

Retail Facility Security Documents to the Retail Agent in the Retail Funding Account and the Retail Payment Account (including any Cash Equivalents held therein) is for the sole and exclusive benefit of the Retail Agent and the Retail Lenders.

## ARTICLE 11

### MISCELLANEOUS

11.1 **Addresses.** Any communications between the parties hereto or notices provided herein to be given may be given to the following addresses:

- If to the Project Entities: c/o Fontainebleau Las Vegas, LLC,  
Whitney Thier, Esquire  
General Counsel  
2827 Paradise Road  
Las Vegas, NV 89109  
Telephone No.: (702) 495-8108  
Facsimile No.: (702) 495-8112
- If to the Bank Agent: Donna F. Kimbrough,  
Assistant Vice President  
Bank of America, N.A.  
Mail Code: TX1-492-14-11  
Bank of America Plaza  
901 Main Street  
Dallas, TX 75202-3714  
Telephone No.: (214) 209-1569  
Facsimile No.: (214) 290-9436
- If to the Trustee: Wells Fargo Bank, N.A., as Trustee  
Corporate Trust Services  
MAC N9311-110  
625 Marquette Avenue  
Minneapolis, MN 55479  
Attention: Fontainebleau Resorts Account Manager  
Telephone (612) 316-4305  
Telecopier: (612) 667-9825
- If to the Retail Agent: Lehman Brothers Holdings Inc., as Retail Agent  
c/o Lehman Brothers Holdings  
399 Park Avenue  
New York, New York 10022  
Attention: Josh Freedman  
Facsimile No.: (212) 713-1278

If to the Disbursement Agent: Bank of America, N.A., as Disbursement Agent for  
Fontainebleau Resorts  
Mail Code: TX1-492-14-11  
Bank of America Plaza  
901 Main Street  
Dallas, TX 75202-3714  
Telephone No.: (214) 209-1569  
Facsimile No.: (214) 290-9436

All notices or other communications required or permitted to be given hereunder shall be in writing and shall be considered as properly given (a) if delivered in person, (b) if sent by overnight delivery service, or (c) if sent by prepaid telex, or by telecopy with correct answer back received. Notice so given shall be effective upon receipt by the addressee, except that communication or notice so transmitted by telecopy or other direct written electronic means shall be deemed to have been validly and effectively given on the day (if a Banking Day and, if not, on the next following Banking Day) on which it is validly transmitted if transmitted before 4:00 p.m., recipient's time, and if transmitted after that time, on the next following Banking Day; provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. Any party shall have the right to change its address for notice hereunder to any other location by notice to the other parties in the manner set forth hereinabove.

**11.2 Further Assurances.** From time to time the Project Entities shall execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Funding Agents or the Disbursement Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Operative Documents, or of more fully perfecting or renewing the rights of the Funding Agents and the Lenders with respect to the Project Security (or with respect to any additions thereto or replacements or proceeds or products thereof or with respect to any other property or assets hereafter acquired by any Project Entity which may be deemed to be part of the Project Security) pursuant hereto or thereto. Upon the exercise by the Funding Agents, the Disbursement Agent or any Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Operative Documents which requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Project Entities shall execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Funding Agent, the Disbursement Agent or such Lender may be required to obtain from the Project Entities for such governmental consent, approval, recording, qualification or authorization.

**11.3 Delay and Waiver.** No delay or omission to exercise any right, power or remedy accruing upon the occurrence of any Default or Event of Default or any other breach or default of the Project Entities under this Agreement shall impair any such right, power or remedy of the Funding Agents, the Lenders, the Disbursement Agent or any other Secured Party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or in any similar breach or default thereafter occurring, nor shall any waiver of any single Default, Event

of Default or other breach or default be deemed a waiver of any other Default, Event of Default or other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any of the Funding Agents, the Lenders, the Disbursement Agent or any other Secured Party, of any Default, Event of Default or other breach or default under this Agreement or any other Financing Agreement, or any waiver on the part of any of the Funding Agents, the Lenders, the Disbursement Agent or any other Secured Party, of any provision or condition of this Agreement or any other Operative Document, must be in writing and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this Agreement or any other Financing Agreement or by law or otherwise afforded to any of the Funding Agents, the Lenders, the Disbursement Agent or any other Secured Party, shall be cumulative and not alternative.

**11.4 Additional Security; Right to Set-Off.** Regardless of the adequacy of any other collateral, any Secured Party may execute or realize on its security interest in any deposits or other sums credited by or due from any such Person to the Project Entities, may apply any such deposits or other sums to or set them off against the Project Entities' obligations to the Project Secured Parties under this Agreement and the other Financing Agreements at any time after the occurrence and during the continuance of any Event of Default.

**11.5 Entire Agreement.** This Agreement and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof, all of which negotiations and writings are deemed void and of no force and effect.

**11.6 Governing Law.** This Agreement shall be governed by the laws of the State of New York of the United States of America and shall for all purposes be governed by and construed in accordance with the laws of such state without regard to the conflict of law rules thereof other than Section 5-1401 of the New York General Obligations Law, *provided, however*, that to the extent any terms of this Agreement are incorporated in and made part of any other Financing Agreement, any such term so incorporated shall for all purposes be governed by and construed in accordance with the law governing the Financing Agreement into which such term is so incorporated.

**11.7 Severability.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the parties hereto shall enter into good faith negotiations to replace the invalid, illegal or unenforceable provision.

**11.8 Headings.** Paragraph headings have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such paragraph headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

**11.9 Limitation on Liability.** NO CLAIM SHALL BE MADE BY THE PROJECT ENTITIES OR ANY OF THEIR AFFILIATES AGAINST THE FUNDING AGENTS, THE LENDERS, THE DISBURSEMENT AGENT, THE CONTROLLING PERSON OR ANY OTHER SECURED PARTY OR ANY OF THEIR RESPECTIVE AFFILIATES, DIRECTORS,

EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT OR DUTY IMPOSED BY LAW), IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER OPERATIVE DOCUMENTS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND THE PROJECT ENTITIES HEREBY WAIVE, RELEASE AND AGREE NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

**11.10 Waiver of Jury Trial.** ALL PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER FINANCING AGREEMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF ANY PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE FUNDING AGENTS, DISBURSEMENT AGENT AND EACH OF THE OTHER LENDERS AND SECURED PARTIES TO ENTER INTO THIS AGREEMENT.

**11.11 Consent to Jurisdiction.** Any legal action or proceeding by or against the Project Entities or with respect to or arising out of this Agreement may be brought in or removed to the courts of the State of New York, in and for the County of New York, or of the United States of America for the Southern District of New York. By execution and delivery of this Agreement, the Project Entities, accept, for themselves and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts for legal proceedings arising out of or in connection with this Agreement and irrevocably consents to the appointment of the Corporation Service Company as its agent to receive service of process in New York, New York. Nothing herein shall affect the right to serve process in any other manner permitted by law or any right to bring legal action or proceedings in any other competent jurisdiction, including judicial or non-judicial foreclosure of real property interests which are part of the Project Security. The Project Entities further agree that the aforesaid courts of the State of New York and of the United States of America for the Southern District of New York shall have exclusive jurisdiction with respect to any claim or counterclaim of the Project Entities based upon the assertion that the rate of interest charged by or under this Agreement, or under the other Financing Agreements is usurious. The Project Entities hereby waive any right to stay or dismiss any action or proceeding under or in connection with any or all of the Project, this Agreement or any other Operative Document brought before the foregoing courts on the basis of *forum non-conveniens*.

**11.12 Successors and Assigns.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding the foregoing, the Project Entities may not assign or otherwise transfer any of their rights under this Agreement.

11.13 **Reinstatement.** This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Project Entities' obligations hereunder or under the other Financing Agreements, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by the Secured Parties. In the event that any payment or any part thereof is so rescinded, reduced, restored or returned, such obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

11.14 **No Partnership; Etc.** The Secured Parties and the Project Entities intend that the relationship between them shall be solely that of creditors and debtors. Nothing contained in this Agreement or in any of the other Financing Agreements shall be deemed or construed to create a partnership, tenancy-in-common, joint tenancy, joint venture or co-ownership by or between the Secured Parties and the Project Entities or any other Person. The Secured Parties shall not be in any way responsible or liable for the debts, losses, obligations or duties of the Project Entities or any other Person with respect to the Project or otherwise. All obligations to pay real property or other taxes, assessments, insurance premiums, and all other fees and charges arising from the ownership, operation or occupancy of the Project and to perform all obligations under the agreements and contracts relating to the Project shall be the sole responsibility of the Project Entities.

11.15 **Costs and Expenses.**

11.15.1 **Reimbursement of Costs.** The Project Entities shall (subject to the limitations set forth herein and, with respect to each Funding Agent, to the express provisions of the Financing Agreements or any other fee letters or engagement letters to which such Funding Agent is a party) pay the reasonable legal, engineering, other professional and all other fees and costs of the Funding Agents, and the Disbursement Agent and their consultants and advisors, the reasonable travel expenses and other out-of-pocket costs incurred by each of them in connection with the preparation, negotiation, execution and delivery, and where appropriate, registration of the Operative Documents (and all matters incidental thereto), the syndication of the Loans, the administration of the transactions contemplated by the Operative Documents (including, without limitation, the administration of this Agreement, the other Operative Documents and the Security Documents) and the preservation or enforcement of any of their respective rights or in connection with any amendments, waivers or consents required under the Financing Agreements or the Operative Documents *provided* that this shall not require the payment by any of the other Project Entities of any expenses, fees or costs attributable to the Retail Affiliate or the Retail Budget. The Trustee and the Bank Agent shall be entitled to charge the Second Mortgage Proceeds Account and the Bank Proceeds Account, and the Bank Agent shall be entitled to make Advances under the Bank Credit Facility, for the direct payment of such expenses.

11.15.2 **Indemnity.** The Project Entities shall indemnify, defend and hold harmless the Funding Agents, the Lenders, the Construction Consultant, the Disbursement Agent, each of their respective affiliates and each of their

respective officers, directors, partners, trustees, employers, affiliates, shareholders, advisors, agents, attorneys, attorneys-in-fact, representatives and "controlling persons" (within the meaning of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended), (collectively, the "Indemnitees") from and against and reimburse the Indemnitees for any and all present and future claims, expenses, obligations, liabilities, losses, damages, injuries (to person, property, or natural resources), penalties, stamp or other similar taxes, actions, suits, judgments, reasonable costs and expenses (including any legal or other expenses reasonably incurred by them in connection with the investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as witness with respect to, any lawsuits, investigations, claims or other proceedings (whether or not such Indemnitee is a formal party thereto)) of whatever kind or nature, whether or not well founded, meritorious or unmeritorious, demanded, asserted or claimed against any such Indemnitee including any liability resulting from any delay or omission to pay any such tax (collectively, "Claims") arising in any manner out of or in connection with this Agreement, the Financing Documents or any other Operative Documents, the use of proceeds therefrom, the development, construction, ownership and operation of the Project, the transactions contemplated by this Agreement or any other Operative Document, any other transaction related hereto or thereto of any claim, litigation, investigation or proceeding relating to any of the foregoing (regardless of whether any Indemnitee is a party hereto or thereto) including without limitation (a) any and all Claims arising in connection with the release or presence of any Hazardous Substances at the Site or the Project, whether foreseeable or unforeseeable, including all costs of removal and disposal of such Hazardous Substances, all reasonable costs required to be incurred in (i) determining whether the Project is in compliance and (ii) causing the Project to be in compliance, with all applicable Legal Requirements, all reasonable costs associated with claims for damages to persons or property, and reasonable attorneys' and consultants' fees and court costs, (b) any and all Claims arising out of or based upon any untrue statement or alleged untrue statement of material fact contained in any preliminary or final prospectus or any other similar disclosure document or in any amendment or supplement thereto, any omission or alleged omission to state in any preliminary or final prospectus or any other similar disclosure document or in any amendment or supplement thereto any material fact required to be stated therein or necessary to make the statements therein not misleading or (c) any and all Claims arising in any matter out of, relating to or in connection with any conduct by any Loan Party or their respective employees or agents or any action or failure to act undertaken by any book-running manager under the Facility Agreements at any Loan Party's request or with any Loan Party's consent. No Indemnitee shall be liable for any damages arising from the use by unauthorized Persons of information or other materials sent through electronic, telecommunication or other information transmission systems that are intercepted by other Persons.

11.15.3 Gross Negligence. The indemnity obligation of the Project Entities pursuant to this Section 11.15 shall not apply with respect to an Indemnitee, to the extent arising as a result of the fraud, bad faith, gross negligence or willful misconduct of such Indemnitee, as finally judicially determined by a court of competent jurisdiction, but shall continue to apply to other Indemnitees.

11.15.4 Unenforceability. To the extent that the undertaking in the preceding paragraphs of this Section 11.15 may be unenforceable because it is violative of any law or public policy, the Project Entities will contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of such undertakings.

11.15.5 Foreclosure. The provisions of this Section 11.15 shall survive foreclosure of the Security Documents and satisfaction or discharge of the Project Entities' obligations hereunder, and shall be in addition to any other rights and remedies of any Indemnitee.

11.15.6 Payment Due Dates. Any amounts payable by the Project Entities pursuant to this Section 11.15 shall be payable within ten Banking Days after the Project Entities receive an invoice for such amounts from any applicable Indemnitee, and if not paid when due shall bear interest at the highest default rate set forth in any of the Financing Agreements from and after such applicable date until paid in full in immediately available funds.

11.15.7 Actions; Counsel. In case any action or proceeding shall be instituted involving any Indemnitee for which indemnification is to be sought hereunder, then such Indemnitee shall promptly notify the Project Entities of the commencement of any action or proceeding; *provided, however*, that the failure so to notify the Project Entities shall not relieve the Project Entities from any liability that the Project Entities may have to such Indemnitee pursuant to Section 11.15.2 or from any liability that the Project Entities may have to such Indemnitee.

11.15.8 Settlement. Any Indemnitee against whom any Claim is made shall be entitled, after consultation with the Project Entities and upon consultation with legal counsel wherein such Indemnitee is advised that such Claim is reasonably meritorious, to compromise or settle any such Claim if such Indemnitee determines in its reasonable discretion that failure to compromise or settle such Claim could reasonably subject such Indemnitee to material liability. Any such compromise or settlement shall be binding upon the Project Entities for purposes of this Section 11.15.

11.15.9 Distinct Obligations. Nothing in this Section 11.15 is intended to create any liability of the Retail Affiliate for any amount attributable to the Resort Budget or the other Project Entities or by the other Project Entities for any amounts attributable to the Retail Budget or the Retail Affiliate.

**11.16 Agreements Among Funding Agents and Other Secured Parties.** The Project Entities acknowledge that the parties thereto have entered into the Intercreditor Agreements, and agree that the agreements set forth therein do not violate any obligation to the Project Entities. The Project Entities agree not to take any action to invalidate or challenge the validity of, or assert in writing the invalidity of any provisions of the Intercreditor Agreements. As among the Secured Parties, no provision hereof shall be deemed to relieve or in any way affect the Secured Parties' respective obligations or liabilities under the Intercreditor Agreements. Except for the Retail Affiliate, the Project Entities are not a third party beneficiary of the Intercreditor Agreements and shall have no right to enforce the same against any party. Each of the Funding Agents and the Lenders shall be entitled to deliver copies of the credit documentation among the Project Entities and the other Funding Agents and Lenders to prospective assignees and participants under its respective Facility Agreements subject to its respective obligations in respect of confidentiality to the Project Entities, without restriction as to the other Funding Agents or Lenders.

**11.17 Counterparts.** This Agreement may be executed in one or more duplicate counterparts (including by facsimile) and when signed by all of the parties listed below shall constitute a single binding agreement.

**11.18 Termination.** Subject to Section 11.13, this Agreement shall terminate and be of no further force or effect upon completion of the transactions contemplated by Section 2.23, provided that (a) the provisions of Article 9, Section 11.15 and Section 11.21 shall survive the termination of this Agreement, and (b) the Disbursement Agent shall continue to retain any amounts in the Liquidity Account in the manner contemplated by this Agreement and subject to the Control Agreements established pursuant to this Agreement for the benefit of the Bank Agent and the Trustee, provided that amounts contained in the Liquidity Account shall thereafter be disbursed in accordance with Section 7.24 of the Bank Credit Agreement (as amended from time to time in accordance with the provisions of the Bank Credit Agreement) and when all funds in such Account have been fully disbursed in accordance with such Section 7.24 of the Bank Credit Agreement the Disbursement Agent shall terminate the Control Agreement established on such Account pursuant to this Agreement. In addition, the Trustee shall cease to be a party to this Agreement on the date that the Second Mortgage Proceeds Account is Exhausted. On such date, (i) the Trustee shall have no further rights or obligations hereunder, (ii) neither the Trustee nor the Second Mortgage Holders shall be entitled to any of the benefits of this Agreement, and (iii) this Agreement shall automatically be amended to delete all references to the Trustee and the Second Mortgage Holders to reflect that the Trustee is no longer a party to this Agreement and to further reflect that neither the Trustee nor the Second Mortgage Holders shall be entitled to any of the benefits of this Agreement; provided however that the Trustee and the Second Mortgage Holders shall continue to (a) be permitted to correct the amount of Debt Service in respect of the Second Mortgage Notes set forth in an Advance Request as provided in Section 2.4.4(c), (b) receive copies of certificates delivered by the Project Entities pursuant to Sections 2.21, 2.22 and 2.23, (c) receive notices delivered under Sections 5.4 and 9.2.3, (d) approve Scope Changes as and to the extent set forth in Section 6.2.1(b), (e) receive the benefit of control agreements entered into pursuant to clause (ii)(x)(2) of the proviso in Section 6.8(b), (f) receive the benefit of the indemnity provisions of Section 11.15 and (g) receive the benefits of the amendment provisions of Section 11.19, and the Trustee shall be entitled to enforce this proviso as a third



party beneficiary.

11.19 **Amendments.** The Bank Agent and the Disbursement Agent are authorized by each of the other Funding Agents to enter into amendments to this Agreement requested by the Project Entities for the purpose of curing any formal defect, inconsistency, omission or ambiguity in this Agreement (without any consent or approval by the other Funding Agents or the Lenders). From the Exhaustion of the Second Mortgage Proceeds Account, the Bank Agent may also amend this Agreement or waive any Default or Event of Default without the consent of the Trustee, the Second Mortgage Holders, the Retail Agent or the Retail Lenders; provided, however, that (a) any such waiver by the Bank Agent shall not, without the consent of a majority in interest of the Retail Lenders constitute a waiver of any Default or Event of Default which otherwise independently (not by cross-default or cross-reference to another agreement) constitutes a default or event of default under the Retail Facility; (b) the Bank Agent shall not, without the consent of the Trustee, be permitted to amend Sections 11.6, 11.10, the proviso in the last sentence of Section 11.18 or any of the Sections of this Agreement cross referenced in such proviso to the extent any such amendment would adversely affect the rights of the Trustee as set forth in such proviso and (c) notwithstanding anything to the contrary contained in this Agreement, in no event shall this Agreement be amended in a manner which would (i) have the effect of modifying the provisions of Sections 3.5, 3.7.3, 5.11 or 5.12, (ii) have the effect of modifying any of the Sections or definitions cross referenced or used in Sections 3.5, 3.7.3, 5.11 or 5.12 (unless such modification would not materially and adversely affect such Sections 3.5, 3.7.3, 5.11 or 5.12 as the same relate to the Retail Agent or Retail Lenders) or (iii) increase any of the obligations of the Retail Agent or Retail Lenders hereunder, change the character of the Shared Costs for which the Retail Lenders must fund Advances, increase the liabilities of the Retail Agent or Retail Lender hereunder in any manner, change the order of funding required hereunder in a manner affecting the Retail Agent or Retail Lenders, affect the Retail Agent and the Retail Lender's security interest in the Retail Accounts, diminish the right of the Retail Agent to receive information or reports hereunder, or modify any of the definitions relating to the Shared Costs, Retail Lender's Shared Cost Commitment, Other Retail Costs or the Retail Budget), in each case without the prior written consent of the Retail Agent. Neither the Bank Agent nor the Trustee may amend or waive any of the conditions to the making of Advances by the Retail Agent and the Retail Lenders set forth in Section 3.5.

11.20 [Intentionally Omitted]

11.21 **Confidentiality.** Each of the Funding Agents and the Disbursement Agent agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other instrument, document or agreement executed in connection herewith or any action or

proceeding relating to this Agreement or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under the Financing Agreements, or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to Project Entities and their obligations, (g) with the consent of any Project Entity or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to them or their respective Affiliates on a nonconfidential basis from a source other than Project Entities.

