date of the Loan from June 28, 2003 to September 28, 2003.

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E. Lender is willing to extend the Maturity Date of the Loan from June 28, 2003 to September 28, 2003 on the terms and conditions described in this Third Amendment.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements hereinafter set forth, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Lender, and Guarantors hereby mutually agree as follows:

1. Incorporation by Reference. The foregoing recitals are hereby incorporated herein by reference as if set forth in full in the body of this Third Amendment.
2. Defined Terms. Any and all capitalized terms used in this Third Amendment, unless otherwise defined herein, shall have the definitions subscribed thereto in the Loan Agreement.
3. Modification of Promissory Note. The Note is hereby modified as follows:
 - (a) The Maturity Date is hereby extended from June 28, 2003 to September 28, 2003; and
 - (b) Notwithstanding anything contained in the Note to the contrary, the Loan Rate (whether accruing interest at the Prime Rate plus fifty (50) basis points or at the LIBOR Rate plus the Applicable Margin) shall not be less than five percent (5%) per annum.
4. Modification of Loan Agreement, Note, Mortgage and Other Loan Documents. The Note, Mortgage and Other Loan Documents are hereby modified to provide as follows:
 - (a) The outstanding principal balance of the Loan as of the date hereof is \$16,848,999.48; and
 - (b) The Maturity Date of the Loan is hereby extended from June 28, 2003 to September 28, 2003.
5. Reaffirmation of Note and Guaranty. Borrower and the Guarantors hereby acknowledge and reaffirm their obligations under the Loan Documents and the indebtedness evidenced thereby, and acknowledge and agree that such indebtedness is owing to the Lender and is enforceable against the Borrower and Guarantors in accordance with the terms of the Loan Documents as modified, amended and extended by this Third Amendment, subject to no defenses, counterclaims, deductions or set-offs whatsoever. Without limiting the foregoing, the Guarantors specifically acknowledge and agree that they are jointly and severally liable under the Guaranty. Nothing contained in this Third Amendment, or the transactions contemplated hereby, shall be deemed or construed to be a consent to or a waiver of any breach or default in the performance by Borrower or Guarantors of their respective obligations to Lender, whether evidenced by the Note, the other Loan Documents, or otherwise, nor shall Lender be impaired or

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limited in its ability to fully and completely enforce any and all the rights and remedies presently available to Lender under the Loan Documents for a breach of Borrower's obligations as required by the Note or the other Loan Documents as may exist at the time of the making of this Third Amendment.

6. Reaffirmation of Representations and Warranties. Borrower and the Guarantors hereby acknowledge and reaffirm that all the representations and warranties of Borrower and the Guarantors as stated in the Loan Documents are true and correct as of the date hereof as to Borrower and the Guarantors, respectively.

7. Intent of Parties. The parties expressly agree that the liens evidenced by the Loan Documents shall be in no way be deemed to have been subordinated, released, modified, terminated, or otherwise affected by this Third Amendment, it being understood by the parties hereto that the liens of said documents shall continue in full force and effect, and are to have the same validity, priority and effect that they had immediately prior to the execution of this Third Amendment and the documents and instruments executed and delivered pursuant to this Third Amendment, and shall survive and not be merged into the execution and delivery of this Third Amendment or any of the documents and instruments to be executed pursuant to this Third Amendment, without interruption; provided, however, that the respective liens shall be documented by, and all rights and privileges and obligations of the parties hereto, and the respective successors and assigns, shall be governed by the (i) Mortgage, as modified by this Third Amendment; (ii) Loan Documents, as modified by this Third Amendment; and (iii) all other documents and agreements executed in connection with the transactions described in this Third Amendment.

8. No Third Party Beneficiaries. This Third Amendment is made and entered into for the sole protection and benefit of the Lender, Borrower and Guarantors, and no other person, entity or entities shall have the right of action hereon, right to claim any right or benefit from the terms contained herein, or be deemed a third party beneficiary hereunder.

9. Expenses. Borrower shall be responsible for any and all costs, expenses, fees, charges, taxes, of whatever kind and nature, incurred by Lender in connection with the modification of the Loan Documents provided for in this Third Amendment including, without limitation, attorneys' fees and costs and recording fees.

10. Release of Claims. Borrower and Guarantors acknowledge and agree that Lender has fulfilled any and all of Lender's obligations under the Loan Documents to date. Borrower and Guarantors hereby release and hold Lender harmless from and against any and all claims, actions, law suits, damages, costs and expenses whatsoever which Borrower and/or Guarantors may have had or currently have against Lender in connection with or related to the Loan Documents or the Loan evidenced thereby.

11. Attorneys' Fees, Costs and Expenses. In any action or proceeding arising out of this Third Amendment, Lender shall be entitled to recover from Borrower the reasonable

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attorneys' fees, court costs, filing fees, publication costs and other expenses incurred by the Lender in connection therewith.

12. Conflicts. The provisions of this Third Amendment shall govern and control in the event of any conflict between this Third Amendment and the provisions of any of the Loan Documents.

13. Entire Agreement. Except as expressly set forth herein, this Third Amendment and the Loan Documents constitute the entire agreement of the parties hereto with respect to the matters addressed herein, and supersede all prior or contemporaneous contracts, representations, statements and warranties, whether oral or written, with respect to such matters.