As used in this Section "Information" means all information received from any Loan Party other than any such information that is available to the Funding Agent or the Disbursement Agent on a nonconfidential basis prior to disclosure by any Loan Party, provided that, in the case of information received after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

*[Remainder of this page intentionally left blank – signature pages follow]*

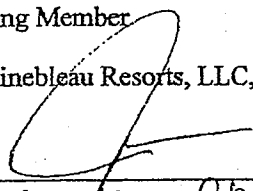
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC,**  
a Delaware limited liability company

By: Fontainebleau Resort Properties I, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC, its Managing  
Member

By:   
Title: Executive Chairman

**FONTAINEBLEAU LAS VEGAS CAPITAL CORP.**  
a Delaware corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

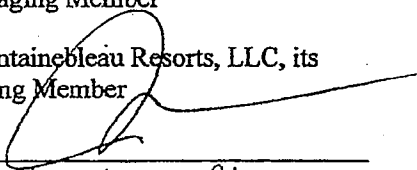
**FONTAINEBLEAU LAS VEGAS RETAIL, LLC,**  
a Delaware limited liability company

By: Fontainebleau Las Vegas Retail Mezzanine, LLC,  
its Managing Member

By: Fontainebleau Las Vegas Retail Parent, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC, its  
Managing Member

By:   
Title: Executive Chairman

[Master Disbursement Agreement]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC,**  
a Delaware limited liability company

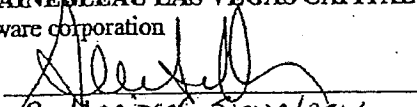
By: Fontainebleau Resort Properties I, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC, its Managing  
Member

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**FONTAINEBLEAU LAS VEGAS CAPITAL CORP.**  
a Delaware corporation

By:   
Title: Authorized Signatory

**FONTAINEBLEAU LAS VEGAS RETAIL, LLC,**  
a Delaware limited liability company

By: Fontainebleau Las Vegas Retail Mezzanine, LLC,  
its Managing Member

By: Fontainebleau Las Vegas Retail Parent, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC, its  
Managing Member

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[Master Disbursement Agreement]

**FONTAINEBLEAU LAS VEGAS, LLC,**  
a Nevada limited liability company

and

**FONTAINEBLEAU LAS VEGAS II, LLC,**  
a Florida limited liability company

By: Fontainebleau Las Vegas Holdings, LLC,  
Managing Member of each of the foregoing

By: Fontainebleau Resort Properties I, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC,  
its Managing Member

By: \_\_\_\_\_  
Title: Executive Chairman

**BANK OF AMERICA, N.A., as Bank Agent**

By: \_\_\_\_\_  
Donna F. Kimbrough  
Title: Assistant Vice President

**WELLS FARGO BANK, N.A., as Trustee**

By: \_\_\_\_\_  
Lynn M. Steiner  
Title: Vice President

[Master Disbursement Agreement]

**FONTAINEBLEAU LAS VEGAS, LLC,**  
a Nevada limited liability company

and

**FONTAINEBLEAU LAS VEGAS II, LLC,**  
a Florida limited liability company

By: Fontainebleau Las Vegas Holdings, LLC,  
Managing Member of each of the foregoing

By: Fontainebleau Resort Properties I, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

By: Fontainebleau Resorts, LLC,  
its Managing Member

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**BANK OF AMERICA, N.A., as Bank Agent**

By: Donna F. Kimbrough  
Donna F. Kimbrough  
Title: Assistant Vice President

**WELLS FARGO BANK, N.A., as Trustee**

By: \_\_\_\_\_  
Lynn M. Steiner  
Title: Vice President

[Master Disbursement Agreement]

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**FONTAINEBLEAU LAS VEGAS, LLC,**  
a Nevada limited liability company

and

**FONTAINEBLEAU LAS VEGAS II, LLC,**  
a Florida limited liability company

By: Fontainebleau Las Vegas Holdings, LLC,  
Managing Member of each of the foregoing

By: Fontainebleau Resort Properties I, LLC,  
its Managing Member

By: Fontainebleau Resort Holdings, LLC,  
its Managing Member

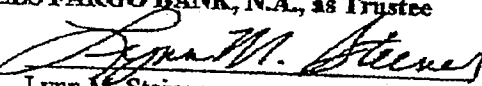
By: Fontainebleau Resorts, LLC,  
its Managing Member

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**BANK OF AMERICA, N.A., as Bank Agent**

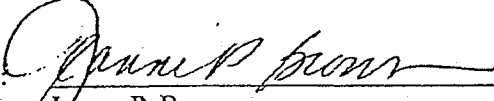
By: \_\_\_\_\_  
Donna F. Kimbrough  
Title: Assistant Vice President

**WELLS FARGO BANK, N.A., as Trustee**

By:   
Lynn M. Steiner  
Title: Vice President

[Master Disbursement Agreement]

**BANK OF AMERICA, N.A., as Disbursement Agent**

By:   
Jeanne P. Brown  
Title: Vice President

**LEHMAN BROTHERS HOLDINGS INC., as Retail Agent**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

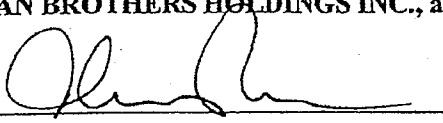
[Master Disbursement Agreement]



**BANK OF AMERICA, N.A., as Disbursement Agent**

By: \_\_\_\_\_  
Jeanne P. Brown  
Title: Vice President

**LEHMAN BROTHERS HOLDINGS INC., as Retail Agent**

By:   
Title: Charlene Thomas  
Authorized Signatory

[Master Disbursement Agreement]

**EXHIBIT A to the  
Disbursement Agreement**

**DEFINITIONS**

"Accounts" means each of the accounts described in Section 2.2, and any other accounts or sub-accounts established pursuant hereto from time to time.

"Additional Contract Certificate" means an Additional Contract Certificate substantially in the form of Exhibit S.

"Additional Contract" means any Contract entered into after the Closing Date.

"Advance" means:

(a) with respect to the Bank Credit Facility, a transfer of funds from the Bank Proceeds Account into the Bank Funding Account (other than pursuant to Section 2.6.4(c));

(b) with respect to the Second Mortgage Notes, a transfer of funds from the Second Mortgage Proceeds Account to the Second Mortgage Funding Account (other than pursuant to Section 2.6.4(b));

(c) with respect to the Retail Facility, an advance of Loans (as defined in the Retail Facility Agreement) deposited in the Retail Funding Account; and

(d) any transfer of funds from any of the other Accounts (other than the Payment Accounts) to the Payment Accounts or the Cash Management Account or the Interest Account.

"Advance Confirmation Notice" means an Advance Confirmation Notice, substantially in the form of Exhibit E hereto.

"Advance Date" means the date on which an Advance is requested to be made pursuant to an Advance Request.

"Advance Request" means (i) in connection with any Advance from the Equity Funding Account prior to the initial disbursement of funds from the Second Mortgage Proceeds Account, a written notice delivered by the Companies pursuant to Section 3.2, (ii) in connection with any Advance under the Retail Facility solely for Other Project Costs, a written request by the Retail Affiliate in the required form attached to the Retail Facility Agreement, together with each of the applicable reports described in Sections 2.07, 2.09, 2.10 and 2.11, certifying that the amounts requested are due and payable in connection with the applicable retail lease and that all applicable conditions set forth in Section 3.5.2 have been satisfied or waived in accordance with this Agreement, and (iii) in all other cases, an advance request and certificate substantially in the form of Exhibit C-1 hereto.

"Advance Request Transfer Report" means, for each Advance Date, a report prepared by the Project Entities in the appropriate version of the form attached to Exhibit C-1 as Appendix 5.

"Affiliate" as applied to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by," and "under common control with") as applied to any Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Affiliate Subordination Agreement" means the Affiliate Subordination Agreement dated as of the Closing Date executed by the Parent, Turnberry Residential, the General Contractor and the Companies in favor of the Bank Agent and the Trustee, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Anticipated Bonded Condo Deposits" means, as of each date of determination, the lesser of (a) the amounts set forth in the matrix below opposite that date, and (b) \$75,000,000 minus the aggregate amount of the Bonded Condo Deposits which have then been remitted to the Bonded Condo Proceeds Account:

<u>Dates Occurring During the Period:</u>	<u>Amount</u>
Closing Date through June 2008	\$75,000,000
July 2008 – September 2008	\$50,000,000
October 2008 – December 2008	\$25,000,000
January 2009 – February 2009	\$10,000,000
Later Months	\$0

"Architect" means Bergman Walls & Associates.

"Architect's Advance Certificate" means an advance certificate in the form of Exhibit C-3 hereto confirming the substantial conformity of construction undertaken to date with the Final Plans and Specifications for the Project.

"Architect's Agreement" means the Agreement between the Project Entities and the Architect dated as of April 2, 2007.

"Available Funds" means, as of each date of determination, the sum of:

- (i) the Projected Interest Income; *plus*
- (ii) the Anticipated Bonded Condo Deposits; *plus*
- (iii) the balance of the Equity Funding Account; *plus*

- (iv) the balance of the Cash Management Account; *plus*
- (v) the balance of the Second Mortgage Proceeds Account; *plus*
- (vi) the balance of the Bank Proceeds Account; *plus*
- (vii) the Delay Draw Term Loan Availability; *plus*
- (viii) the Bank Revolving Availability *minus* \$40,000,000; *plus*
- (ix) the Debt Service Commitment Portion; *plus*
- (x) the Cash Support Amount (but not in excess of \$200,000,000); *plus*
- (xi) the Retail Lenders Shared Cost Commitment *minus* the amount of the Advances theretofore made under the Retail Facility for Shared Costs; *plus*
- (xii) the cash balances then contained in the Resort Payment Account, the Interest Account and the Resort Loss Proceeds Account in each case as adjusted in column C of the Current Available Sources Report.

"Available Resort Sources to Final Completion" has the meaning set forth in Section 2.15.

"Available Retail Sources to Final Completion" has the meaning set forth in Section 2.15.

"Available Sources to Final Completion Report" means a report prepared by the Project Entities in the form attached to Exhibit Q-1 as Appendix 3.

"Bank Agent" means Bank of America, N.A., in its capacity as Administrative Agent under the Bank Credit Agreement and its successors in such capacity.

"Bank Agent Fee Letter" means the letter agreement dated as of the Closing Date among the Borrowers and the Bank Agent.

"Bank Credit Agreement" means the Credit Agreement of even date herewith, among the Borrowers, the Bank Agent, and the Bank Lenders, or any refinancings thereof.

"Bank Credit Facility" means, the credit facilities provided under the Bank Credit Agreement.

"Bank Deed of Trust" means the Deed of Trust dated of even date herewith made by the Borrowers, as trustors, in favor of Nevada Title Company, as trustee, for the benefit of the Bank Agent, as beneficiary.

"Bank Funding Account" means the Account of that name described in Section 2.2.

"Bank Lenders" means (a) the financial institutions which are now, or may in the future become, parties to the Bank Credit Agreement and (b) the counterparties to Interest Rate Agreements that are permitted to be secured by the Bank Security Documents, in each case, or their successors or

assignees in such capacity as lenders or counterparties, as the case may be, under the Bank Credit Agreement.

"Bank Proceeds Account" means an account established with the Bank Agent pursuant to the Bank Credit Agreement, into which the proceeds of Disbursement Agreement Loans made pursuant to the Bank Credit Agreement will be deposited, which Account is further described in Section 2.2. Pursuant to the Flow of Funds Memo, it is anticipated that the Initial Term Loans under the Bank Credit Agreement will be deposited into the Bank Proceeds Account on the Closing Date, and that Delay Draw Term Loans and Revolving Loans which are Disbursement Agreement Loans made pursuant to the Bank Credit Agreement will also be deposited into the Bank Proceeds Account.

"Bank Revolving Availability" means, as of each date of determination, the aggregate principal amount available to be drawn on that date under the Bank Revolving Facility.

"Bank Revolving Facility" means the revolving loan credit facility described in and made available from time to time to the Borrowers by the Bank Lenders under the Bank Credit Agreement.

"Bank Revolving Facility Completion Reserve Amount" means, as of each date of determination, (a) the amount determined as of the Opening Date by the Funding Order for Final Completion Report as outlined in Section 2.16.2, minus (b) the amount of the cumulative Advances thereafter made from the Bank Revolving Facility pursuant to Section 2.10(b)(xi).

"Bank Security Documents" means the Bank Deed of Trust, each Completion Guaranty, the Affiliate Subordination Agreement, and any other guaranties, deeds of trust, security agreements or Control Agreements executed from time to time by any Loan Party and/or any of their direct or indirect Affiliates in favor of the Bank Agent or the Bank Lenders to guaranty or secure the obligations under the Bank Credit Facility.

"Banking Day": (i) for all purposes other than as covered by clauses (ii) and (iii) below, a day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York or Las Vegas, Nevada (or, to the extent affecting the Trustee, the Second Mortgage Proceeds Account, or payments made with respect to the Second Mortgage Notes, Minneapolis Minnesota) are authorized or required by law to close, (ii) with respect to all notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, any day which is a Banking Day described in clause (i) above and which is also a day for trading by and between banks in Dollar deposits in the New York interbank eurodollar market and (iii) with respect to all notices and determinations in connection with Letters of Credit and payments of principal and interest on Reimbursement Obligations (as such terms are used in the Bank Credit Agreement), a day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to close.

"Bankruptcy" means, with respect to any Person, that (i) a court having jurisdiction over any Project Security shall have entered a decree or order for relief in respect of such Person in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order has not been stayed;

or any other similar relief shall have been granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against such Person, under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction over any Project Security for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over such Person, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of such Person, for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of such Person, and any such event described in this clause (ii) shall continue for 60 days unless dismissed, bonded or discharged; or (iii) such Person shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or such Person shall make any assignment for the benefit of creditors, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due and payable or if the fair market value of its assets does not exceed its aggregate liabilities; or (iv) such Person shall, or the board of directors, manager or managing member of such Person (or any committee thereof) shall, adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clause (iii) above.

"Bankruptcy Code" means Title 11 of the United States Code as amended from time to time, or any successor statute thereto.

"Bonded Condo Deposits" means deposits for the purchase of Condo Units that have been bonded in accordance with NRS 116.411.

"Bonded Condo Proceeds Account" means the Account of that name described in Section 2.2.

"Borrowers" means has the meaning set forth in the preamble hereto.

"Budget/Schedule Amendment Certificate" means a Budget/Schedule Amendment Certificate substantially in the form of Exhibit M-4 hereto.

"Budgets" means, collectively, the Retail Budget and the Resort Budget.

"Building Department" means the Clark County Building Department.

"Cash Equivalents" means (a) United States dollars; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (as long as the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition; (c) interest-bearing demand or time deposits (which may be represented by certificates of deposit) issued by banks having general obligations rated (on the date of acquisition thereof) at least "A" or the equivalent by S&P or Moody's or, if not so rated, secured

at all times, in the manner and to the extent provided by law, by collateral security consisting of property of the type specified in clause (a) or (b) of this definition, with a market value of no less than the amount of monies so invested; (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper having the highest rating obtainable from Moody's or S&P and in each case maturing within six months after the date of acquisition; and (f) money market funds or mutual funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (e) of this definition.

"Cash Management Account" means the Account of that name described in Section 2.2. The Cash Management Account may be used by the Project Entities to pay any Project Costs.

"Cash Support" means, as of each date of determination, the sum of (a) the undrawn amount of the letter of credit delivered to the Disbursement Agent pursuant to Section 3.1.21 (including any increases to the amount thereof), (b) any other letters of credit hereafter delivered to the Disbursement Agent in support of any Completion Guaranty, issued by a financial institution reasonably acceptable to the Disbursement Agent and in a form which is similar to the letter of credit referred to in clause (a) or otherwise reasonably acceptable to the Disbursement Agent, and (c) any Cash Equivalents hereafter pledged by Persons other than the Project Entities in support of any Completion Guaranty.

"Cash Support Amount" means, as of each date of determination, the sum of (a) the then available undrawn amount of the Completion Guaranties, but only to the extent the payment thereof is supported by Cash Support, plus (b) the then remaining amount of the Liquidity Account.

"Certificate of Occupancy" means a permanent certificate of occupancy or a temporary certificate of occupancy for the Project issued by the Building Department in respect of all material amenities associated with the Project and pursuant to applicable Legal Requirements which permanent or temporary certificate of occupancy shall be in full force and effect and, in the case of a temporary certificate of occupancy, if such temporary certificate of occupancy shall provide for an expiration date, the number of days in the period from the Opening Date to such expiration date shall be not less than 133% of the number of days that the Construction Consultant estimates it will take to complete the Punchlist Items (assuming reasonable diligence in performing the same) pursuant to the Construction Consultant's Opening Date Certificate.

"Claims" has the meaning given in Section 11.15.2.

"Closing Date" means the first date on which each of the conditions precedent listed in Section 3.1 have been satisfied or waived.

"Closing Financing Agreements" has the meaning given in Section 3.1.1(a).

"Code" means the Internal Revenue Code of 1986, as at any time amended.

"Commitment" means, (a) with respect to the Bank Credit Facility, the aggregate principal

amount of all Loans to the Project Entities which may be made under such Facility and (b) with respect to each other Facility, the aggregate principal amount of all Loans or other advances to the Project Entities which may be made under such Facility, as specified in the applicable Facility Agreement.

"Companies" means, collectively, Las Vegas Holdings and its Subsidiaries.

"Completion" means that each of the following has occurred:

- (a) the Opening Date has occurred;
- (b) all Contractors have been paid in full (other than (A) Retainage Amounts and other amounts that, as of the Completion Date, are being withheld from the Contractors in accordance with the provisions of the Contracts, (B) amounts being contested in good faith in accordance with NRS Chapter 624 so long as adequate reserves have been established through an allocation in the Remaining Cost Report and (C) amounts payable in respect of Punchlist Items to the extent not covered by the foregoing clause (A));
- (c) for Punchlist Items:
  - (1) a list of any remaining Punchlist Items shall have been delivered to the Construction Consultant and the Disbursement Agent by the Project Entities and approved by the Construction Consultant as a reasonable final punchlist (such approval not to be unreasonably withheld); and
  - (2) to the extent not covered by the then existing Contracts, a written agreement with all Contractors performing work with respect to Punchlist Items shall have been entered into by the Project Entities and such Contractors detailing the cost of remaining Punchlist Items and shall have been delivered to the Construction Consultant and the Disbursement Agent by the Project Entities and approved by the Construction Consultant and the Disbursement Agent;
- (d) the Title Insurer shall have issued a title insurance endorsement updating the date of the policy and containing no exceptions for mechanics liens with respect to all work performed at the Site prior to the Completion Date;
- (e) the General Contractor shall have delivered its Completion Certificate certifying the "substantial completion" of the work under the Prime Construction Agreement and such certifications shall have been accepted by the Project Entities and the Construction Consultant in accordance with Section 6.2.2; and
- (f) for each Contract and Subcontract for which a Payment and



Performance Bond is required pursuant to Section 5.8 or Section 3.1.33 and for which the Project Entities (or the applicable Contractor) will release retainage as a result of Completion being achieved, the Project Entities shall have delivered from the surety under each such Payment and Performance Bond (i) a "Consent of Surety to Reduction in or Partial Release of Retainage" (AIA form G707A) if a partial release of Retainage Amounts held under such Contract or Subcontract will be made or (ii) a "Consent of Surety to Final Payment" (AIA form G707) if a release of all Retainage Amounts held under such Contract or Subcontract will be made).

"Completion Certificates" means, collectively, the Completion Certificates substantially in the form of Exhibits P-1, P-2, P-3, and P-4, hereto to be delivered by the Project Entities, the Construction Consultant, the Architect and the General Contractor, respectively.

"Completion Date" means the date on which the Disbursement Agent countersigns the Project Entities Completion Certificate acknowledging that Completion has occurred.

"Completion Guarantors" means Turnberry Residential (together with its successors and permitted assigns under the Completion Guaranty described in clause (a) of the definition thereof) and each other Person which delivers a Completion Guaranty or Cash Support to the Disbursement Agent pursuant to Section 6.9.1.

"Completion Guaranties" means, collectively, (a) the Completion Guaranty of even date herewith executed by Turnberry Residential in favor of the Bank Agent and the Trustee, and (b) each other completion guaranty hereafter delivered by a Completion Guarantor pursuant to Section 6.9.1.

"Completion Guaranty Availability" means, as of each date of determination, the aggregate amount then available for drawings under the Completion Guaranties in accordance with their terms; *provided* that such amounts may only be used for the purposes described in Section 2.6.6.

"Completion Guaranty Proceeds Account" means one or more accounts established in the name of a Completion Guarantor to hold Cash Support.

"Completion Reserve Calculation Date" means the Advance Date which immediately precedes the publicly announced scheduled Opening Date.

"Condo Unit" means a condominium or condominium-hotel unit in the Project (and related common area elements including airspace above the highest point of the Project).

"Consents" means consents to the collateral assignment by the Project Entities of Material Contracts substantially in the form of Exhibit H hereto, with such modifications as may be reasonably acceptable to the Bank Agent.

"Construction Consultant" means (a) Inspection and Valuation International, Inc. or any other construction consultant appointed by the Bank Agent with the approval of the "Required

Lenders" (as defined in the Bank Credit Agreement) and (b) in respect of Advances for Other Retail Costs only, any other construction consultant appointed by the Retail Agent in accordance with the terms of the Retail Facility Agreement.

"Construction Consultant Advance Certificate" means (i) in the case of an Advance solely under Section 3.5.2, a certificate of the Construction Consultant confirming that, based upon its review, it is not aware of any material errors in the information contained in the Advance Request or supporting reports, and (ii) in all other cases, a certificate of the Construction Consultant, substantially in the form of Exhibit C-2 to this Agreement.

"Construction Consultant Closing Certificate" means a closing certificate in the form of Exhibit B-2 hereto.

"Construction Consultant Engagement Agreement" means the engagement letter dated as of May 21, 2007 by and among the Construction Consultant, the Retail Agent and Bank of America, N.A, as Disbursement Agent and Bank Agent.

"Construction Consultant Report" means a preliminary report of the Construction Consultant delivered to the Disbursement Agent, the Bank Agent, the Retail Agent and the Representative pursuant to Section 3.1 and stating that (a) the Construction Consultant has reviewed the Material Contracts, the Plans and Specifications, and other material information deemed necessary by the Construction Consultant for the purpose of evaluating whether the Project can be constructed and completed in the manner contemplated by the Operative Documents, and (b) based on its review of such information, the Construction Consultant is of the opinion that the Project can be constructed in the manner contemplated by the Operative Documents and, in particular, that the Project can be constructed and completed in accordance with the Material Contracts and the Plans and Specifications within the parameters set by the Project Schedule and the Budgets.

"Contract Amendment Certificate" means a Contract Amendment Certificate, substantially in the form of Exhibit M-3 hereto.

"Contractors" means the General Contractor and any architects, consultants, designers, contractors, Subcontractors, suppliers, laborers or any other Persons engaged by any of the Project Entities in connection with the design, engineering, installation and construction of the Project.

"Contracts" means, collectively, the contracts entered into, from time to time, between any Project Entity, or by the General Contractor on behalf of the Project Entities, and any Contractor for performance of services or sale of goods in connection with the design, engineering, installation or construction of the Project (including the Prime Construction Agreement and the Architect Agreement).

"Control Agreements" means (a) the Control Agreements of even date herewith executed by the Project Entities in respect of the Accounts in favor of the Disbursement Agent and the Pledges described in Section 2.2, and (b) any other control agreement entered into on or after the Closing Date granting or confirming the rights of the Lenders in any deposit, brokerage or other similar

account.

"Controlled Group" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Project Entities, are treated as a single employer under Section 414(b) or 414(c) of the Code.

"Controlling Person" means (a) until Exhaustion of the Second Mortgage Proceeds Account, the Trustee and (b) thereafter, the Bank Agent.

"Costed FF&E" means, as of each date of determination, the costs described in column "D" (headed "Resort Budget") in the row titled "Costed FF&E" in the Remaining Cost Report prepared as of that date in respect of the Line Items for "Rooms FF&E" "Hotel and F&B Operating Equipment," "Kitchen Equipment," "Exterior Signage" and "Common Area FF&E".

"Current Available Resort Sources" has, as of each Advance Date, the applicable meaning set forth in Section 2.09 (as applicable).

"Current Available Retail Sources" has, as of each Advance Date, the applicable meaning set forth in Section 2.09 (as applicable).

"Current Available Sources Report" means, for each Advance Date, a report prepared by the Project Entities in the appropriate version of the form attached to Exhibit C-1 as Appendix 3.

"Debt Service" means all principal repayments, interest or premium, if any, commitment fees, undrawn fees, letter of credit fees, agency fees, expenses and other amounts payable or accrued from time to time under any of the Bank Credit Agreement, the Second Mortgage Notes, and other Indebtedness for borrowed money of the Companies which is not contractually subordinated to the Bank Credit Agreement and the Second Mortgage Notes.

"Debt Service Commitment Portion" means, as of each date of determination \$40,000,000 times the ratio of (a) the number of days which will occur during the period between September 30, 2009 and the Scheduled Opening Date (but not more than 90), over (b) 90, *provided* that if approved by the Majority Lead Arrangers in their sole discretion, the Debt Service Commitment Portion may be any other higher amount which is not greater than \$40,000,000.

"Deeds of Trust" means, collectively, the Bank Deed of Trust and the Second Mortgage Deed of Trust.

"Default" means (i) any of the events specified in Article 7, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied and (ii) the occurrence of any "Default" under any Facility Agreement.

"Delay Draw Term Loan Availability" means, as of each date of determination, the then undrawn portion of the Delay Draw Term Loans.

"Delay Draw Term Loans" has the meaning given in the Bank Credit Agreement.

"Detailed Remaining Cost Report" means a report attached to Exhibit C-1 as Appendix 7.

"Disbursement Agent" means Bank of America, N.A., in its capacity as the disbursement agent for the Funding Agents under this Agreement and its successors in such capacity.

"Disbursement Agent Fee Letter" means the Disbursement Agent Fee Letter of even date herewith between the Project Entities and the Disbursement Agent.

"Disbursement Agreement Loans" has the meaning given in the Bank Credit Agreement.

"Disposition" has the meaning given in the Bank Credit Agreement.

"Dollar" and "\$" means dollars in lawful currency of the United States of America.

"Environmental Claim" means any and all obligations, liabilities, losses, administrative, regulatory or judicial actions, suits, demands, decrees, claims, liens, judgments, warning notices, notices of noncompliance or violation, investigations, proceedings, removal or remedial actions or orders, or damages (foreseeable and unforeseeable, including consequential and punitive damages), penalties, fees, out-of-pocket costs, expenses, disbursements, attorneys' or consultants' fees, relating in any way to any Environmental Law or any Environmental Permit issued under any such Environmental Law including (a) any and all claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Substances or arising from alleged injury or threat of injury to health, safety or the environment.

"Environmental Law" means any and all Federal, state, and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to Hazardous Substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Matter" means any:

- (a) discharge, release, emission, entry or introduction into the air or water;
- (b) deposit, disposal, keeping, treatment, importation, exportation, production, transportation, handling, processing, carrying, manufacture, collection, sorting or presence of any Hazardous Substance (including, without limitation, in the case of waste, any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process or activity and any substance or article which is required to be disposed of as being broken, worn out, contaminated or otherwise spoiled);
- (c) nuisance, noise, defective premises, health and safety at work, industrial illness, industrial injury due to environmental factors, environmental health problems (including, without limitation, asbestosis or any other illness or injury caused

by exposure to asbestos); and

(d) other matter howsoever directly affecting the environment.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equity Funding Account" means the Account of that name described in Section 2.2.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"ERISA Plan" means any Plan (other than a Multiemployer Plan) that is covered by Title IV of ERISA or to which Section 412 of the Code applies.

"Event of Default" has the meaning given in Section 7.1.

"Event of Loss" means, with respect to any property or asset (tangible or intangible, real or personal), any of the following: (A) any loss, destruction or damage of such property or asset; (B) any actual condemnation, seizure or taking by exercise of the power of eminent domain or otherwise of such property or asset, or confiscation of such property or asset or the requisition of the use of such property or asset; or (C) any settlement in lieu of clause (B).

"Exhaustion" or "Exhausted" means, (a) with respect to the Equity Funding Account, the time at which all proceeds thereunder have been fully disbursed, (b) with respect to the Bank Credit Facility and the Retail Facility, the time at which the lending commitments under such Facility have been fully utilized (and, in the case of the Bank Credit Facility, the Bank Proceeds Account has no funds remaining on deposit therein), (c) with respect to the Second Mortgage Notes, the time at which no funds remain in the Second Mortgage Proceeds Account and (d) with respect to the Liquidity Account, the time at which no funds remain on deposit therein.

"Facility" or "Facilities" means, as the context may require, any or all of the Bank Credit Facility, the Second Mortgage Indenture and the proceeds of the Notes issued thereunder and the Retail Facility.

"Facility Agreements" means, collectively, the Bank Credit Agreement, the Second Mortgage Indenture and the Retail Facility Agreement.

"Final Completion" means that (a) Completion shall have occurred, (b) the Project shall have received a permanent certificate of occupancy from the Building Department (and copies of such certificate shall have been delivered to the Disbursement Agent, the Bank Agent, the Trustee and the Construction Consultant), (c) a Notice of Completion has been posted with respect to the Project and recorded in the Office of the County Recorder of Clark County, Nevada and the statutory period for filing mechanics liens under Nevada law with respect to work performed before filing such Notice of Completion has expired, (d) the Funding Agents have received final 101.6 endorsements from the Title Insurer insuring the priority of their respective Liens on the Project Security, (e) the Disbursement Agent and the Funding Agents shall have received the Final Completion Certificates, and the Construction Consultant shall have accepted the General Contractor's Final Completion Certificate in accordance with Section 6.2.2, (f) the Project Entities shall have delivered to the Funding Agents and the Construction Consultant an "as built survey" of the Project, (g) the Project Entities shall have delivered from the surety under each Payment and Performance Bond required pursuant to Section 5.8 or Section 3.1.33 a "Consent of Surety to Final Payment" (AIA form G707), and (h) unless Nevada state laws have been changed to eliminate any tax benefits associated with such certification and exemption, the Project shall have received final LEED certification from the U.S. Green Building Council and a final exemption certificate from the State of Nevada Department of Taxation.

Notwithstanding clause (h) above, Final Completion shall have occurred even if the final LEED certification required in clause (h) has not been received if any of the following occur:

(A) the Companies receive additional cash contributions to their equity capital following the Opening Date (in addition to any such contributions made pursuant to Sections 3.8 or 3.9) in an amount which equal to the amount which the Companies will be required to pay in the event any ultimate denial of a final LEED Certification; or

(B) the Disbursement Agent determines that the other conditions to Final Completion have all occurred and that the amounts referred to in (A) remain available within from the undrawn portion of the Bank Revolving Facility Completion Reserve Amount established pursuant to Section 2.10.2(b); or

(C) the Resort Request to Final Completion includes as Project Costs the amount which the Companies will be required to pay in the event any ultimate denial of a final LEED Certification.

"Final Completion Certificates" means, collectively, the Final Completion Certificates in the forms of Exhibits R-1, R-2, R-3, R-4, hereto to be delivered by the Project Entities, the Construction Consultant, the Architect and the General Contractor, respectively.

"Final Completion Date" means the date on which Final Completion occurs.

"Final Plans and Specifications" means, with respect to any particular work or Improvement, Plans and Specifications which (i) have received final approval from all Governmental Authorities required to approve such Plans and Specifications prior to completion of the work or Improvements, and (ii) contain sufficient specificity to permit the completion of the work or Improvement.

"Financing Agreements" means, collectively, the Disbursement Agreement, the Facility Agreements, the Security Documents, the Disbursement Agent Fee Letter, the Bank Agent Fee Letter, the Trustee's fee letters with the Issuers, the Second Mortgage Purchase Agreement, the Second Mortgage Notes and any other loan or security agreements entered into on, prior to or after the Closing Date with the Disbursement Agent or any Funding Agent in connection with the financing of the Project.

"Flow of Funds Memo" means the Flow of Funds Memo attached hereto as Exhibit T.

"Fontainebleau Las Vegas" means Fontainebleau Las Vegas, LLC, a Nevada limited liability company.

"Force Majeure Event" means the occurrence of any strikes, lockouts or other labor trouble; the occurrence of fire, flood, earthquake, hurricane, tornado, sandstorm or other casualty; governmental preemption; breakdown, accident or other acts of God; acts of war, insurrection, civil strife and commotion; any enactment, promulgation or amendments of any statute, rule, order or regulation of any legislature or governmental agency or any department or subdivision thereof; any litigation not commenced by Parent or any of its Subsidiaries or their Affiliates; or any other event that occurs after the date of this Agreement that is outside the control of Parent or its Subsidiaries or Affiliates (excluding any event or circumstance which with reasonable diligence or investigation is foreseeable as of the date of this Agreement); in each such case which shall make it physically impossible, unlawful or commercially impracticable to continue construction of or to complete the Project or which otherwise delays the construction and/or completion of the Project; provided, however, that the following shall not constitute Force Majeure Events: (i) any condition, defect, or physical circumstance of the land, buildings or improvements which now exists or which should have been known or discovered with the exercise of reasonable diligence or investigation, including errors, omissions or defects in construction, plans or development, (ii) the amendment of the Plans and Specifications in a manner which is prohibited hereby or omissions or defects in the Plans and Specifications, (iii) increase in the cost of labor, materials and equipment as the result of ordinary cyclical or seasonal forces, or general inflation, (iv) any failure of any contractor or subcontractor, vendor or other supplier (that itself is not caused by a Force Majeure Event) to perform at the times, at the price or in the manner contracted for or to adhere to the Plans and Specifications, or (v) any defects, errors or omissions in any construction contract, subcontract, supply contract, or the Budgets.

"Funding Agents" means, collectively, the Bank Agent, the Trustee and the Retail Agent.

"Funding Order for Final Completion Report" means a report prepared by the Project Entities in the form attached to Exhibit Q-1 as Appendix 4.

"Funding Order Report" means, for each Advance Date, a report prepared by the Project Entities in the form attached to Exhibit C-1 as Appendix 4.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time.

"General Contractor" means Turnberry West Construction, Inc., a Nevada corporation.

"General Contractor's Advance Certificate" means a certificate substantially in the form of Exhibit C-4 hereto.

"Governmental Authority" means any national, state or local government any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity, any self-regulatory agency (e.g., NASD), any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any arbitrator with authority to bind a party at law.

"Hazardous Materials Activities" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Substances, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Substances, and any corrective action or response action with respect to any of the foregoing.

"Hazardous Substances" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes, toxic mold and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Improvements" means the buildings, fixtures and other improvements to be situated at the Site.

"In Balance Report" means a report substantially in the form attached to Exhibit C-1 as Appendix 10.

"In Balance Test" means that, at the time of calculation and after giving effect to any requested Advance, Available Funds equal or exceed the Remaining Costs. The In Balance Test is "satisfied" when Available Funds equal or exceed Remaining Costs.

"Indebtedness," as applied to any Person, means (a) all indebtedness for borrowed money, (b) that portion of obligations with respect to leases which are or should be, in accordance with generally accepted accounting principles, classified as a capital lease and a liability on a balance sheet, (c) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (d) any obligation owed for all or any part of the deferred purchase price of property or services (excluding any such obligations incurred under ERISA), which purchase price is (i) due more than six months from the date of incurrence of the obligation in respect thereof or (ii) evidenced by a note or similar written instrument, and (e) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person. Obligations under Interest Rate Agreements do not constitute Indebtedness hereunder. All obligations under the Financing Agreements shall constitute Indebtedness hereunder.



"Indemnitees" has the meaning given in Section 11.15.2.

"Initial Bank Advance Date" means the date upon which the first Advance is made from the Bank Proceeds Account concurrent with or following the Exhaustion of the Second Mortgage Proceeds Account.

"Initial Term Loans" has the meaning given in the Bank Credit Agreement.

"Insurance Advisor Closing Certificate" means a Closing Certificate substantially in the form of Exhibit B-3 hereto.

"Intellectual Property License Agreements" means, collectively, (a) the License Agreement dated as of the Closing Date among Parent, Resort Properties II and Borrowers, and (b) the License Agreement dated as of the Closing Date among Parent, Resort Properties II and the Retail Affiliate, in each case pursuant to which they are granted a license to use the "Fontainebleau" federal trademark and related present and future intellectual property in connection with the Fontainebleau Resort.

"Intercreditor Agreements" means, collectively, the Project Lenders Intercreditor Agreement and the Retail Intercreditor Agreement.

"Interest Account" means the Account of that name described in Section 2.2.

"Interest Rate Agreement" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement or arrangement (including, without limitation, any "Secured Hedge Agreement" as such term is defined in the Bank Credit Agreement).

"Issuers" has the meaning set forth in the Preamble to this Agreement.

"Issuing Lender" has the meaning set forth in the Bank Credit Agreement.

"Las Vegas" means Fontainebleau Las Vegas, LLC, a Nevada limited liability company

"Las Vegas II" means Fontainebleau Las Vegas II, LLC, a Florida limited liability company.

"Las Vegas Capital" means Fontainebleau Las Vegas Capital Corp., a Delaware corporation.

"Las Vegas Holdings" means Fontainebleau Las Vegas Holdings, LLC, a Nevada limited liability company.

"Leasing Commissions" means amounts payable as leasing commissions in connection with any retail lease as set forth in the Retail Budget, as amended from time to time in accordance with this Agreement.

"LEED Shortfall Amount" means any amount by which the Project Costs increase following the date of this Agreement by reason of any change in Nevada State laws governing the partial sales and use tax exemption of the Project arising by reason of its proposed qualification pursuant to

the Leadership in Energy and Environmental Design ("LEED") program.

"Legal Requirements" means all laws, statutes, orders, decrees, injunctions, licenses, permits, approvals, agreements and regulations of any Governmental Authority having jurisdiction over the matter in question.

"Lenders" means any of the Bank Lenders, the Second Mortgage Holders and the Retail Lenders.

"Letter of Credit" has the meaning given in the Bank Credit Agreement.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction).

"Line Item" means each of the individual line items set forth in the Detailed Remaining Cost Report (as in effect from time to time).

"Line Item Category" means the categories of Line Items in the Resort Budget set forth in the Detailed Remaining Cost Report (as in effect from time to time):

- Construction Costs (Turnberry West Construction)
- Unallocated Contingency
- Insurance
- Rooms FF&E
- Hotel and F&B Operating Equipment
- Kitchen Equipment
- Exterior Signage
- Common Area FF&E
- Gaming FF&E
- Entertainment
- A&G Facilities and IT
- Pre-Opening Expenses/Working Capital
- Fees/Permits/Taxes/Other

"Liquidity Account" means the Account of that name described in Section 2.2.

"Liquidity Account Remainder" is defined in Section 2.16.2.

"Loan Parties" means (a) the Project Entities, and (b) as of each relevant date, Parent, Resort Properties I, each Completion Guarantor, the Retail Facility Completion Guarantor, and each other Subsidiary of Parent which, as of that date is a party to a Material Contract or a Security Document.

"Loans" means, as the context may require, loans and advances made under the Bank Credit

Facility or the Retail Facility.

"Loss Proceeds" has the meaning given in Section 5.12.

"Loss Proceeds Accounts" means, collectively, the Resort Loss Proceeds Account and the Retail Loss Proceeds Account.

"Major Project Participant" shall mean each Person who is party to a Material Contract.

"Material Adverse Effect" means any event or circumstance which:

(a) has a material adverse effect on the business, assets, properties, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of (i) as of the Closing Date, Parent and its Subsidiaries, taken as a whole, (ii) the Companies and their Subsidiaries, taken as a whole, or (iii) as of the Closing Date, Turnberry Residential;

(b) materially and adversely affects the ability of the Companies and their Subsidiaries, taken as a whole, to perform their respective obligations under the Financing Agreements or of the Project Entities to construct the Project;

(c) materially and adversely affects the rights of the Secured Parties under their respective Financing Agreements, including the validity, enforceability or priority of the Liens purported to be created under the Security Documents; or

(d) materially and adversely affects the ability of the Project Entities to achieve the Opening Date by the Outside Date.

"Material Contract" means any of the Prime Construction Agreement, the Architect Agreement, and each other Contract with a total contract amount in excess of \$25,000,000 (or, in the case of any Contractor, where the total for such Person is in excess of \$25,000,000) and each Payment and Performance Bond issued to support any of the foregoing.

"Minor Scope Change" means any Scope Change which does not increase or decrease the amount of Project Costs by more than \$2,000,000, provided that the aggregate absolute value of all such Minor Scope Changes may not exceed \$30,000,000.

"Moody's" means Moody's Investors Service, Inc., a Delaware corporation, or any successor thereof.

"Multiemployer Plan" means a multi-employer plan as defined in Section 3(37) of ERISA to which the Project Entities or any member of the Controlled Group contributes or has an obligation to contribute on behalf of its employees.

"Nevada Gaming Authorities" means, collectively, the Nevada Gaming Commission, the Nevada State Gaming Control Board, the Clark County Liquor and Gaming Licensing Board, and any other federal, state or local agency having jurisdiction over gaming operations in the State of Nevada.

"Nevada Gaming Laws" means the Nevada Gaming Control Act, as codified in NRS Chapter 463, as amended from time to time, and the regulations of the Nevada Gaming Authorities promulgated thereunder, as amended from time to time and the various Clark County ordinances and regulations applicable to gaming activities.

"NRS": the Nevada Revised Statutes, as amended from time to time.

"Obligations" means (a) all loans, advances, debts, liabilities, and obligations, howsoever arising, owed by the Project Entities or any other Loan Party under the Bank Credit Agreement, the Second Mortgage Indenture, the Retail Facility or otherwise to any Lender of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms hereof, any of the other Financing Agreements or any of the other Operative Documents, including all interest (including interest accruing after the maturity of the Loans and the Second Mortgage Notes and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), fees, premiums, if any, charges, expenses, attorneys' fees and accountants fees chargeable to any Loan Party in connection with its dealings with the such Loan Party and payable by any Loan Party hereunder or thereunder; (b) any and all sums advanced by the Disbursement Agent or any Lender in order to preserve the Project Security or preserve any Secured Party's security interest in the Project Security, including all Protective Advances; and (c) in the event of any proceeding for the collection or enforcement of the Obligations after an Event of Default shall have occurred and be continuing, the reasonable expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Project Security, or of any exercise by any Secured Party of its rights under the Security Documents, together with reasonable attorneys' fees and court costs.

"Opening Date" means the date on which all material amenities of the Project are open for business to gaming and lodging customers, *provided* that not more than 70% of the tenant improvements with respect to the retail space within the Project (determined on the basis of square footage) need be completed on the Opening Date (or such lesser percentage as may be approved in accordance with the terms of the Bank Credit Agreement).

"Opening Date Certificates" means, collectively, the certificates in the form of Exhibits Q-1, Q-2, Q-3, and Q-4 hereto to be delivered by the Project Entities, the Construction Consultant, the General Contractor and the Architect, respectively.

"Operative Documents" means the Financing Agreements and the Contracts.

"Other Retail Costs" means costs set forth in the Retail Budget as amended from time to time in accordance with this Agreement that (i) relate solely to Tenant Allowances and Leasing Commissions and tenant improvements, and (ii) are not Shared Costs.

"Outside Date" means March 31, 2010, as extended from time to time in accordance with the last paragraph of Section 6.4.2.

"Outstanding Releases" has the meaning given in Section 3.3.16.

"Parent" means Fontainebleau Resorts, LLC, a Delaware limited liability company, its successors and permitted assigns (including any Person formed to consummate a Qualified Offering which is the owner, directly or indirectly, of 100% of the Equity Interests in the Borrowers).

"Payment Accounts" means, collectively, each of the Accounts listed in the column headed Payment Accounts in Section 2.2.