14. Successors and Assigns; Assignability. This Third Amendment shall be binding upon and inure to the benefit of the parties hereto, their respective successors, legal representatives and assigns; provided, however, that Borrower may not assign its rights under the Loan Documents or this Third Amendment.

15. Effect of Third Amendment. Except as specifically amended or modified by the terms of this Third Amendment, all terms and provisions of each of the Loan Documents shall remain in full force and effect. Lender's agreement to modify the Loan and the Loan Documents as set forth herein shall not be interpreted or construed as obligating Lender to make any future modifications to the Loan.

16. Governing Law. This Third Amendment shall be governed by and be construed in accordance with the internal laws of the State of Illinois.

17. Captions. The title of this Third Amendment and the headings of the various paragraphs of this Third Amendment have been inserted only for the purposes of convenience and are not part of this Third Amendment and should not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Third Amendment.

18. Further Assurances. The parties hereto, and each of them, agree to execute from time to time, any and all documents reasonably requested by the others to carry out the intent of this Third Amendment.

19. Effective Date of this Third Amendment. The parties hereto acknowledge and agree that the terms and provisions of this Third Amendment shall be effective as of the date hereof.

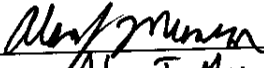
20. Counterparts. This Third Amendment may be executed in counterparts, each of which shall constitute an original, but all together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment on the day first above written.

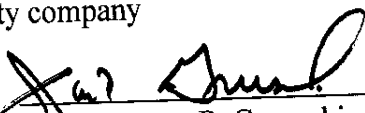
LENDER:

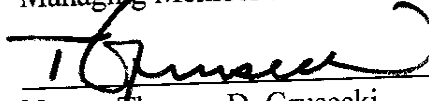
LASALLE BANK NATIONAL ASSOCIATION, a national banking association

By: 
Name: Alay T. Munson
Title: FVP


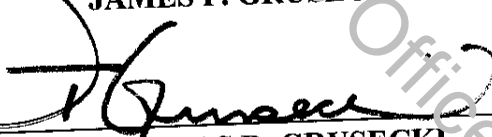
BORROWER:

NORTH RIVER GROUP LLC, an Illinois limited liability company

By: 
Name: James P. Grusecki
Title: Managing Member and Member

By: 
Name: Thomas D. Grusecki
Title: Managing Member and Member

GUARANTORS:


JAMES P. GRUSECKI

THOMAS D. GRUSECKI

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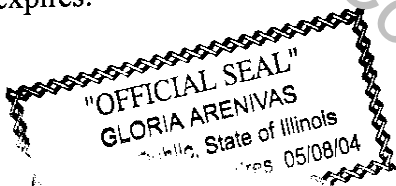
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, a notary public, in and for and residing in the County and the State aforesaid, do hereby certify that Alan Munson, a 1st V.P. of LASALLE BANK NATIONAL ASSOCIATION, personally known to me to be the same person whose name is subscribed in the foregoing instrument as such 1st V.P., appeared before me this day in person and being first duly sworn by me, acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of said national banking association, for the uses and purpose therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this day of 23 of Sept, 2003.

Gloria Arenivas
Notary Public

My commission expires:



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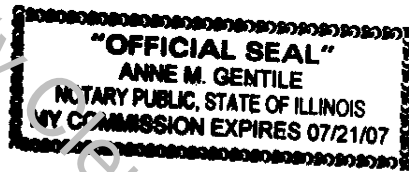
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that JAMES P. GRUSECKI and THOMAS D. GRUSECKI, personally known to me to be the managing members and members of NORTH RIVER GROUP LLC, an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such managing members and members, signed and delivered the said instrument as the managing members and members of said limited liability company, as their free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 23rd day of September 2003.

Anne M. Gentile
Notary Public

Commission expires:



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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES P. GRUSECKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this 23rd day of September 2003.

Anne M. Gentile
Notary Public

My commission expires:



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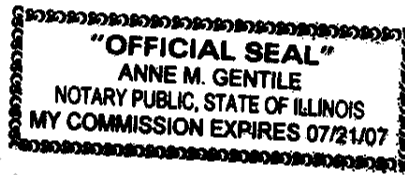
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that THOMAS D. GRUSECKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this 23rd day of September, 2003.

Anne M. Gentile
Notary Public

My commission expires:



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EXHIBIT A LEGAL DESCRIPTION

LOT 1 OF THE FINAL PLAT OF SUBDIVISION 5100 SUBDIVISION BEING A RESUBDIVISION OF LOT 1 (EXCEPT THE WEST 277 FEET OF THE SOUTH 275.0 FEET AND EXCEPT THE WEST 217.0 FEET) IN RIVER ROAD INDUSTRIAL DEVELOPMENT SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AND PART OF THE NORTH ½ OF ROBINSON'S RESERVATION IN THE TOWN OF LEYDEN IN COOK COUNTY, ILLINOIS,

Property Address: 5100 River Road
Schiller Park, Illinois

Permanent Index Nos: 12-10-300-058-0000
12-10-300-060-0000