"Payment and Performance Bond" means any payment and performance bond, parent guarantee or other credit support delivered under any Contract in favor of the Project Entities or the General Contractor, the Bank Agent (acting on behalf of the Bank Lenders) and the Trustee (acting on behalf of the Second Mortgage Holders) supporting the Contractor's obligations under any such Contract, *provided* that any such credit support other than a payment and performance bond in a customary form issued by a reputable commercial bonding company must be reasonably acceptable to the Disbursement Agent and the Construction Consultant.

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Permits" means all authorizations, consents, decrees, permits, waivers, privileges, approvals from and filings with all Governmental Authorities necessary for the construction, development, ownership, lease or operation of the Project in accordance with the Operative Documents.

"Permitted Businesses" means the businesses permitted under Section 7.15 of the Bank Credit Agreement.

"Permitted Encumbrances" means those matters disclosed on the Title Policies (other than any Liens, claims or other rights arising out of any litigation matters described therein that are recorded against the Site in the real property records of Clark County, Nevada, but excluding any lis pendens or similar recording which provides notice of a dispute or claim, but which does not create a Lien that may be foreclosed or executed upon in respect of the Retained Site or the Project) and any utility easements in favor of Nevada Power Company that are subject to the certain letter dated April 19, 2007 from Nevada Power Company to STF Inc.

"Permitted Liens" means the following types of Liens (excluding any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA, any such Lien relating to or imposed in connection with any Environmental Claim, and any such Lien expressly prohibited by any applicable terms of any of the Security Documents):

- (a) Liens for taxes, assessments or governmental charges or claims the payment of which is not, at the time due and payable or which is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as reserves (determined in accordance with GAAP) shall have been made therefor through an allocation in the Remaining Cost Report;

(b) statutory Liens of landlords, statutory Liens of banks and rights of set-off, statutory Liens of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law, in each case incurred in the ordinary course of business (i) for amounts which are not overdue for a period of more than 30 days or (ii) that are being contested in good faith in accordance with NRS Chapter 624 by appropriate proceedings (such contest proceedings conclusively operating to stay the sale of any portion of the Project Security on the account of such Lien) and with appropriate reserves (determined in consultation with the Construction Consultant) through an allocation in the Remaining Cost Report which, in the aggregate with all other such reserves, shall not exceed \$50,000,000;

(c) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money); provided that if such Liens are being contested, appropriate reserves (determined in accordance with GAAP) have been established through an allocation in the Remaining Cost Report;

(d) any attachment or judgment Lien not constituting an Event of Default under Section 8 of the Bank Credit Agreement and Section 6.01 of the Second Mortgage Indenture;

(e) leases or subleases granted to third parties in accordance with the applicable terms of the Security Documents and not interfering in any material respect with the ordinary conduct of the business of any the applicable Project Entities;

(f) easements, rights-of-way, restrictions, encroachments and other similar encumbrances incurred and minor defects and irregularities in title that, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Project Entities;

(g) leases and subleases permitted under the Bank Credit Agreement and the Second Mortgage Indenture and any leasehold mortgage in favor of any party financing the lessee under any lease or sublease permitted thereunder; *provided* that (i) no Project Entity is liable for the payment of any principal of, or interest, premiums or other Debt Service on, such financing and (ii) the affected lease and leasehold mortgage are expressly made subject and subordinate to the Liens of the Bank Deed of Trust and Second Deed of Trust encumbering the affected property;

(h) Liens arising from filing UCC financing statements relating solely to leases permitted by the Bank Credit Agreement and the Second Mortgage Indenture;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of

goods;

(j) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property;

(k) licenses of patents, trademarks and other intellectual property rights granted by a Loan Party in the ordinary course of business and not interfering in any material respect with the ordinary conduct of the business of such Loan Party;

(l) Liens incurred in connection with "Specified Hedge Agreements" maintained under and as defined in, the Bank Credit Agreement;

(m) Liens securing Indebtedness of the Loan Parties incurred pursuant to Section 7.2(e) of the Bank Credit Agreement to finance the acquisition of fixed or capital assets, *provided* that (i) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets (or the refinancing of such Indebtedness as otherwise permitted under the Bank Credit Agreement), (ii) such Liens do not at any time encumber any property other than the property (and proceeds thereof) financed by such "Indebtedness" as defined in the Bank Credit Agreement, (iii) the principal amount of Indebtedness secured thereby is not increased and (iv) the property financed by such Indebtedness, is not of a type that will become affixed to the Project such that the removal thereof could not reasonably be expected to materially interfere with the ongoing ordinary course operations of the Project;

(n) the rights and interests of the Lenders as provided under the Financing Agreements;

(o) Permitted Encumbrances;

(p) Liens on cash Advanced pursuant hereto and deposited with, or held for the account of any Loan Party securing reimbursement obligations under performance bonds, guaranties, commercial letters of credit, bankers' acceptances or similar instruments to the extent permitted under the Bank Credit Agreement granted in favor of the issuers of such performance bonds, guaranties, commercial letters of credit or bankers' acceptances, so long as (i) any cash Advanced to secure such reimbursement obligations is invested (if at all) in Cash Equivalents only to the extent the Project Entities have the rights to direct investments thereof and (ii) the amount of cash and/or Cash Equivalents secured by such Liens is not less than the amount of Indebtedness secured thereby and in any event does not exceed 110% of the amount of the Indebtedness secured thereby (ignoring, for purposes of this clause (ii), any interest earned or paid on such cash and any dividends or distributions declared or paid in respect of such Cash Equivalents);

(q) Permitted Mechanics Liens; and

(r) to the extent not set forth above, Liens described in clauses (a) through (r) and (t) through (v) of Section 7.3 of the Bank Credit Agreement.

"Permitted Mechanics Liens" means, as of each date of determination, (a) mechanics liens representing claims asserted against the Project Entities in an aggregate amount not to exceed \$5,000,000, and (b) any other mechanics liens representing claims against the Project Entities which are acceptable to the Disbursement Agent in consultation with the Construction Consultant, *provided* that notwithstanding this clause (b) the aggregate claims represented by the Permitted Mechanics Liens shall not exceed \$25,000,000 at any time.

"Person" means any natural person, corporation, partnership, firm, association, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Phase I Report" means the environmental assessment for the Site and the Site Easements dated February 6, 2007 conducted by Western Technologies Inc.

"Plan" means any employee benefit plan as defined in Section 3(3) of ERISA to which the Project Entities or any member of the Controlled Group contributes or has an obligation to contribute to on behalf of its employees, other than a Multiemployer Plan.

"Plans and Specifications" means all plans, specifications, design documents, schematic drawings and related items for the design, architecture and construction of the Project that are listed on Exhibit U hereto including, from time to time, any further such plans, specifications, design documents, schematic drawings and related items which are consistent with the standards of Exhibit M-1 or M-2 and delivered pursuant to Section 3.3.19. in each case, as amended in accordance with Section 6.2.

"Prime Construction Agreement" means the construction agreement in the form of AIA Document A114-2001 dated as of June 6, 2007 (but effective as of April 1, 2007) between Las Vegas and the General Contractor for the construction of the Project.

"Proceeds Accounts" means, collectively, each of the Accounts listed as a Proceeds Account in the matrix set forth in Section 2.2.

"Project" means the construction of the Fontainebleau Resort and Casino on the Site, as more particularly described in Exhibit V-1 hereto.

"Project Costs" means all costs incurred, or to be incurred by the Project Entities in connection with the development, design, engineering, procurement, construction, installation, opening and completion of the Project in accordance with this Agreement, including, without duplication:

- (a) all costs associated with the bonding of deposits for Condo Units;
- (b) all costs incurred under the Contracts;
- (c) working capital costs incurred prior to the Scheduled Opening Date;
- (d) financing, closing and administration costs related to the Project until the Scheduled Opening Date including, but not limited to, insurance costs (including, with respect to directors and officers insurance), guarantee fees, legal fees and expenses, financial advisory fees and expenses, and fees and expenses of insurance advisors, taxes and other out-of-pocket



expenses payable by the Project Entities under all documents related to the financing and administration of the Project until the Scheduled Opening Date, including the costs of acquiring Permits for the Project prior to the Completion Date;

- (e) technical fees and expenses (including, without limitation, fees and expenses of the Construction Consultant), fees and expenses of the Disbursement Agent, the Construction Consultant, and all other technical advisors;
- (f) Debt Service which will accrue in respect of Indebtedness of the Companies prior to the Opening Date (but expressly excluding Debt Service in respect of the Retail Facility);
- (g) the expenses associated with the sales and marketing of the Condo Units;
- (h) costs incurred in settling insurance claims in connection with Events of Loss and collecting Loss Proceeds at any time prior to the Final Completion Date;
- (i) cash to collateralize commercial letters of credit to the extent that payment of any such cash amount to the vendor or materialman who is the beneficiary of such letter of credit would have constituted a "Project Cost";
- (j) soft costs including building permits and design costs / consultants;
- (k) amounts transferred prior to the Opening Date to an account established pursuant to Section 6.8(b) for payroll expenses otherwise constituting "Project Costs";
- (l) pre-opening expenses incurred prior to the Opening Date;
- (m) costs with respect to owners insurance incurred prior to the Opening Date; and
- (n) Other Retail Costs.

"Project Entities" means the Borrowers, the Issuers and the Retail Affiliate.

"Project Entity Closing Certificate" means a Closing Certificate substantially in the form of Exhibit B-1 hereto.

"Project Intended Uses" means the intended uses of the Project, as more particularly set forth in Exhibit V-2 hereto.

"Project Lenders Intercreditor Agreement" means the Intercreditor Agreement of even date herewith between the Bank Agent and the Trustee.

"Project Schedule" means the schedule for construction and completion of the Project prepared by the Project Entities and attached hereto as Exhibit F as amended from time to time in accordance with the terms hereof.

"Project Secured Parties" means (a) the Bank Agent acting for the benefit of the Bank Lenders, and the counterparties to certain Interest Rate Agreements entered into by the Companies, (b) the

Trustee acting for the benefit of the Second Mortgage Holders, and (c) the Disbursement Agent acting on behalf of any one or more of the foregoing (but not on behalf of the Retail Agent or the Retail Lenders).

"Project Security" means, at any time, all real and personal property which is subject or is intended to be subject to the security interests or liens granted by any of the Security Documents.

"Projected Interest Income" means, (a) as of the Opening Date, \$73,748,175, and (b) as of each subsequent date of determination, the anticipated interest income in respect of the Resort Accounts, as reasonably determined by the Companies for the period between that date and the Opening Date.

"Protective Advances" means any Advances made when an Event of Default has occurred and remains continuing with respect to (i) the payment of any delinquent taxes or insurance premiums owed by any of the Project Entities with respect to the Project or the Site, (ii) the removal of any lien or encumbrance on the Project or the Site that is not permitted under the Financing Agreements or the defense of the Project Entities' title thereto or of the validity, enforceability, perfection or priority of the liens and security interests granted or purported to be granted pursuant to the Security Documents, (iii) the payment of Project Costs after delivery of a Stop Funding Notice by the Disbursement Agent, or (iv) the repair, maintenance, protection or preservation of the value of the Project or any portion thereof, including, without limitation, for payment of (A) heating, gas, electric and other utility bills or (B) in the case of amounts paid by the Bank Agent or the Trustee, amounts reasonably necessary to prevent the provider of any financing pursuant to the Retail Facility from terminating its agreement to advance funds thereunder, all of which Advances shall be deemed to be obligatory advances regardless of the Person to whom funds are advanced.

"Punchlist Items" means minor or insubstantial details of construction or mechanical adjustment, the non-completion of which, when all such items are taken together, will not interfere in any material respect with the use or occupancy of the Project or the ability of the Project Entities (or any tenant or subtenant thereof) to perform work that is necessary or desirable to prepare such portion of the Project for such use or occupancy; *provided* that, in all events, "Punchlist Items" shall include (to the extent not already completed), without limitation, the items set forth in each punchlist delivered by the Project Entities pursuant to the Prime Construction Agreement and all items that are listed on the "punchlists" furnished by the Building Department, the Nevada Department of Transportation or the Clark County Department of Public Works in connection with, or after, the issuance of the Project temporary certificate of occupancy as those that must be completed in order for the Building Department to issue a Project permanent certificate of occupancy.

"Realized Savings" means, in respect of each Line Item Category, a decrease in the anticipated cost to complete the work or acquire the goods and services contemplated by such Line Item Category which (i) results from a decrease in the anticipated cost to complete the work which the Project Entities are able to demonstrate to the reasonable satisfaction of the Construction Consultant, or (ii) results from a Scope Change which (A) complies with the requirements of Section 6.2 and (B) results, to the reasonable satisfaction of the Construction Consultant, in a quantifiable decrease in materials, supplies, or required services, in each case, which is

documented by the Project Entities in a Realized Savings Certificate, duly executed and completed with all exhibits and attachments thereto. The Disbursement Agent shall be entitled to rely on certifications from the Project Entities and the Construction Consultant set forth in a Realized Savings Certificate in determining whether "Realized Savings" has been achieved.

"Realized Savings Certificate" means a certificate of the Project Entities substantially in the form of Exhibit N.

"Reciprocal Easement Agreement" means the Construction, Operation and Reciprocal Easement Agreement dated as of June 6, 2007 among the Borrowers and the Retail Affiliate.

"Release" means, any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal dumping, leaching or migration of Hazardous Substances into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Substances), including the movement of any Hazardous Substances through the air, soil, surface water or groundwater.

"Remaining Cost Report" means a report in the form attached to Exhibit C-1 as Appendix 8.

"Remaining Costs" means, as of each date of determination, the amount reflected in the Remaining Cost Report prepared as of the most recent date in the row titled "Total" under the "In Balance Test Adjustments" section which shall in all events include the entire amount of any disputed claims with Contractors, except to the extent that the Construction Consultant concurs with the Project Entities that the amount asserted by the relevant Contractor is in excess of the amount which is reasonably likely to be due to that Contractor.

"Representative" means Banc of America Securities LLC, when acting in its capacity as a representative of the initial purchasers of the Second Mortgage Notes pursuant to the terms of the Second Mortgage Indenture.

"Requested Cost Report" means, for each Advance Date, a report prepared by the Project Entities in the appropriate version of the form attached to Exhibit C-1 as Appendix 1.

"Requested Cost to Final Completion Report" has a report prepared by the Project Entities in the form attached to Exhibit Q-1 as Appendix 1.

"Required Minimum Contingency" means, as of each date of determination, the amount calculated as follows:

- (a) As of the Closing Date, \$111,039,860;
- (b) from time to time thereafter, the greater of (i) \$5,000,000 and (ii) amount determined pursuant to the following formula:  
$$\text{RMC} = \$111,039,860 * (1.00 - \text{PC})$$

Where:

- (1) RMC = Required Minimum Contingency under the Resort Budget;
- (2) PC = Percentage of the Project completed as of the calculation date as a percentage of the Total Hard Costs.

"Required Minimum Excess Revolver Support Amount" as used in each Remaining Cost Report means, as of each date of determination, the amount calculated as follows:

- (a) As of the Closing Date, \$15,394,566;
- (b) from time to time thereafter, the amount determined pursuant to the following formula:  
$$\text{RMER} = \$15,394,566 * (1.00 - \text{PC})$$

Where:

- (1) RMER = Required Minimum Excess Revolver Support under the Resort Budget;
- (2) PC = Percentage of the Project completed as of the calculation date as a percentage of the Total Hard Costs.

"Required Minimum Liquidity Account" as used in the Remaining Cost Report, means, as of each date of determination, the amount calculated as follows:

- (a) As of the Closing Date, \$50,000,000;
- (b) from time to time thereafter, the amount determined pursuant to the following formula:  
$$\text{RMLA} = \$50,000,000 * (1.00 - \text{PC})$$

Where:

- (1) RMLA = Required Minimum Liquidity Account under the Resort Budget;
- (2) PC = Percentage of the Project completed as of the calculation date as a percentage of the Total Hard Costs.

"Residual Bank Revolving Facility Completion Reserve Amount" means, as of each date of determination, the amount determined as of the Opening by the Funding Order for Final Completion Report as outlined in Section 2.17.2, minus (b) the amount of the cumulative Advances thereafter made from the Bank Revolving Facility pursuant to Section 2.10.2(b)(xiv).

"Resort Accounts" means each of the Accounts other than the Retail Payment Account, the Retail Funding Account and the Retail Loss Proceeds Account.

"Resort Budget" means as of each date of determination, the budget set forth in column D of the Remaining Cost Report.

"Resort Loss Proceeds Account" means the Account of that name described in Section 2.2.

"Resort Payment Account" means the Account of that name described in Section 2.2.

"Resort Properties I" means Fontainebleau Resort Properties I, LLC, a Delaware limited liability company.

"Resort Properties II" means Fontainebleau Resort Properties II, LLC, a Delaware limited liability company.

"Resort Request" means, for each Advance Date, the total amount of the Project Costs expended

pursuant to the Resort Budget for which payment is requested on that Advance Date (including the amount of any such Project Costs which have been paid through the Cash Management Account).

"Resort Request to Final Completion" has the meaning set forth in Section 2.13.2.

"Resort Sources" means, subject to the limitations described herein, the following sources, in each case to the extent set forth in the Current Available Sources Report: (a) the Resort Loss Proceeds Account, (b) the Resort Payment Account, (c) the Interest Account, (d) the Liquidity Account, (e) the Bonded Condo Proceeds Account, (f) the Cash Management Account, (g) the Equity Funding Account, (h) the Second Mortgage Proceeds Account, (i) the Bank Proceeds Account (j) the Delay Draw Term Loan Availability, (k) the Bank Revolving Facility Availability, and (l) the Completion Guaranty Availability.

"Responsible Officer" means as to any Person, the chief executive officer, chief financial officer, president, or executive chairman thereof, or of its ultimate manager or signatory Person.

"Retail Accounts" means, collectively, the Retail Funding Account, the Retail Payment Account and the Retail Loss Proceeds Account.

"Retail Affiliate" means Fontainebleau Las Vegas Retail, LLC, a Delaware limited liability company.

"Retail Agent" means Lehman Brothers Holdings Inc., and any successor agent under the Retail Facility.

"Retail Air Space Lease" means the Master Lease Agreement dated as of June 6, 2007 between the Borrowers and the Retail Affiliate.

"Retail Air Space Parcels" means, collectively, the air space parcels at the Site to be leased (and later owned) by the Retail Affiliate described on Exhibit V-4.

"Retail Budget" means as of each date of determination, the budget set forth in column B of the Retail Remaining Cost Report.

"Retail Facility" means the \$315,000,000 credit facility made available pursuant to the Retail Facility Agreement.

"Retail Facility Availability" means, as of each date of determination, the aggregate principal amount available to be drawn on that date under the Retail Facility.

"Retail Facility Agreement" means the Loan Agreement dated June 6, 2007 among the Retail Affiliate, the Retail Lenders and the Retail Agent.

"Retail Facility Completion Guarantor" means Jeffrey Soffer and Parent.

"Retail Funding Account" means the Account of that name described in Section 2.2.

"Retail Intercreditor Agreement" means the Intercreditor Agreement of event date herewith among the Bank Agent, the Trustee, the Retail Agent and the Retail Affiliate.

"Retail Lenders" means the lenders from time to time parties to the Retail Facility.

"Retail Lenders Shared Cost Commitment" means \$83,000,000.

"Retail Loss Proceeds Account" means the Account of that name described in Section 2.2 into which Loss Proceeds in respect of improvements and fixtures constituting Other Retail Costs are to be deposited.

"Retail Payment Account" means the Account of that name described in Section 2.2.

"Retail Remaining Cost Report" means a report in the form attached to Exhibit C-1 as Appendix 9.

"Retail Request to Final Completion" has the meaning set forth in Section 2.13.1.

"Retail Request" means, for each Advance Date, the total amount of the Other Retail Cost expended pursuant to the Retail Budget for which payment is requested on that Advance Date (including the amount required to reimburse the Cash Management Account for any such Project Costs which have been paid through the Cash Management Account).

"Retail Security Documents" means the deed of trust, security agreement and other security documents executed from time to time by the Retail Affiliate in favor of the Retail Agent and the Retail Lenders.

"Retail Shared Cost Percentage" means:

(1) as of any date of determination prior to the Initial Bank Advance Date, zero; and

(2) as of each date of determination from and after the Initial Bank Advance Date, the percentage which is equal to the ratio of (a) the aggregate Project Costs expended on and following the Initial Bank Advance Date in respect of the Podium (as determined in the Detailed Remaining Cost Report), to (b) the amount determined in the Detailed Remaining Cost Report as of the Initial Bank Advance Date (and prior to giving effect to the Advances made on that date) of the remaining Project Costs associated with the Podium through Final Completion.

"Retail Sources" means subject to the limitations described herein, the following sources, in each case to the extent set forth in the Current Available Sources Report: (a) the Retail Loss Proceeds Account, (b) the Retail Payment Account, and (c) the then available principal amount of the Retail Facility.

"Retail Unincorporated Materials" means, as of each date of the making of the applicable Advance Request, all materials, machinery, fixtures, furniture, equipment or other items purchased or manufactured for incorporation into the retail component of the Project but which, at such date, (i) are not located at the site of the retail component and for which the Retail Affiliate has paid or intends to pay with the proceeds of the Advance Request all or a portion of

the purchase price, or (ii) are located at the site of the retail component but are not expected to be incorporated into the Project within 30 days after such Advance Request.

"Retainage Amounts" means at any given time amounts which have accrued and are owing under the terms of a Contract for work or services already provided but which at such time (and in accordance with the terms of the Contract) are being withheld from payment to the Contractor, until certain subsequent events (e.g., completion benchmarks) have been achieved under the Contract.

"Reviewing Accountant" means Deloitte & Touche, LLP or any subsequent nationally recognized firm of independent public accountants selected by the Project Entities, with the consent of the Bank Agent from time to time (which shall not be unreasonably withheld or delayed), as auditors of the Project Entities.

"Revolving Loans" has the meaning given in the Bank Credit Agreement.

"S&P" means Standard & Poor's Ratings Group, or any successor thereof.

"Scheduled Advance Date" means, as to each Advance Request, the 25th day of the calendar month during which such Advance Request is received (or, if such day is not a Banking Day, on the next Banking Day).

"Scheduled Opening Date" means October 1, 2009, as the same may from time to time be extended pursuant to Section 6.4.

"Scope Change" means any change to the physical configuration or amenities of the Project from what is described in the Plans and Specifications or any other change to the design, layout, architecture or quality of the Project from that which is contemplated on the Closing Date, *provided* that it is acknowledged that the Plans and Specifications delivered on the Closing Date are preliminary in nature and that any further refinement or embellishment thereof in a manner which is not determined by the Construction Consultant to be materially inconsistent with such Plans and Specifications or any subsequent refinement or embellishment thereof shall not be considered to be a "Scope Change."

"Second Deed of Trust" means the Deed of Trust of even date herewith executed by the Borrowers, as trustors, for the benefit of the Trustee, as beneficiary.

"Second Mortgage Funding Account" means the Account of that name described in Section 2.2.

"Second Mortgage Holders" means the holders of the Second Mortgage Notes.

"Second Mortgage Indenture" means the Indenture dated as of June 6, 2007 among the Issuers, the Borrowers (as guarantors) and the Trustee.

"Second Mortgage Notes" means the 10 1/4% Second Mortgage Notes Due 2015 in the aggregate principal amount of \$675,000,000, issued by the Issuers, as co-issuers, pursuant to the Second Mortgage Indenture.

"Second Mortgage Proceeds Account" means an account established with the Trustee into which the net proceeds of the offering of the Second Mortgage Notes shall be deposited on the Closing Date in accordance with the Flow of Funds Memo, which Account is further described in Section 2.2.

"Second Mortgage Purchase Agreement" means the Purchase Agreement dated May 24, 2007 entered into between the Representative, the Issuers and the guarantors signatory thereto concerning the purchase of the Second Mortgage Notes.

"Second Mortgage Security Documents" means, collectively, the Second Deed of Trust, each Completion Guaranty, the Affiliate Subordination Agreement, and any guaranties, deeds of trust, security agreements or Control Agreements executed from time to time by any of the Loan Parties or one or more of their direct or indirect Subsidiaries in favor of the Trustee or the Second Mortgage Holders to secure, support or guaranty the obligations under the Second Mortgage Notes and the Second Mortgage Indenture.

"Secured Parties" means, collectively, the Project Secured Parties and the Retail Lenders.

"Security Documents" means, collectively and without duplication, the Bank Security Documents, the Second Mortgage Security Documents, the Retail Security Documents, each Completion Guaranty, each Payment and Performance Bond, the Control Agreements, the Consents, and any other deeds of trust, security agreements or Control Agreements entered into by any of the Loan Parties and/or one or more of their direct or indirect Subsidiaries for the benefit of any Secured Party in accordance with the terms of the Financing Agreements or the Intercreditor Agreements.

"Shared Cost Allocation Report" means, for the Initial Bank Advance Date and each subsequent Advance Date, a report prepared by the Project Entities in the appropriate version of the form attached to Exhibit C-1 as Appendix 2.

"Shared Costs" means the portion of the overall Project Costs reflected in the Resort Budget which are to be paid for using both the Resort Sources and (to the extent of the Retail Lenders Shared Cost Commitment) the Retail Facility (primarily costs associated with the Podium).

"Shared Cost to Final Completion Allocation Report" means a report prepared by the Project Entities in the form attached to Exhibit Q-1 as Appendix 2.

"Site" means the construction site for the Project as described in Exhibit V-3 hereto, together with any other real property which is hereafter subject to a lien under the Bank Deed of Trust or the Second Deed of Trust.

"Site Easements" means the easements appurtenant, easements in gross, license agreements and other rights running for the benefit of the Project Entities and/or appurtenant to the Site, including, without limitation, the easements and licenses described in the Title Policies.

"Solvent" means, as to any Person, that (a) the sum of the assets of such Person, both at a fair valuation and at a present fair saleable value, exceeds its liabilities, including its probable



liability in respect of contingent liabilities, (b) such Person will have sufficient capital with which to conduct its business as presently conducted and as proposed to be conducted and (c) such Person has not incurred debts, and does not intend to incur debts, beyond its ability to pay such debts as they mature.

"Stop Funding Notice" has the meaning given in Section 2.5.1.

"Subcontract" means any subcontract or purchase order entered into with any Subcontractor.

"Subcontractor" means any direct or indirect subcontractor of any tier under any Contract.

"Subsidiary" as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"Tax" shall mean shall mean any federal, state, local, foreign or other tax, levy, impost, fee, assessment or other government charge, including without limitation income, estimated income, business, occupation, franchise, property, payroll, personal property, sales, transfer, use, employment, commercial rent, occupancy, franchise or withholding taxes, and any premium, including without limitation interest, penalties and additions in connection therewith.

"Tenant Allowance" means amounts payable directly to a retail tenant as part of any construction allowance pursuant to any retail lease entered into by the Retail Affiliate in accordance with the Retail Facility Agreement.

"Title Insurer" means Lawyers Title Insurance Corporation.

"Title Policies" means, collectively, the policies of title insurance issued by Title Insurer as of the Closing Date.

"Total Hard Costs" means, as of each date of determination, the costs described in column D in the row titled "Construction Hard Costs Subtotal" in the Detailed Remaining Cost Report prepared as of that date.

"Trustee" means Wells Fargo Bank, N.A., when acting in its capacity as the trustee under the Second Mortgage Indenture and its successors in such capacity.

"Turnberry Residential" means Turnberry Residential Limited Partner, L.P., a Delaware limited partnership.

"UCC" means the Uniform Commercial Code of the State of New York.

"Unallocated Contingency Balance" means, as of each date of determination, the "Unallocated Contingency" Line Item Category in the Remaining Cost Report.

"Unincorporated Materials" means, as of each date of the making of each Advance Request, all materials, machinery, fixtures, furniture, equipment or other items purchased or manufactured for incorporation into the Project but which, at such date, (i) are not located at the Site and for which the Project Entities have paid or intend to pay with the proceeds of the Advance Request all or a portion of the purchase price, or (ii) are located at the Site but are not expected to be incorporated into the Project within 30 days after such Advance Request.

#### ***RULES OF INTERPRETATION***

1. The singular includes the plural and the plural includes the singular.
2. The word "or" is not exclusive.
3. A reference to a Legal Requirement includes any amendment or modification of such Legal Requirement, and all regulations, rulings and other Legal Requirements promulgated under such Legal Requirement.
4. A reference to a Person includes its permitted successors and permitted assigns.
5. Accounting terms have the meanings assigned to them by GAAP.
6. The words "include," "includes" and "including" are not limiting.
7. A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.
8. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean, unless specifically indicated, such document, instrument or agreement as in effect on the date hereof, notwithstanding any termination, expiration or amendment of such agreement unless (i) all of the parties hereto are signatories to such amendment or (ii) the signatories to such amendment have the right to amend this Agreement without the consent of the other parties hereto, in either of which case any references shall be to such agreement as so amended.
9. The words "hereof," "herein" and "hereunder" and words of similar import when used in any document shall refer to such document as a whole and not to any particular provision of such document.
10. References to "days" shall mean calendar days, unless the term "Banking Days" shall be used.

11. The Financing Agreements are the result of negotiations among, and have been reviewed by, the Project Entities, the Funding Agents, the Lenders and the Disbursement Agent. Accordingly, the Financing Agreements shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favor of or against any such Person.
12. Where any instrument, document or agreement is required to be delivered pursuant hereto in a form which is "substantially in the form" of the Exhibit hereto (or words of similar import), the form of such instrument, document or agreement shall be required to comport with the form attached hereto, but with such changes as may be reasonably acceptable to the Disbursement Agent.
13. In the event that any day or date referred to in the provisions of this Agreement occurs on a day that is not a Banking Day, the reference shall be deemed to be to the next succeeding Banking Day.

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EXHIBITS

Exhibits

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**Dep. Ex. 73**

From: Kotzin, Justin. Sent: 9/19/2008 8:35 AM.  
To: Yunker, Bret D; Yunker, Bret D.  
Cc: .  
Bcc: .  
Subject: RE: Fontainebleau Investors.

totally agree. so far this week i've heard that 1) construction will cease any day 2) bofa stopped funding the construction loan and 3) there is a huge hole in the retail piece due to lehman. i know they are all false but cokinos wants to get everyone on the phone to discuss briefly.

-----Original Message-----

From: Yunker, Bret D  
Sent: Friday, September 19, 2008 8:33 AM  
To: Kotzin, Justin  
Subject: Fw: Fontainebleau Investors

They only need \$4mm from lehman for retail costs this month. Jim can put money down from up top to solve that gap if/when lehman fails to fund. Then it's a question of the technical impact on in balance, which there is a strong argument for no change. Thus everyone is wound up about nothing right now (other than rumors)

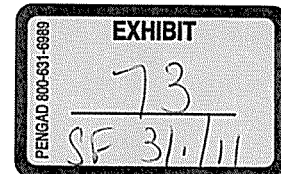
Bret Yunker, Principal | Real Estate, Gaming & Lodging Investment  
Banking | Banc of America Securities  
333 S. Hope St. 24th Floor, Los Angeles, CA 90071 | O: (213) 621-8780 |  
C: (310) 266-8393

----- Original Message -----

From: Yunker, Bret D  
To: Susman, Jeff; Howard, David; Varnell, Jon M  
Cc: Bolio, Brandon  
Sent: Fri Sep 19 05:30:44 2008  
Subject: Re: Fontainebleau Investors

Ok. What times work for you today to wrap up the lehman issue with jim (i'm on bb or would check your calendar). If there is no change to in balance, and unless i'm missing something, the company's advance request is satisfied and we move on. Company obviously needs to address some longer term issues but will have breathing room to do so

Bret Yunker, Principal | Real Estate, Gaming & Lodging Investment



Banking | Banc of America Securities  
333 S. Hope St. 24th Floor, Los Angeles, CA 90071 | O: (213) 621-8780 |  
C: (310) 266-8393

----- Original Message -----

From: Susman, Jeff  
To: Howard, David; Yunker, Bret D; Varnell, Jon M  
Cc: Bolio, Brandon  
Sent: Fri Sep 19 05:13:31 2008  
Subject: Fontainebleau Investors

As noted in Brandon's message below, Z Capital Partners has requested a meeting with management. I received a call yesterday from Al Bacchi that he has a couple of investors that want to speak with management. Finally, I took calls from Carlyle and from Princeton yesterday. The common thread is they all want to speak with management or want them to have a conference call.

I realize that there are more questions than answers right now and that we are formulating a plan to address Lehman and the Retail Facility, but I anticipate that we will get more calls today.

It seems apparent that the Company should also work on a plan to communicate with its investors. My sense is that a posting to IntraLinks may not satisfy them, or at least not the ones that have contacted us.

Just an observation.

Regards...Jeff

---

From: Bolio, Brandon  
Sent: Thursday, September 18, 2008 8:41 PM  
To: Susman, Jeff  
Subject: RE:

FYI. This is an investor on FB Las Vegas (Z Capital Partners - \$21.3MM) who will be in Vegas and wants to meet w/ mgmt team (~45min).

---

From: Bolio, Brandon  
Sent: Thursday, September 18, 2008 8:40 PM  
To: 'Ryan Falconer'  
Cc: Susman, Jeff

Subject: RE:

Hi Ryan -

Received your voicemail today – is your desire to tour the property or to discuss items with management? If the former, we can set up a site visit for you in conjunction with the construction consultant monthly site tour. If you have specific questions regarding the deal, you can send them to me in an e-mail and we can try to help them get answered.

Thanks,  
Brandon

---

From: Ryan Falconer [mailto:rfalconer@zcap.net]  
Sent: Thursday, September 18, 2008 3:47 PM  
To: Bolio, Brandon  
Subject:

Brandon-

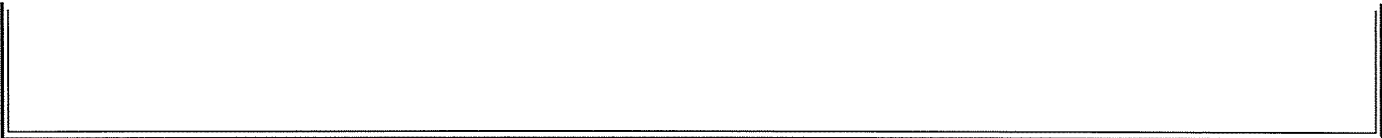
Give a ring when you have a chance on FLBU.

Ryan Falconer  
Director

Z Capital Partners, L.L.C.  
Two Conway Park  
150 Field Dr. Suite 300  
Lake Forest, IL 60045  
847-235-8100 Office  
847-235-8111 Fax

<http://www.zcap.net> <<http://www.zcap.net>>

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**Dep. Ex. 75**

From: Jim Freeman. Sent: 9/26/2008 4:22 PM.  
To: Susman, Jeff.  
Cc: Whitney Thier; bscott@sheppardmullin.com.  
Bcc:  
Subject: RE:.

I affirm.

From: Susman, Jeff [mailto:jeff.susman@bankofamerica.com]  
Sent: Friday, September 26, 2008 12:59 PM  
To: Jim Freeman; Whitney Thier; Sony Ben-Moshe  
Cc: Yunker, Bret D; Varnell, Jon M; Howard, David; Fuad, Peter H -Legal; Bill Scott; Richard Brunette  
Subject:

Dear Jim:

We are hereby requesting pursuant to Section 11.2 of the Disbursement Agreement dated June 6, 2007 to which Fontainebleau Las Vegas, LLC and certain of its affiliates are a party, that you reaffirm the representations and warranties which the Companies made pursuant to the Advance Request and Advance Confirmation Notice submitted to the Disbursement Agent earlier this month.

Please confirm, by reply to this message, that the representations and warranties remain accurate and may be relied upon in the making of the Advance you have requested for today.

Jeff Susman

Senior Vice President

Corporate Debt Products

Bank of America

214-209-0964 (office)

214-209-0085 (fax)

jeff.susman@bankofamerica.com



**Dep. Ex. 76**



September 30, 2008



Jim Freeman  
Chief Financial Officer  
Fontainebleau Resorts, LLC  
2827 Paradise Road  
Las Vegas, NV 89109

Re: Anticipated Questions for Bank Conference Call

Dear Jim:

In anticipation of a call with the lenders later this week, we would like to arrange for a call with you to discuss questions which we have received from syndicate members so that we can have an organized presentation for the Lenders. If possible, we would like to have this call tomorrow.

The questions that we anticipate will be asked by the Lenders focus on two conditions set forth in the Master Disbursement Agreement, Section 3.3.1(b) and Section 3.3.23:

- 3.3.1(b) "Each Financing Agreement shall be in full force and effect, without amendment since the date of its execution and delivery, and in a form which was provided to the Bank Agent and the Trustee prior to the Closing Date, except for amendments to the Financing Agreements to the extent permitted under the Facility Agreements or to the extent terminated in accordance with their respective terms."
- 3.3.23 "In the case of each Advance from the Bank Proceeds Account made concurrently with or after Exhaustion of the Second Mortgage Proceeds Account, the Retail Agent and the Retail Lenders shall, on the date specified in the relevant Advance Request, make any Advances required of them pursuant to that Advance Request."

One Lender has stated that because of the bankruptcy of Lehman Brothers Holdings, Inc., the Retail credit facility cannot be viewed to be "in full force and effect." Specifically, that Lender asserts that the current bankruptcy orders in place in the Lehman bankruptcy prohibit Lehman from making advances under its commitment pursuant to the Retail credit facility.

We think that the Lenders questions can be summarized as follows:

- 1) Who are the current lenders under the Retail credit facility?
- 2) Did Lehman fund its portion of the requested \$3,789,276.00 of Shared Costs funded last Friday (9/26/08) or was this made up from other sources? If Lehman did not fund its portion, what were the other sources?

W02-WEST-LAR401065732.2

-1-

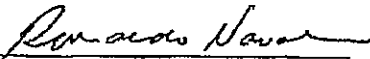


Recycled Paper

- 3) What is the impact of the Lehman Brothers Holdings, Inc. bankruptcy upon your ability to obtain funds for the scheduled October 25, 2008 advance, both for Shared Costs and for Other Retail Costs? What is the impact of this on your ability to obtain funds for remaining Shared Costs and for Other Retail Costs under the Retail Credit Facility?
- 4) What is the long term impact upon the Companies' ability to complete both the Resort Component and the Retail Component of the Project?
- 5) As a general matter, what is the effect of the Lehman bankruptcy and the current capital markets disruption upon the ability of the Companies to complete the Project?
- 6) Given the uncertainty surrounding the ability of Lehman to fund its commitments, what is the Companies' long term plan to assure adequate liquidity for the Project?

We appreciate your attention to these points. Please let us know of a time tomorrow when we can have a call to discuss these points.

Bank of America, N.A., as Administrative Agent

By:   
Ronaldo Naval, Vice President

cc. Whitney Their  
David Howard  
Jeff Susman  
Brandon Bolio  
Bret Yunker  
Kyle Bender  
Bill Scott

**Dep. Ex. 77**

DATE: October 7, 2008  
TO: Las Vegas Bank Group  
FROM: Jim Freeman  
SUBJECT: Retail Loan Agreement

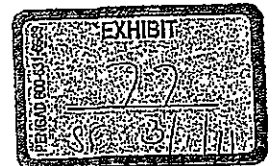
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The company has received various inquiries concerning the retail facilities for the Fontainebleau Las Vegas project since the unfortunate bankruptcy filing by Lehman Brothers Holdings, Inc. The retail facilities total \$400mm, were arranged by Lehman Brothers and are split into two tranches: an \$85mm mezzanine facility and a \$315mm construction facility. At the close of our \$2.9 billion project financing in June, 2007, the company was funded the entire mezzanine facility and approximately \$125mm under the construction facility. The construction facility was partially syndicated to third party lenders. We've been drawing on the construction facility to pay interest on the facility and the shared costs of the retail shell within the podium.

The retail construction facility is obligated to fund \$83mm of the shared costs of the retail portion of the project. Approximately \$74mm of those shared costs remain to be funded. On a monthly basis, the retail portion of the shared costs of the podium is relatively modest. In August and September, the retail portion of such shared costs was \$5mm and \$3.8mm, respectively, all of which was funded. We would expect such allocation to remain at \$5-7mm per month.

The remaining availability of the retail construction facility is to be utilized to fund interest on the facility and approximately \$62mm of tenant improvements and lease commissions. We do not expect to spend any significant amount for such items until spring, 2009.

We are continuing active discussions with Lehman Brothers to ensure that, regardless of the Lehman bankruptcy filing and related acquisition by Barclay's, there is no slowdown in funding for the project. We are also actively talking with the co-lenders under the retail construction facility, whose interrelationship and funding allocations are subject to a private Co-Lending Agreement. We do not believe there will be any interruption in the retail funding of the project. We appreciate everyone's support during these unprecedented times in the financial markets.



F O N T A I N E B L E A U

**Dep. Ex. 78**

From: Kevin Rourke. Sent: 10/10/2008 12:42 PM.  
To: Andrei Dorenbaum; Brad Means.  
Cc: .  
Bcc: .  
Subject: FW: High Yield: HY Gaming, Lodging & Leisure Weekly - United States - 32pp.

FYI - re: Fontainebleau equity sponsor funding for retail commitment.

Kevin Rourke  
Highland Capital Management, LP  
13455 Noel Road, Suite 800  
(972) 628-4100  
krourke@hcmlp.com

—Original Message—

From: ML-John Maxwell [mailto:feedback@mlresearch.ml.com]  
Sent: Friday, October 03, 2008 11:29 AM  
To: Kevin Rourke  
Subject: High Yield: HY Gaming, Lodging & Leisure Weekly - United States - 32pp

Link to full report including important disclosures\*  
<http://research1.ml.com/C/?q=sGaH03J5e%2BTltjEpgREYA%3D%3D&r=rourke>

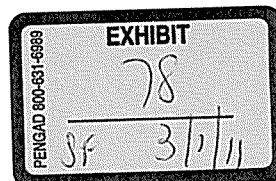
#### Gaming, Lodging & Leisure Recent Performance

##### Gaming: Highlights

- 1) Legislative Update - The Time Grows Near. We provide an overview of several gaming initiatives slated for the November 4, 2008 ballot. Highlighted states include AR, CO, IL, KY, MD, MO and OH.
- 2) Las Vegas Sands Issues Convertible Notes. LVS has entered into a \$475 million convertible note offering with the Adelson family. Proceeds will be used to reduce the debt of the U.S. credit facility and cure potential covenant violations.
- 3) Foxwoods Announces Layoffs. MASHTU announced plans to layoff 700 workers (6% of total) at its Foxwoods and MGM Grand at Foxwoods properties.
- 4) Penn National Lowers 3Q 2008 Guidance. Adjusted EBITDA is now expected to be \$146.3 million (was \$178.6 million), due to i) the economic slowdown, ii) heightened competition and iii) hurricane disruptions.
- 5) Fontainebleau Update. We understand that the FBLEAU equity sponsors have funded the amount required from Lehman on the retail credit facility due this month (\$4 million). As a result, there are no delays in construction thus far.

##### Lodging: Highlights

- 1) Marriott Reports 3Q 2008 Results; Maintain UW-30%. We are still not comfortable given the ongoing slowing lodging fundamentals.
- 2) Lodging - 3Q 2008 RevPAR Preview. We expect actual 3Q 2008 RevPAR's to be at or slightly below



the low-end of management guidance. We have included a monthly RevPAR summary, credit flashes and a lodging comp sheet.

3) Starwood Hotels - Downgrading to UW-30%. Our ratings change primarily reflects the potential for slowing international demand.

4) Smith Travel Research: Weekly Lodging RevPAR -2%; -1.8% Past Month.

Leisure: Highlights  
None

To reply to John Maxwell directly, Click here [mailto:john\\_maxwell@ml.com](mailto:john_maxwell@ml.com) or call +1 212 449 5936

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Publication: 571136-10772194.pdf  
Recipient: Kevin Rourke



**Dep. Ex. 79**

From: Yunker, Bret D. Sent: 10/1/2008 12:56 PM.  
To: Varnell, Jon M; Bender, Kyle D; Varnell, Jon M; Bender, Kyle D.  
Cc: .  
Bcc: .  
Subject: Fw: Fontainebleau - Highland.

This is BS

Bret Yunker, Principal | Real Estate, Gaming & Lodging Investment Banking | Banc of America Securities  
333 S. Hope St. 24th Floor, Los Angeles, CA 90071 | O: (213) 621-8780 | C: (310) 266-8393

----- Original Message -----

From: Bill Scott <bscott@sheppardmullin.com>  
To: Yunker, Bret D; Richard Brunette <RBrunette@sheppardmullin.com>; Howard, David; Fred Puglisi <FPuglisi@sheppardmullin.com>; Reed Mercado <RMercado@sheppardmullin.com>; Susman, Jeff  
Cc: Bender, Kyle D; Varnell, Jon M; Fuad, Peter H -Legal  
Sent: Wed Oct 01 08:22:46 2008  
Subject: RE: Fontainebleau - Highland

Dear Guys:

Redacted - Privileged



Redacted - Privileged

WMS

-----Original Message-----

From: Yunker, Bret D [mailto:bdyunker@bofasecurities.com]  
Sent: Wednesday, October 01, 2008 6:12 AM  
To: Bill Scott; Richard Brunette; Howard, David; Fred Puglisi; Reed Mercado; Susman, Jeff  
Cc: Bender, Kyle D; Varnell, Jon M; Fuad, Peter H -Legal  
Subject: Re: Fontainebleau - Highland

Redacted - Privileged

Bret Yunker, Principal | Real Estate, Gaming & Lodging Investment  
Banking | Banc of America Securities  
333 S. Hope St. 24th Floor, Los Angeles, CA 90071 | O: (213) 621-8780 |  
C: (310) 266-8393

----- Original Message -----

From: Yunker, Bret D  
To: 'bscott@sheppardmullin.com' <bscott@sheppardmullin.com>;  
'RBrunette@sheppardmullin.com' <RBrunette@sheppardmullin.com>; Howard,  
David; 'FPuglisi@sheppardmullin.com' <FPuglisi@sheppardmullin.com>;  
'RMercado@sheppardmullin.com' <RMercado@sheppardmullin.com>; Susman,  
Jeff  
Cc: Bender, Kyle D; Varnell, Jon M; Fuad, Peter H -Legal  
Sent: Wed Oct 01 06:03:22 2008  
Subject: Re: Fontainebleau - Highland

Redacted - Privileged

Bret Yunker, Principal | Real Estate, Gaming & Lodging Investment  
Banking | Banc of America Securities  
333 S. Hope St. 24th Floor, Los Angeles, CA 90071 | O: (213) 621-8780 |  
C: (310) 266-8393

— Original Message —

From: Bill Scott <bscott@sheppardmullin.com>  
To: Yunker, Bret D; Richard Brunette <RBrunette@sheppardmullin.com>;  
Howard, David; Fred Puglisi <FPuglisi@sheppardmullin.com>; Reed Mercado  
<RMercado@sheppardmullin.com>; Susman, Jeff  
Cc: Bender, Kyle D; Varnell, Jon M; Fuad, Peter H -Legal  
Sent: Tue Sep 30 23:18:18 2008  
Subject: RE: Fontainebleau - Highland

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WMS

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From: Yunker, Bret D [mailto:bdyunker@bofasecurities.com]  
Sent: Tuesday, September 30, 2008 9:18 PM  
To: Bill Scott; Richard Brunette; Howard, David; Fred Puglisi; Reed Mercado; Susman, Jeff  
Cc: Bender, Kyle D; Varnell, Jon M; Fuad, Peter H -Legal  
Subject: RE: Fontainebleau - Highland  
Importance: High

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---

From: Bill Scott [mailto:[bscott@sheppardmullin.com](mailto:bscott@sheppardmullin.com)]  
Sent: Tuesday, September 30, 2008 4:49 PM  
To: Richard Brunette; Fred Puglisi; Reed Mercado  
Cc: Susman, Jeff; Fuad, Peter H -Legal; Howard, David; Bender, Kyle D;  
Yunker, Bret D  
Subject: RE: Fontainebleau - Highland

Here's a note from Dick with a further point from Highland.

---

From: Richard Brunette  
Sent: Tuesday, September 30, 2008 4:48 PM  
To: Bill Scott; Fred Puglisi; Reed Mercado  
Subject: Fontainebleau - Highland

Redacted - Privileged

---

From: Andrei Dorenbaum [mailto:ADorenbaum@hcmlp.com]  
Sent: Tuesday, September 30, 2008 4:04 PM  
To: Richard Brunette  
Subject: RE: Fontainebleau - Contact Information

1. PWC:

<http://www.ukmediacentre.pwc.com/Content/Detail.asp?ReleaseID=2895&NewsArealID=2> (this is one of the subs)

2. Re Sec 365 - if this contract can be rejected then, at a minimum, there is an MAE under the CA (LHI's funding obligation is about \$200MM) since the borrower as no guaranty that this contract will be fully assumed or paid due to BK. This calls into question the borrower's ability to complete the project.

Andrei Dorenbaum

Assistant General Counsel

Highland Capital Management, L.P.

13455 Noel Road, Suite 800

Dallas, Texas 75240

office: 972-419-2573

fax: 972-628-4147

adorenbaum@hcmlp.com <BLOCKED::mailto:adorenbaum@hcmlp.com>

From: Richard Brunette [mailto:RBrunette@sheppardmullin.com]  
Sent: Monday, September 29, 2008 3:32 PM  
To: Andrei Dorenbaum  
Subject: Fontainebleau - Contact Information

Andrei -

Following up on our call today, my contact information is shown below. We are looking into the issues that you raised in your September 26 email to Bill Scott and Jeff Susman. You referenced a PWC press release and an early court order as the basis for your concern about LBHI's ability to honor its Fontainebleau funding commitment and indicated today that you would provide those items to us. We appreciate that and obviously will review whatever you provide. We likewise are monitoring all of the LBHI court orders but are unaware of a restriction on performance of this agreement.

In terms of whether the agreement is in "full force and effect," you suggested that LBHI's alleged insolvency may be regarded as anticipatory repudiation of the contract and gives counterparties the right to demand adequate assurance of future performance. I understand that concept but believe that, because LBHI is a Chapter 11 debtor, the counterparties' right to make such a demand is now governed by the limitations of Sections 362 (the automatic stay) and 365 (the debtor's right to assume or reject executory contracts). Under Section 365(e)(1), an executory contract cannot be terminated or modified solely on the basis of the debtor's insolvency or financial condition at any time before the closing of the case, or by reason of the commencement of the Chapter 11 case.

Thanks again for the information.

---

333 South Hope Street  
48th Floor  
Los Angeles, CA 90071-1448  
213.620.1780 office  
213.620.1398 fax  
[www.sheppardmullin.com](http://www.sheppardmullin.com) <<http://www.sheppardmullin.com/>>

Richard Brunette

213.617.4174 direct | 213.443.2868 direct fax  
RBrunette@sheppardmullin.com | Bio  
<<http://www.sheppardmullin.com/attorneys-426.html>>

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**Dep. Ex. 80**

From: Bill Scott. Sent: 10/13/2008 1:38 PM.  
To: Susman, Jeff; Yunker, Bret D; Varnell, Jon M; Howard, David; Fuad, Peter H -Legal.  
Cc: Richard Brunette; Fred Puglisi.  
Bcc: .  
Subject: FW: Fontainebleau Resorts.

Dear All:

Here's an email from Highland,

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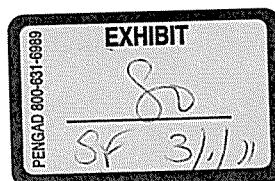
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213.620.1780 office  
fax  
www.sheppardmullin.com  
William M. Scott IV

213.617.4276 direct | 213.443.2717 direct fax  
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From: Andrei Dorenbaum [mailto:ADorenbaum@hcmlp.com]  
Sent: Monday, October 13, 2008 9:37 AM  
To: Bill Scott  
Cc: Brad Means; Kevin Rourke  
Subject: RE: Fontainebleau Resorts

Bill,

This e-mail follows-up our conversation from last week. We would like to confirm the following matters:

1. Under section 3.3.23 of the Master Disbursement Agreement, the borrower cannot request disbursements without demonstrating that the Retail Lenders made required advances under the relevant financing agreements.
2. We are unaware and understand that the agent is unaware of any facts that would support that Lehman, as a Retail Lender, made any disbursements while in bankruptcy. In fact, as we discussed, it is both your understanding and our understanding that Lehman has not made any disbursements while in bankruptcy.
3. It does not appear that Retail Lenders made the Sept. payment, but rather equity investors. Please see attached report from Merrill Lynch. This would indicate that the reps the company made for that funding request were false.
4. Given the above, we believe that the agent should request the borrower to provide wiring confirmations from the Retail Lenders or funding certificates from the Retail Lenders to confirm that funding is made by the Retail Lenders (rather than other sources). This includes confirmation for the Sept. payment as this issues raises a breach concern under the Disbursement Agreement.
5. The borrower's legal counsel should provide an opinion that the Lehman funding agreement is in full force and effect. This issue is a legal question and should be certified by qualified bankruptcy counsel, rather than the borrower's CFO. Our position is that Lehman is in breach of the agreement because it failed to fund and thus the agreement is not in full force.

Please let me know if you have any additional questions.



Best regards,

Andrei Dorenbaum

Assistant General Counsel

Highland Capital Management, L.P.

13455 Noel Road, Suite 800

Dallas, Texas 75240

office: 972-419-2573

fax: 972-628-4147

adorenbaum@hcmllp.com

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**Dep. Ex. 81**

From: Kevin Rourke. Sent:10/6/2008 2:59 PM.  
To: Howard, David.  
Cc: Andrei Dorenbaum.  
Bcc: .  
Subject: RE: Fontainebleau Las Vegas - follow up.

David,

Today's Ch 11 filing by Lehman's Commercial Paper subsidiary, combined with public reports that Lehman's \$4MM portion of the September Retail Facility draw was actually funded by the equity sponsors underscores the questions and concerns we discussed with you last week.

Management's continued evasiveness is not acceptable. Please advise when a lender call will be held.

Thank you,

Kevin Rourke  
Highland Capital Management, LP  
13455 Noel Road, Suite 800  
(972) 628-4100  
krourke@hcmlp.com

-----Original Message-----

From: Howard, David [mailto:david.howard@bankofamerica.com]  
Sent: Friday, October 03, 2008 11:27 AM  
To: Kevin Rourke  
Cc: Susman, Jeff  
Subject: Re: Fontainebleau Las Vegas - follow up

Call postponed...waiting on company to re-schedule...pushing for Monday...pls let Brad know.

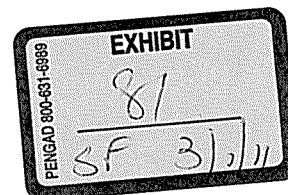
-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Kevin Rourke <KRourke@hcmlp.com>  
To: Howard, David  
Sent: Thu Oct 02 16:23:56 2008  
Subject: Fontainebleau Las Vegas - follow up

David,

Any updates on timing of a lender call? Thanks.



Kevin Rourke  
Highland Capital Management, LP  
13455 Noel Road, Suite 800  
(972) 628-4100  
krourke@hcmlp.com

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**Dep. Ex. 91**

**From:** Doug Pardon  
**To:** Don Morgan  
**Sent:** 10/24/2008 4:31:52 PM  
**Subject:** FW: Participation for Fontainebleau Resorts Conference Call  
**Attachments:** Fontainebleau Las Vegas Holdings Unaudited Financial Statements 6--30-08.pdf; Fontainebleau Las Vegas Holdings, LLC MD&A Quarter Ending June 30, 2008.pdf; Fontainebleau Resorts Unaudited Financial Statements 6-30-08.pdf

FBLEAU finally got financials out and is having a call next week. Below is the excerpt regarding the retail loan. Doesn't mention what we heard from dematteo but does say the co-lenders under the facility are funding any LEH shortfall on an interim basis. "co-lenders" could mean anyone including Soffer. It doesn't specify.

In connection with the financing and development of the approximately 286,500 square-foot Fontainebleau retail component which is integrated into Fontainebleau Las Vegas, Fontainebleau Las Vegas Retail, LLC ("Las Vegas Retail"), a subsidiary of Fontainebleau Resorts, obtained an \$85.0 million mezzanine loan and a \$315.0 million senior retail construction loan. The entire mezzanine facility was funded at close and approximately \$125.4 million was funded under the construction facility. Both facilities were underwritten by Lehman Brothers Holdings, Inc. and the construction facility was partially syndicated to third party lenders. Of the total \$400.0 million retail credit facilities, approximately \$83.0 million has been dedicated towards shared construction costs in the Las Vegas podium. The Company began drawing for the shared costs in August 2008. On September 16, 2008, Lehman Brothers filed for bankruptcy. At this time, it remains uncertain whether Lehman Brothers will continue funding its remaining obligation under the retail construction facility. We have been working diligently with Lehman Brothers and the co-lenders to the facility to ensure that there is no interruption in funding for the retail facility. The Company has received indications from the co-lenders to the facility that they intend to fund any potential Lehman Brothers shortfall on an interim basis. The Company will continue working on a permanent solution if one becomes necessary. There can be no assurances that Lehman Brothers will fund all or any portion of its remaining obligation under the retail construction facility, or that the co-lenders will fund any Lehman Brothers shortfall in funding and a failure to fund the retail loan could ultimately result in a default under our other financing arrangements, including the Las Vegas Credit Facility.

Doug Pardon  
 Brigade Capital Management  
 717 5<sup>th</sup> Avenue, Suite 1301  
 New York, NY 10022  
 212-745-9784 (P)  
 212-745-9701 (F)  
[dp@brigadecapital.com](mailto:dp@brigadecapital.com)

**From:** Vivian Smith [mailto:[vsmith@fontainebleau.com](mailto:vsmith@fontainebleau.com)]  
**Sent:** Friday, October 24, 2008 3:50 PM  
**To:** Jim Freeman; Bill Bewley  
**Subject:** Participation for Fontainebleau Resorts Conference Call

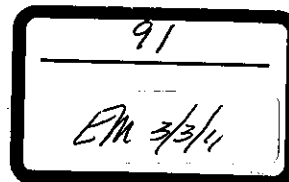
**SENT ON BEHALF OF JIM FREEMAN, CHIEF FINANCIAL OFFICER:**

To participate for Fontainebleau Resorts conference call:

**Date of Call:** Wednesday, October 29, 2008  
**Time of Call:** 1:00 p.m. (PST)  
**Call Number:** ( 877) 388-3657  
**Participant Code:** 70951421

Attached are the second quarter 2008 financial statements for Fontainebleau Resorts, LLC and Fontainebleau Las Vegas Holdings, LLC . Also attached is the second quarter 2008 MD&A for Fontainebleau Las Vegas Holdings, LLC.

Vivian Smith / Human Resources Assistant  
 Fontainebleau Resorts LLC

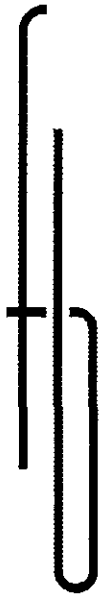


BGD 000502

[vsmith@fontainebleau.com](mailto:vsmith@fontainebleau.com) / fontainebleau.com  
0 702 495 8304 / F 702 495 8303  
2827 Paradise Road / Las Vegas NV 89109

THE STAGE IS YOURS. LIVE YOUR PART.

Please take note of my new email address



## Fontainebleau Las Vegas Holdings, LLC and Subsidiaries

*(Formerly Known as Turnberry/Las Vegas Boulevard, L.P.)*

(Wholly-Owned Subsidiaries of Fontainebleau Resorts, LLC)

(A Development Stage Enterprise)

*Unaudited Condensed Consolidated Financial Statements as of  
June 30, 2008 and December 31 2007 (Restated), for the Three and Six  
Months ended June 30, 2008 and 2007 (Restated), and for the Period  
from March 8, 2005 (Date of Contribution) through June 30, 2008*



**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC AND SUBSIDIARIES**  
 (Wholly-Owned Subsidiaries of Fontainebleau Resorts, LLC)  
 (A development stage enterprise)

**CONDENSED CONSOLIDATED BALANCE SHEETS**  
 AS OF JUNE 30, 2008 AND DECEMBER 31, 2007 (RESTATED)

(Amounts in thousands)  
 (Unaudited)

	June 30, 2008	December 31, 2007
		(As Restated - See Note 2)
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 118,282	\$ 10,191
Insurance receivable	2,018	3,275
Receivable from affiliated entity	25,168	12,476
Receivable from related parties	943	-
Prepaid expenses and other current assets	4,436	678
Total current assets	<u>150,847</u>	<u>26,620</u>
<b>CONDOMINIUM UNITS IN DEVELOPMENT</b>	<u>147,925</u>	<u>74,700</u>
<b>PROPERTY AND EQUIPMENT - NET</b>	<u>1,036,802</u>	<u>604,804</u>
<b>OTHER ASSETS:</b>		
Restricted cash	727,620	1,107,212
Deferred financing fees - net	43,653	53,546
Receivable from related parties	337	237
Deposits and other non-current assets	1,982	701
Total other assets	<u>773,592</u>	<u>1,161,696</u>
<b>TOTAL ASSETS</b>	<u>\$ 2,109,166</u>	<u>\$ 1,867,820</u>
<b>LIABILITIES AND MEMBER'S EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 1,684	\$ 322
Accounts payable to related parties	-	29
Construction payables to related parties	105,141	55,715
Construction retention payable to related parties	20,170	1,309
Accrued interest on long-term debt	6,779	6,966
Accrued expenses and other current liabilities	2,464	6,534
Total current liabilities	<u>136,238</u>	<u>70,875</u>
<b>LONG-TERM LIABILITIES:</b>		
Long-term debt	1,375,000	1,375,000
Construction retention and contractor fees payable to related parties	53,574	34,278
Fees payable to related parties	1,045	578
Other long-term liabilities	535	566
Fair value of derivative instruments	16,546	16,190
Total long-term liabilities	<u>1,446,700</u>	<u>1,426,612</u>
<b>TOTAL LIABILITIES</b>	<u>1,582,938</u>	<u>1,497,487</u>
<b>COMMITMENTS AND CONTINGENCIES (Note 8)</b>		
<b>MEMBER'S EQUITY:</b>		
Contributed capital	699,558	493,433
Accumulated deficit	(156,746)	(107,435)
Accumulated other comprehensive loss	(16,584)	(15,665)
Total member's equity	<u>526,228</u>	<u>370,333</u>
<b>TOTAL LIABILITIES AND MEMBER'S EQUITY</b>	<u>\$ 2,109,166</u>	<u>\$ 1,867,820</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC AND SUBSIDIARIES**  
 (Wholly-Owned Subsidiaries of Fontainebleau Resorts, LLC)  
 (A development stage enterprise)

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
 FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2008 AND 2007, AND THE PERIOD FROM MARCH 8, 2005 (DATE OF CONTRIBUTION) THROUGH JUNE 30, 2008

(Amounts in thousands)  
 (Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,		Period From March 8, 2005 (Date of Contribution) Through June 30, 2008
	2008	2007	2008	2007	
<b>OPERATING EXPENSES:</b>					
General and administrative	\$ 218	\$ 714	\$ 660	\$ 849	\$ 3,951
Settlement of litigation	-	-	-	-	6,000
Preopening	4,646	2,164	7,855	2,643	18,146
Depreciation and amortization	123	3	233	3	257
Total operating expenses	<u>4,987</u>	<u>2,881</u>	<u>8,748</u>	<u>3,495</u>	<u>28,354</u>
<b>LOSS FROM OPERATIONS</b>	<u>(4,987)</u>	<u>(2,881)</u>	<u>(8,748)</u>	<u>(3,495)</u>	<u>(28,354)</u>
<b>NON-OPERATING (INCOME) EXPENSES:</b>					
Interest income	(5,074)	(4,822)	(13,893)	(4,915)	(49,382)
Interest expense - net of capitalized interest	26,662	9,483	55,439	12,161	155,422
Interest expense - affiliated entity	-	-	-	1,083	5,813
Unrealized gain on derivative instruments - net	(4,383)	(146)	(983)	(122)	(3,284)
Deferred financing fees - write off	-	2,494	-	2,494	2,494
Other income	-	(9)	-	(21)	(72)
Total non-operating expenses	<u>17,205</u>	<u>7,000</u>	<u>40,563</u>	<u>10,680</u>	<u>110,991</u>
<b>NET LOSS</b>	<u>\$ (22,192)</u>	<u>\$ (9,881)</u>	<u>\$ (49,311)</u>	<u>\$ (14,175)</u>	<u>\$ (139,345)</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC AND SUBSIDIARIES**

(Wholly-Owned Subsidiaries of Fontainebleau Resorts, LLC)  
(A development stage enterprise)

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
FOR THE SIX MONTHS ENDED JUNE 30, 2008 AND 2007 (RESTATED) AND THE PERIOD FROM MARCH 8, 2005 (DATE OF CONTRIBUTION) THROUGH JUNE 30, 2009

(Amounts in thousands)  
(Unaudited)

	Six Months Ended June 30,		Period from
	2008	2007	March 8, 2005 (Date of Contribution) through June 30, 2008
		(As Restated - See Note 2)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net loss	\$ (49,311)	\$ (14,175)	\$ (139,345)
<i>Adjustments to reconcile net loss to cash used in operating activities:</i>			
Depreciation and amortization	233	3	257
Amortization of deferred financing fees	11,197	1,012	24,014
Deferred financing fees - write off	-	2,494	2,494
Equity - based compensation	675	972	2,158
Change in fair value of derivative instruments - net of settlements	(983)	(122)	(3,284)
Fees payable to related parties	467	-	1,045
<i>Changes in operating assets and liabilities:</i>			
Accounts receivable	-	(500)	-
Insurance receivable	1,257	-	(2,018)
Prepaid expenses and other current assets	(4,244)	160	(5,430)
Receivable from related parties	(1,043)	(237)	(1,280)
Condominium unit development expenditures	(73,225)	(23,350)	(130,469)
Deposits and other non-current assets	(1,545)	416	(888)
Accounts payable	1,362	(430)	1,584
Accounts payable to related parties	(29)	-	-
Accrued interest on long-term debt	(187)	7,588	6,777
Accrued expenses and other current liabilities	(4,070)	182	2,465
Other long-term liabilities	144	637	144
Interest on note payable to affiliated entity	-	1,897	5,814
Net cash used in operating activities	<u>(119,303)</u>	<u>(22,843)</u>	<u>(235,244)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Payments for property and equipment	(1,345)	(63)	(2,019)
Payments for construction in progress to related parties	(354,959)	(138,072)	(752,906)
Reductions (additions) to restricted cash, net	379,692	(1,412,584)	(727,620)
Payments for business acquired - Krystle Towers, LLC	-	-	(46,639)
Net cash provided by (used in) investing activities	<u>23,248</u>	<u>(1,550,719)</u>	<u>(1,529,184)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Proceeds from the Senior Credit Facility	-	-	150,000
Proceeds from the Senior Secured Credit Facility	-	700,000	700,000
Proceeds from the Second Mortgage Notes	-	575,000	675,000
Proceeds from termination of derivative instruments	-	1,534	1,634
Capital contributions	205,450	464,489	726,488
Capital distributions	-	(8,420)	(29,089)
Payments on BankAtlantic loans	-	-	(25,286)
Payments on Fortress Credit Corp loan	-	-	(49,270)
Payments on Senior Credit Facility	-	(160,000)	(160,000)
Payments for deferred financing fees	(1,304)	(91,389)	(70,761)
Payments on note payable to affiliated entity	-	(46,813)	(46,813)
Net cash provided by financing activities	<u>204,148</u>	<u>1,575,395</u>	<u>1,882,798</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	108,091	1,833	118,368
CASH AND CASH EQUIVALENTS - Beginning of period	10,191	9,678	-
CASH AND CASH EQUIVALENTS - End of period	<u>\$ 118,282</u>	<u>\$ 11,511</u>	<u>\$ 118,368</u>
<b>SUPPLEMENTAL CASH FLOW DISCLOSURE:</b>			
Interest paid during the period, net of amounts capitalized	<u>\$ 44,910</u>	<u>\$ 1,661</u>	<u>\$ 113,866</u>
<b>SUPPLEMENTAL DISCLOSURE OF NONCASH INVESTING AND FINANCING ACTIVITIES:</b>			
Land acquired through contribution of an entity under common control	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 42,081</u>
Land for condominiums acquired through contribution of an entity under common control	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 5,814</u>
Construction in progress contributed to an entity under common control	<u>\$ 12,692</u>	<u>\$ -</u>	<u>\$ 25,168</u>
Exchange of a related party note payable for a note payable to an affiliated entity	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 45,813</u>
<b>FAIR VALUE OF ASSETS ACQUIRED AND LIABILITIES ASSUMED:</b>			
Land allocated to condominium units under development			\$ 11,642
Land allocated for use other than as condominium units			84,267
Less: Liabilities assumed			(49,270)
CASH PAID			<u>\$ 46,639</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC AND SUBSIDIARIES**  
(Wholly-Owned Subsidiaries of Fontainebleau Resorts, LLC)  
(A development stage enterprise)

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE SIX MONTHS ENDED JUNE 30, 2008 AND 2007 (RESTATED) AND PERIOD  
FROM MARCH 8, 2005 (DATE OF CONTRIBUTION) THROUGH JUNE 30, 2008**

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**1. ORGANIZATION, BASIS OF PRESENTATION AND ACCOUNTING POLICIES**

*Organization* — Fontainebleau Las Vegas Holdings, LLC (“FBLV Holdings” or the “Company”), formerly known as Turnberry/Las Vegas Boulevard, L.P., was formed May 10, 2000, as a Nevada limited partnership for the purpose of purchasing and developing land. On March 8, 2005, the Company became a wholly-owned subsidiary of Fontainebleau Resort Properties I, LLC (“FBRP I”) when the ownership interests in the Company were contributed to FBRP I by Jeffrey Soffer (its majority shareholder) in exchange for his equity interest in Fontainebleau Resorts, LLC (“Fontainebleau Resorts”), of which FBRP I is a wholly-owned subsidiary. Fontainebleau Resorts acts largely as a holding company that develops, owns and operates resorts and casinos.

In April 2007, Fontainebleau Resorts reorganized to facilitate raising common equity and its ultimate licensing under Nevada gaming and gambling laws. See Note 1 to the Company’s consolidated financial statements as of and for the years ended December 31, 2007 and 2006 for further details on the reorganization of Fontainebleau Resorts and prior capital contributions/ distributions to/from the Company. In the six months ended June 30, 2008, Fontainebleau Resorts contributed \$6 million to the Company for the Krystle Towers litigation settlement (see Note 8) and contributed \$200 million to the Company to fund an increase in the budget for the Las Vegas Project.

The Company is developing two parcels — referred to as the “El Rancho property” and the “Algiers property” — which collectively approximate 24.4 acres on the Las Vegas Strip into the Fontainebleau Las Vegas, a signature casino hotel resort with gaming, lodging, convention and entertainment amenities (collectively, the “Las Vegas Project”). The Las Vegas Project includes a 63-story tower with approximately 3,800 guest rooms, suites and condominium-hotel units, a 100,000 square-foot casino, a 353,000 square-foot convention center and a 60,000 square-foot spa. In addition, the Las Vegas Project will include a 286,500 square-foot retail component with restaurants, nightclub and related amenities.

*Basis of Presentation and Consolidation* — The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Those principles require the Company’s management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The accompanying unaudited condensed consolidated financial statements include all adjustments of a normal, recurring nature that are necessary to fairly present our consolidated results of operations, financial position and cash flows for each period presented.

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and all majority-owned or controlled subsidiaries and variable interest entities of which the Company or its subsidiaries are the primary beneficiary. All appropriate intercompany accounts and transactions with subsidiaries, including contributions and distributions, are eliminated. However, the financial information included herein may not necessarily be indicative of the conditions that would have existed or the results of operations had the Company been a separate, stand-alone entity during the period presented. The results for the three and six months ended June 30, 2008 are not necessarily

indicative of results to be expected for the full fiscal year.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted, although the Company believes that the disclosures herein are adequate to make the information presented not misleading. As such, these unaudited condensed consolidated financial statements should be read in conjunction with the Company's consolidated financial statements as of December 31, 2007 and for the year then ended.

***Condominium Units In Development*** — In accordance with Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 67, *Accounting for Costs and Initial Rental Operations of Real Estate Projects*, condominium units in development represents the capitalized costs of wholly-owned real estate projects to be sold, which, at December 31, 2007 and 2006, represents solely condominium units in the Las Vegas Project. The capitalized cost includes acquisition, development and construction costs and includes land, direct construction and development costs, capitalized property taxes and capitalized interest. In addition to costs that were specifically identified as being associated with condominium units, land and certain other common area costs and amenities were allocated using a square footage area method, the method determined by management to be the most practical and reliable.

***Preopening Costs***— Preopening costs are expensed as incurred, consistent with Statement of Position 98-5, *Reporting on the Costs of Start-up Activities*. Preopening costs consist primarily of salaries and wages, legal and consulting fees, sales and marketing, and travel. For all periods presented in the accompanying condensed consolidated financial statement of operations, preopening costs relate to the Las Vegas Project.

***Development Stage Risk Factors*** — As a development stage enterprise, the Company has spent significant amounts in its development activities primarily in the acquisition of land and in designing, planning, hiring personnel for and the construction of the Las Vegas Project. As is customary for a development stage enterprise, the Company has not commenced principal operations, and therefore, there are no revenues. Consequently, the Company has incurred losses from the date of contribution to June 30, 2008. Management expects these losses to continue at least until planned principal operations have commenced. However, as a development stage enterprise, the Company has risks that may impact its ability to become an operating enterprise or to remain in existence. The Company is and will be subject to many rules and regulations in both the construction and development phases and in operating gaming facilities, including, but not limited to, receiving the appropriate permits for particular construction activities, securing a Nevada state gaming license for the ownership and operation of the Las Vegas Project and maintaining ongoing suitability requirements in Nevada. The completion of the Las Vegas Project is dependent upon compliance with these rules and regulations.

***Accounting Policies Adopted During 2008*** — In September 2006, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 157, *Fair Value Measurements*, which defines fair value, establishes a framework for measuring fair value in accordance with accounting principles generally accepted in the United States, and expands disclosures about fair value measurements. SFAS 157 applies under other accounting pronouncements that require or permit fair value measurement. SFAS 157 does not require any new fair value measurements. The provisions of SFAS 157 are effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. In January 2008, the FASB deferred the effective date for one year for certain non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company adopted the provisions of this standard, as amended, on January 1, 2008, and such application did not have a material effect on its financial condition, results of operations or cash flows.

See "Note 6 — Fair Value Measurements" for disclosures required by this standard.

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Liabilities Including an Amendment of FASB Statement No. 115*. Under SFAS 159, the Company may elect to measure many financial instruments and certain other items at fair value, which are not otherwise currently required to be measured at fair value. The decision to measure items at fair value is made at specific election dates on an irrevocable instrument-by-instrument basis and requires recognition of the changes in fair value in earnings and expensing upfront costs and fees associated with the item for which the fair value option is elected. Fair value instruments for which the fair value option has been elected and similar instruments measured using another measurement attribute are to be distinguished on the face of the statement of financial position. SFAS 159 is effective for financial statements beginning after November 15, 2007. The Company has adopted the provisions of this standard and had no items for which to make such an election at January 1, 2008.

**Recently Issued Accounting Pronouncements** — In March 2008, the FASB issued FASB Statement No. 161, *Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133*. This statement requires enhanced disclosures about an entity's derivative and hedging activities and thereby improving the transparency of financial reporting. SFAS 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008, with early application encouraged. This statement encourages, but does not require, comparative disclosures for earlier periods at initial adoption. The Company does not believe the adoption of SFAS 161 will have a material impact on its consolidated financial statements.

## 2. FINANCIAL STATEMENT RESTATEMENTS

Subsequent to the issuance of the financial statements as of and for the year ended December 31, 2007, management determined that the reporting of condominium units in development in previously issued consolidated financial statements, was incorrect. Accordingly, the Company is restating its previously issued consolidated financial statements as of December 31, 2007, and for the six months ended June 30, 2007, to present condominium units in development separately from property and equipment. The previous reporting presentation also resulted in the overstatement of cash flows used in investing activities and the understatement of cash flows used in operating activities. In addition, the Company understated equity-based compensation for the years ended December 31, 2007 and 2006 and the period from the Date of Contribution through December 31, 2005, resulting in an understatement of preopening and total operating expenses, loss from operations and net loss for those periods. The effect of these restatements on the accompanying condensed consolidated financial statements is summarized below (in thousands):

	As Previously Reported	Adjustments	Restated
<b>Condensed Consolidated Balance Sheet Data</b>			
<b>As of December 31, 2007:</b>			
Condominium units in development	\$ -	\$ 74,700	\$ 74,700
Property and equipment - net	\$ 679,504	\$ (74,700)	\$ 604,804
Contributed capital	\$ 492,702	\$ 731	\$ 493,433
Accumulated deficit	\$ (106,704)	\$ (731)	\$ (107,435)

	As Previously Reported	Adjustments	Restated
<b>Condensed Consolidated Statement of Operations Data</b>			
<b>For the Three Months Ended June 30, 2007</b>			
Preopening expense	\$ 1,738	\$ 426	\$ 2,164
Total operating expenses	\$ 2,455	\$ 426	\$ 2,881
Loss from operations	\$ (2,455)	\$ (426)	\$ (2,881)
Net loss	\$ (9,455)	\$ (426)	\$ (9,881)
<b>For the Six Months Ended June 30, 2007</b>			
Preopening expense	\$ 2,163	\$ 480	\$ 2,643
Total operating expenses	\$ 3,015	\$ 480	\$ 3,495
Loss from operations	\$ (3,015)	\$ (480)	\$ (3,495)
Net loss	\$ (13,695)	\$ (480)	\$ (14,175)
<b>Condensed Consolidated Statement of Cash Flows Data</b>			
<b>For the Six Months Ended June 30, 2007</b>			
Net loss	\$ (13,695)	\$ (480)	\$ (14,175)
Equity-based compensation	\$ 300	\$ 672	\$ 972
Condominium unit development expenditures	\$ -	\$ (23,350)	\$ (23,350)
Net cash used in operating activities	\$ 1,848	\$ (23,350)	\$ (22,843)
Payments for construction in progress to related parties	\$ (161,422)	\$ 23,350	\$ (138,072)
Net cash used in investing activities	\$ (1,574,069)	\$ 23,350	\$ (1,550,719)
Contributions	\$ 464,681	\$ (192)	\$ 464,489
Proceeds from termination of derivative instruments	\$ -	\$ 1,534	\$ 1,534
Net cash provided by investing activities	\$ 1,574,054	\$ 1,341	\$ 1,575,395

### 3. CONDOMINIUM UNITS IN DEVELOPMENT

Condominium units in development represents the capitalized costs of wholly-owned real estate projects to be sold, which are classified as a long-term asset until completed and ready for sale. These amounts include land, direct construction and development costs, and capitalized property taxes and interest. The components at June 30, 2008 and December 31, 2007 were (in thousands):

	June 30, 2008	December 31, 2007
Land	\$ 17,456	\$ 17,456
Direct construction and development costs	118,045	50,853
Capitalized interest	12,424	6,391
Condominium units in development	<u>\$ 147,925</u>	<u>\$ 74,700</u>

**4. PROPERTY AND EQUIPMENT — NET**

Property and equipment consisted of the following (in thousands):

	June 30, 2008	December 31, 2007
Land	\$ 131,583	\$ 131,583
Leasehold improvements	155	155
Furniture, fixtures and equipment	1,864	519
Construction in progress (CIP)	903,440	472,571
	<u>1,037,042</u>	<u>604,828</u>
Accumulated depreciation	(240)	(24)
Property and equipment - net	<u>\$ 1,036,802</u>	<u>\$ 604,804</u>
Capitalized interest included in CIP	<u>\$ 33,865</u>	<u>\$ 12,573</u>

The balances noted above as land and as construction in progress relate to the Las Vegas Project. Fontainebleau Las Vegas Retail, LLC ("FB Retail") will be obligated for its portion of the cost to construct the podium of the Las Vegas Project. At June 30, 2008 and December 31, 2007, the Company has allocated to Fontainebleau Las Vegas Retail, LLC ("FB Retail") construction in progress in cumulative amounts of \$25.2 million and \$12.5 million, respectively, related to FB Retail's share of costs incurred for the podium of the Las Vegas Project. The allocation is recorded as a reduction to construction in progress and an increase to receivable from affiliated entity. The Company has classified the receivable from FB Retail within current assets, as FB Retail will begin funding the costs in the second half of 2008.

**5. RELATED PARTY TRANSACTIONS AND AGREEMENTS**

The Company is a wholly-owned indirect subsidiary of Fontainebleau Resorts. As of June 30, 2008, approximately 74% of the outstanding voting interests and 59% of the outstanding economic interests in Fontainebleau Resorts were owned or controlled, directly or indirectly by Jeffrey Soffer, one of the principals in Turnberry, a multi-service real estate development and property management business. The Company and certain of its subsidiaries, as well as Fontainebleau Resorts and other subsidiaries of same, have entered into a variety of agreements with subsidiaries and affiliates of Turnberry, certain of which are highlighted below. See Note 11 to the Company's previously issued consolidated financial statements as of and for the years ended December 31, 2007 and 2006 for further details of prior transactions and relationships.

FBLV and its subsidiaries had \$25.2 million and \$12.5 million of receivables from affiliated parties at June 30, 2008 and December 31, 2007, respectively. These totals represent a receivable from FB Retail for FB Retail's share of the construction in progress balance related to construction of the podium in the Las Vegas Project. The \$12.7 million increase is due to progress of construction on the Las Vegas Project. Management believes these receivables are fully collectible.

Additionally, the Company had \$1.3 million and \$0.2 million of receivables from related parties at June 30, 2008 and December 31, 2007, respectively. The June 30, 2008 balance includes \$0.9 million representing construction-related amounts paid on behalf of Turnberry West Construction, Inc. ("TWC") related to the Las Vegas Project. The remaining \$0.4 million at June 30, 2008 and the entire balance at December 31, 2007 represents construction-related payroll advanced to TWC that will not be received until the completion of the Las Vegas Project.



Construction payables to related parties consist entirely of amounts payable to TWC for costs incurred for the Las Vegas Project. Construction retention payable to related parties represents amounts withheld from construction payment requests from TWC pending satisfactory completion of the work contracted. The portion of such amounts payable within twelve months is recorded as a current liability, and the amounts payable beyond twelve months are included in construction retention and contractor fees payable to related parties in long term liabilities. The remainder of the long-term liability represents the construction management fee due to TWC for the Las Vegas Project. The sum of these amounts increased by approximately \$87.6 million in the six months ended June 30, 2008, the result of increased development and construction activities at the Las Vegas Project.

The fee payable to related parties represents a credit enhancement fee due to a Turnberry entity for a 1% annual credit enhancement fee that the Company will pay on the undrawn amount of the completion guarantee.

## 6. FAIR VALUE MEASUREMENT

As discussed in Note 1 to the condensed consolidated financial statements, effective January 1, 2008, the Company adopted the provisions of SFAS 157, which defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS 157 also clarifies that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants.

Exchange traded derivatives valued using quoted prices are classified within Level 1 of the valuation hierarchy. However, few classes of derivative contracts are listed on an exchange; thus, the majority of our derivative positions are valued using internally developed models that use as their basis readily observable market parameters and are classified within Level 2 of the valuation hierarchy. Such derivatives include basic interest rate caps, interest rate swaps, and interest rate collars. In some cases derivatives may be valued based upon models with significant unobservable market parameters. These would be classified within Level 3 of the valuation hierarchy. As of June 30, 2008, we did not have any Level 3 classifications. See Note 7 for further details on the derivative instruments.

As of June 30, 2008 and December 31, 2007, all of our derivative instruments carried at fair value were measured using Level 2 inputs. The June 30, 2008 fair values include non-current and total asset of \$0.5 million, current accrued liabilities of \$0.9 million and non-current liabilities of \$16.5 million, equating to total liabilities of \$17.4 million. The fair value at December 31, 2007, of our derivative instruments carried at fair value was current and total assets of \$0.1 million and non-current and total liabilities of \$16.2 million.

The current carrying amounts reflected in the accompanying unaudited condensed consolidated balance sheets for accounts receivable (including related parties), accounts payable, accounts payable to related parties, construction payables and construction retention payable to related parties and accrued liabilities approximate their respective fair values because of their short-term maturities. The Company has \$675.0 million of fixed rate (10.25%) Second Mortgage Notes recorded at a book value of \$675.0 million. The fair value of this fixed-rate long-term debt at June 30, 2008 and December 31, 2007 was \$445.5 million and \$587.3 million, respectively. These fair values were measured using trading values in active markets at the end of the reporting period based upon trading information from external sources. The carrying amounts of variable rate long-term debt approximate their respective fair values based upon the regular resetting of interest rates. Management's fair value estimates of the fixed rate debt also approximate the carrying values of such debt.

## 7. DERIVATIVE INSTRUMENTS

The Company utilizes derivative financial instruments to manage its interest rate risk on variable interest borrowings. Although the Company's derivative instruments are highly effective in fixing the interest rate exposure, not all of the Company's derivative financial instruments qualify for hedge accounting under SFAS 133, *Accounting for Derivative Financial Instruments and Hedging Activities*, as amended. For the derivative instruments that qualify, adjustments to record the fair market value of the agreements are reflected in other comprehensive income in members' equity. For the derivative instruments that do not qualify or are not designated as eligible, adjustments to record the fair market value of the agreements are reflected in unrealized loss on derivative instruments in the unaudited condensed consolidated statement of operations. The net settlements on hedging instruments are recorded as a receivable or a payable. At June 30, 2008 and December 31, 2007, there was a payable of \$0.9 million and a receivable of \$0.09 million, respectively. The Company records settlements on derivative instruments as an adjustment to interest expense in the unaudited condensed consolidated statement of operations if the instrument qualifies for hedge accounting under SFAS 133. Net settlements on derivative instruments that do not qualify under SFAS 133 are recorded as an adjustment to unrealized loss on derivative instruments in the unaudited condensed consolidated statement of operations.

The Company's Las Vegas Credit Facility required that subsidiaries of the Company enter into hedging transactions to limit the exposure to interest rate fluctuations. At June 30, 2008 and December 31, 2007, the Company's subsidiaries were party to one interest rate swap with a total notional value of \$466 million, and two interest rate collars with a total notional value accreting from \$334 million to \$884 million.

## 8. COMMITMENTS AND CONTINGENCIES

### Legal Matters

*Krystle Towers* — FBLV II and the Company were defendants, among others, in litigation filed March 28, 2005, in District Court, Clark County, Nevada, comprised of 35 consolidated cases in which the plaintiffs alleged that the Company parties and certain other defendants wrongfully terminated the plaintiffs' purchase agreements for condominium units in a condominium development to be located on the Algiers property. On October 30, 2007, all parties executed a settlement agreement that obligates the parties to fully release each other and dismiss all cases with prejudice upon the payment of \$6 million by the Company and additional consideration by non-Company defendants. The Company recorded the expense and related liability for this settlement as of September 30, 2007 and made the payment in January 2008. On January 30, 2008, all cases were dismissed with prejudice in accordance with the settlement agreement.

On July 17, 2007, a separate action that was initially filed in 2005 and later dismissed, was refiled against the Company parties by another potential purchaser of a condominium unit in the defunct condominium development. The plaintiff in this action, which was not consolidated with the other cases, made the same claims of an equitable interest in the property and monetary damages. On February 13, 2008, the case was dismissed with prejudice upon the payment of \$18,000 by the Company and additional consideration by non-Company defendants, and the execution of full releases by the parties.

The Company is also a party to other claims and litigation related to its business. While it is not possible to predict with certainty the outcome of these cases, management believes that the ultimate disposition of these matters will not have a material adverse effect on the Company's consolidated financial condition, results of operations, or cash flows.

*Turnberry Place* — On July 27, 2007, some residents (the “Petitioners”) of Turnberry Place condominium complex filed suit in Clark County District Court against the Clark County Board of Commissioners (the “County Board”) petitioning the court to set aside a special use permit granted by the County Board allowing Fontainebleau Las Vegas to increase the height of the parking garage/convention center complex (the “Garage Complex”) at Fontainebleau Las Vegas on the basis that the Garage Complex violated residential zoning standards. On August 9, 2007, FBLV II intervened in the action to oppose the residents’ petition. The residents have requested that the court order construction to be halted on the Garage Complex, the special use permit be set aside, and the County Board to set the matter for rehearing so that the residents can have adequate time to present their case to the County Board. On October 19, 2007, the court affirmed the decision of the County Board and denied the petition in its entirety. On or about November 8, 2007, the Petitioners filed a Notice of Appeal with the Supreme Court of Nevada. The Petitioners and the Fontainebleau Las Vegas attended a court mandated settlement conference on February 7, 2008, but did not reach a settlement. The parties are in the process of filing briefs with the Supreme Court of Nevada.

**9. SUBSEQUENT EVENT**

On July 28, 2008, FBLV entered into a lease agreement for approximately 10,500 square feet of office space and 59,000 square feet of warehouse space as well as related parking lot space at a location near the Las Vegas project. The lease commences August 1, 2008 and runs through July 31, 2013, and calls for monthly rent of approximately \$43,000 for the first year, increasing to approximately \$47,000 in the final year of the lease. The total rental commitment (exclusive of any common area or similar charges) is approximately \$2.4 million over the life of the lease.

\* \* \* \* \*

## Fontainebleau Las Vegas Holdings, LLC

### Management's Discussion and Analysis of Financial Condition and Results of Operations for the Quarter Ended June 30, 2008 and June 30, 2007

The following discussion should be read in conjunction with our unaudited consolidated financial statements and related notes for the quarter ended June 30, 2008 provided separately. This discussion contains forward-looking statements. Forward-looking statements include, among other things, discussions of our business strategy and expectations concerning investments, construction plans and future operations. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "should," "would," "could," "believe," "expect," "anticipate," "estimate," "intend," "plan," "continue" or the negative of these terms or other comparable terminology. Forward-looking statements involve risks and uncertainties, including, but not limited to, our ability to complete our construction projects on budget and on schedule, our access to capital including under our debt instruments, competition in the resorts and casino/hotel industries, dependence on our existing management, levels of travel, leisure and casino spending in the markets in which we will operate, our ability to add resources and processes to improve our internal controls, general domestic or international economic conditions, and our ability to comply with gaming regulations.

If one or more of the assumptions underlying our forward-looking statements proves incorrect, then actual results could differ significantly from those expressed in, or implied by, the forward-looking statements.

Fontainebleau Las Vegas Holdings, LLC ("the Company" or "Fontainebleau Las Vegas Holdings") owns 100% of the outstanding equity interests in Fontainebleau Las Vegas, LLC ("FBLV"), and Fontainebleau Las Vegas II, LLC, (FBLV II") its operating subsidiaries, and Fontainebleau Las Vegas Capital Corp. ("Capital Corp."). Capital Corp. was formed solely to serve as a corporate co-issuer of the Company's Second Mortgage Notes ("notes") and will not have any operations, revenues or material assets. FBLV Holdings is a direct wholly-owned subsidiary of Fontainebleau Resort Properties I, LLC which in turn is an indirect wholly-owned subsidiary of Fontainebleau Resorts, LLC ("Fontainebleau Resorts").

#### Overview

We are a development stage enterprise whose principal asset is a 24.4-acre parcel of land located on the Las Vegas Strip, the former site of the El Rancho Hotel and Algiers Hotel. We are developing the property into a casino resort, consisting of hotel rooms and suites, condominium/hotel units, and meeting and convention facilities, complemented by a spa, restaurants and entertainment offerings, referred to as Fontainebleau Las Vegas.

We are in the process of constructing Fontainebleau Las Vegas and therefore have no revenues. Consequently, as is typical for a development stage enterprise, we have incurred losses to date and expect these losses to continue to increase until after we commence operations with the planned opening of Fontainebleau Las Vegas in the fourth quarter of 2009. As Fontainebleau Las Vegas nears completion, our losses will continue to increase as a result of additional interest, legal fees and pre-opening expenses incurred.

In April 2007, in conjunction with the offering of the notes and related financing transactions, Fontainebleau Las Vegas Holdings was reorganized from a Nevada limited partnership (formerly known as Turnberry/Las Vegas Boulevard, L.P.) into a Nevada limited liability company. At the same time, FBLV changed its name (formerly known as Turnberry/Las Vegas Boulevard, LLC) and FBLV II changed its name (formerly known as Krystle Towers, LLC).

On June 6, 2007, Fontainebleau Resorts and its subsidiaries, including Fontainebleau Las Vegas Holdings, completed a series of financing transactions for Fontainebleau Las Vegas and a construction project in Miami Beach, Florida, referred to in this section as the Miami Project, as well as funding for Fontainebleau Resorts' overhead. The financing had several components as various Fontainebleau Resorts' affiliates borrowed funds and raised equity contributions through private placements.

Fontainebleau Resorts and its affiliate ("Fontainebleau Equity") together raised \$565.0 million in gross proceeds from the issuance of common and pay-in-kind preferred equity in private placement transactions. Fontainebleau Equity holds all of the economic interest in Fontainebleau Resorts. Subsidiaries of Fontainebleau Resorts obtained commitments for \$3.6 billion in bank, mezzanine and bond debt, of which \$1.9 billion was drawn at closing, including with respect to the Miami Project. At the same time, Fontainebleau Resorts and its subsidiaries paid transaction fees and retired substantially all debt in place prior to such financings. From the \$565.0 million in gross proceeds from the equity issuances, Fontainebleau Resorts contributed \$370.0 million to Fontainebleau Las Vegas Holdings.

At the close of the financing transactions, Fontainebleau Las Vegas Holdings utilized the \$370.0 million in equity received from Fontainebleau Resorts to repay \$150.7 million of the prior senior credit facility, repay a \$45.8 note payable to an affiliated entity, fund a \$50.0 million liquidity reserve, fund \$43.7 million of construction payables and fund \$42.7 million in financing fees. At the close, Fontainebleau Las Vegas Holdings received proceeds from the offering of the notes of \$658.1 million, net of fees, and \$700.0 million from the senior credit facility described below.

#### **In-process Restatement of Previously Issued Financial Statements**

Subsequent to the issuance of our audited consolidated financial statements as of and for the year ended December 31, 2007, management determined that the reporting of condominium units was incorrect. The error resulted from inclusion of the cost of condominium units developed for resale within property and equipment. Upon review, management determined that accounting principles generally accepted in the United States (GAAP) require us to disclose the costs related to developing condominium units separately from property and equipment on the balance sheet, and that expenditures for condominium development be classified under cash flows used in operations rather than cash flows used in investing activities on the statement of cash flows.

As more fully discussed in footnote 2 of the accompanying financial statements, these errors are primarily classification in nature and have no effect on total assets, total liabilities, total members equity and change in cash and cash equivalents on the statement of cash flows. However, in performing restatement procedures, management identified additional errors.

The Fontainebleau Las Vegas resort is mixed-use in nature, incorporating condominium-hotel units, hotel guest rooms, casino and retail. Proper allocation of development costs among these components is complex and requires significant judgment and expertise. The accompanying financial statements incorporate management's initial estimates of the condominium unit reclassifications. Management is working diligently with external auditors and experts to finalize the allocation and other items.

## Results of Operations

### *Quarter Ended June 30, 2008 compared to the quarter ended June 30, 2007*

For the quarter ended June 30, 2008, we had a net loss of \$22.2 million, an increase of \$12.3 million from a net loss of \$9.9 million in the quarter ended June 30, 2007. Pre-opening costs for the three-months ended June 30, 2008 were \$4.7 million, an increase of \$2.5 million from the \$2.2 million incurred in the three-months ended June 30, 2007. Pre-opening expense is primarily composed of salaries and wages, professional fees, sales and marketing expenses and travel costs. The largest increase in pre opening expense was in professional services comprising legal, accounting, marketing, recruitment and consulting, which increased by \$1.7 million, from \$0.1million in 2007.

General and administrative expenses consisting entirely of legal fees were \$0.2 million for the three-months ended June 30, 2008, representing a decrease of \$0.5 million from the \$0.7 million incurred in the three-months ended June 30, 2007.

Interest expense for the three-months ended June 30, 2008 was \$26.7 million, an increase of \$17.2 million from the \$9.5 million incurred for the three-months ended June 30, 2007. The increase in interest expense was caused primarily by an increase in debt. Long-term debt during the second quarter of 2007 was \$150.0 million until the June 6, 2007 refinancing when it increased to \$1.4 billion. Long-term debt at the end of the second quarter of 2008 was \$1.4 billion. Interest expense was reduced by capitalized interest on construction in progress. Capitalized interest was \$15.0 million and \$3.5 million for the quarters ended June 30, 2008 and 2007, respectively. The increase in capitalized interest for the three-months ended June 30, 2008 was caused by the increase in construction activity in the first quarter of 2008 compared to the same period in 2007. As of June 30, 2008, the combined construction in progress and condominium units in development balance was \$1.1 billion compared to \$234.0 million as of June 30, 2007.

Interest income for the three-months ended June 30, 2008 was \$5.1 million, an increase of \$0.3 million from the \$4.8 million earned for the three-months ended June 30, 2007. Interest is earned primarily on the restricted cash balances established at the closing of the financing transactions in June 2007. Restricted cash totaled \$727.6 million as of June 30, 2008. The restricted cash balance was established at \$1.4 billion upon completion of the June 6, 2007 financing transactions.

We utilize derivative financial instruments to manage interest rate risk on variable interest borrowings. Although the derivative instruments are highly effective in fixing the interest rate exposure, not all of the derivative financial instruments qualify for hedge accounting under the Financial Accounting Standards Board's ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 133, "Accounting for Derivative Financial Instruments and Hedging Activities" ("SFAS 133"), or have been designated as effective hedging instruments under SFAS 133. For the derivative instruments that qualify, adjustments to record the fair market value of the agreements are reflected in other comprehensive income in members' equity. For the derivative instruments that do not qualify or are not designated as eligible, adjustments to record the fair market value of the agreements are reflected in unrealized gain or loss on derivative instruments in the consolidated statement of operations. At June 30, 2008, the fair value of the derivative financial instruments was a long-term liability of \$16.5 million. The net settlements on hedging instruments are recorded as a receivable or a payable. At June 30, 2008, there was a payable of \$0.9 million and at June 30, 2007 a receivable of \$0.0 million. Settlements on derivative instruments are recorded as an adjustment to interest expense if the hedge instrument qualifies under SFAS 133. Net settlements on derivative instruments that do not qualify under SFAS 133 are recorded as an adjustment to unrealized gain or loss on derivative instruments.

Unrealized gain or loss on derivative instruments net of settlements was a loss of \$4.4 million and \$0.1 million, respectively, for the quarters ending June 30, 2008 and 2007.

Loan fee amortization expense, which is included in interest expense for the three-months ended June 30, 2008, was \$6.0 million, an increase of \$5.0 million from the \$1.0 million incurred in the three-months ended June 30, 2007. The higher loan amortization fees in the current period were primarily because of the financing transactions entered into in June 2007. During 2007, we incurred \$61.4 million in financing fees primarily related to the financing transactions entered into in June 2007 and wrote off \$2.5 million of unamortized financing fees on previously existing debt that was retired.

*Six Months ended June 30, 2008 compared to the six months ended June 30, 2007.*

For the six months ended June 30, 2008, we had a net loss of \$49.3 million, an increase of \$35.1 million from the net loss of \$14.2 million in the six months ended June 30, 2007.

Pre-opening costs in 2008 were \$7.9 million, an increase of \$5.3 million from the \$2.6 million incurred in 2007. Pre-opening expense is primarily composed of salaries and wages, legal and consulting fees, sales and marketing and travel costs. Salaries and wages were \$4.1 million, an increase of \$2.1 million from \$2.0 million in 2007. Professional fees comprising legal, accounting, marketing, recruitment and consulting were \$2.6 million an increase of \$2.5 million from \$0.1 million in 2007. Salary and wages increased because of additional hiring of employees.

General and administrative expenses for the six months ended June 30, 2008 were \$0.7 million, a decrease from the \$0.9 million incurred in the prior six month period. The decrease in general and administrative expenses was from lower legal fees.

Interest expense for the six months ended June 30, 2008 was \$55.4 million, an increase of \$43.2 million from the \$12.2 million incurred for the six months ended June 30, 2007. The increase in interest expense was primarily from an increase in debt. Long-term debt during the six months ended June 30, 2007 was \$150.0 million until the June 6, 2007 refinancing when it increased to \$1.4 billion. Interest expense was reduced by capitalized interest on construction in progress. Capitalized interest was \$26.7 million and \$4.5 million for the six months ended June 30, 2008 and 2007, respectively. The increase in capitalized interest for the six months ended June 30, 2008 was caused by the increase in construction expenditures during the six months. During 2008, the combined construction in progress and condominium units in development balance increased from \$547.3 million to \$1.1 billion. During the six months ended June 30, 2007, the combined construction in progress balance increased from \$42.8 million to \$234.0 million.

Interest income for the six months ended June 30, 2008 was \$13.9 million, an increase of \$9.0 million from the \$4.9 million earned in 2007. The increase is primarily from earnings on the restricted cash balances established at the closing of the financing transactions in June 2007. Restricted cash totaled \$727.6 million as of June 30, 2008. The restricted cash balance was established at \$1.4 billion upon completion of the June 6, 2007 financing transactions.

We utilize derivative financial instruments to manage our interest rate risk on variable interest borrowings. Although the derivative instruments are highly effective in fixing the interest rate exposure, not all of the derivative financial instruments qualify for hedge accounting under SFAS 133 or have been designated as effective hedging instruments under SFAS 133. For the derivative instruments that qualify, adjustments to record the fair market value of the agreements are reflected in other comprehensive income in members' equity. For the derivative instruments that do not qualify or are not designated as eligible, adjustments to record the fair market value of the agreements are reflected in unrealized gain or

loss on derivative instruments in the consolidated statement of operations. At June 30, 2008, the fair value of the derivative financial instruments was a long-term liability of \$16.5 million. At June 30, 2007, there were no derivative instruments. The net settlements on hedging instruments are recorded as a receivable or a payable. At June 30, 2008 there was a payable of \$0.8 million. Settlements on derivative instruments are recorded as an adjustment to interest expense if the hedge instrument qualifies under SFAS 133. Net settlements on derivative instruments that do not qualify under SFAS 133 are recorded as an adjustment to unrealized gain or loss on derivative instruments.

For the six months ended June 30, 2008 and 2007, unrealized gain or loss on derivative instruments net of settlements was a loss of \$1.0 million and \$0.1 million, respectively.

Loan fee amortization expense, which is included in interest expense, for the six months ended June 30, 2008 was \$11.2 million, an increase of \$9.6 million from the \$1.6 million incurred in the prior six months. The higher loan amortization fees were primarily because of the financing transactions entered into in June 2007. During 2007, we incurred \$61.4 million in financing fees primarily related to the financing transactions entered into in June 2007 and wrote off \$2.5 million of unamortized financing fees on previously existing debt that was retired.

### **Liquidity and Capital Resources**

#### ***Cash Flows— Operating Activities***

Cash used in operating activities was \$119.3 million for the six-months ended June 30, 2008, compared to \$22.8 million provided by operating activities for the comparable prior-six month period. The increase in cash used primarily relates to a \$49.3 million net loss and \$73.2 million in condominium development expenditures offset by a source of cash increases of \$11.6 million in reconciling adjustments and \$8.4 million of changes in operating assets and liabilities. The increased losses in the 2008 period relate to \$55.4 million of interest expense as a result of new and additional debt issuances, and \$7.9 million in pre-opening expenses offset by a \$13.9 million in interest income (earned on invested cash from the new debt). The reconciling adjustments increase was driven by the June 2007 financing as amortization of deferred financing costs of \$11.0 million. The most substantial change in operating assets and liabilities pertained to higher levels of accrued interest, driven by the new financing.

As of June 30, 2008 and 2007, we had balances of cash and cash equivalents of \$118.3 million and \$11.5 million, respectively. Working capital was \$14.6 million at June 30, 2008 and \$0.6 million at June 30, 2007. The June 30, 2008 cash and equivalents includes \$109.5 million in funds to be used in construction. As a development stage enterprise relying on financing to support operations, the working capital balance may be negative from time to time as our source of funds will be from long-term debt.

Current construction payables and construction retention payables totaled \$125.3 million and \$33.1 million at June 30, 2008 and 2007, respectively.

#### ***Cash Flows— Investing Activities***

Cash used in investing activities was \$23.2 million for the six months ended June 30, 2008, compared to \$1.6 billion in the prior six month period. For the six months ended June 30, 2008, cash used in investing activities was net of \$355.0 million used in payments for construction in progress and \$379.6 million provided from restricted cash. For the six months ended June 30, 2007, cash used in investing activities was \$138.1 million of payments for construction in progress and \$1.4 billion of restricted cash.



### *Cash Flows—Financing Activities*

For the six months ended June 30, 2008 and 2007, cash provided by financing activities was \$204.1 million and \$1.6 billion, respectively. For the six months ended June 30, 2008, cash for financing activities was provided predominately from affiliated entities. For the six months ended June 30, 2007, Fontainebleau Las Vegas Holdings, Fontainebleau Resorts and their respective subsidiaries completed a series of financing transactions for the projects in Las Vegas and Miami, as well as for funding for Fontainebleau Resorts' operations.

We are in the process of constructing Fontainebleau Las Vegas and do not generate sufficient cash flow to fund our activities. We have been dependent on Fontainebleau Resorts and affiliated entities and financing activities to fund our operations.

As a development stage enterprise, our capital requirements have increased each six months to fund pre-opening expenses and support development activities. Since March 8, 2005, the date of contribution, through June 30, 2008, we had received net contributions of \$699.6 million from Fontainebleau Resorts and affiliates. We recorded these funds as contributed capital.

### **Overview of Expected Capital Resources and Capital Contributions**

We believe that the funds available to us from the Las Vegas Credit Facility (as defined below), together with the proceeds from the issuance of the notes, which we have expended, and capital contributions made to us to date from our affiliates, will be sufficient to design, develop, construct, equip, finance and open Fontainebleau Las Vegas and to pay interest on borrowings under the Las Vegas Credit Facility and the notes until the scheduled opening of Fontainebleau Las Vegas in the fourth quarter of 2009, assuming no significant delay costs, construction cost overruns or budget increases and the continued availability of funds under credit facilities, as described below. Based on feedback from our general contractor, we increased the construction budget for Fontainebleau Las Vegas by approximately \$200.0 million due to change orders, scope modifications, completion of design documents and other prospective capital expenditures. On June 24, 2008, Fontainebleau Resorts and its subsidiaries contributed \$200.0 million of cash to us as a capital contribution. The capital contribution permitted the Company to remain in compliance with its financing agreements.

In connection with the financing and development of the approximately 286,500 square-foot Fontainebleau retail component which is integrated into Fontainebleau Las Vegas, Fontainebleau Las Vegas Retail, LLC ("Las Vegas Retail"), a subsidiary of Fontainebleau Resorts, obtained an \$85.0 million mezzanine loan and a \$315.0 million senior retail construction loan. The entire mezzanine facility was funded at close and approximately \$125.4 million was funded under the construction facility. Both facilities were underwritten by Lehman Brothers Holdings, Inc. and the construction facility was partially syndicated to third party lenders. Of the total \$400.0 million retail credit facilities, approximately \$83.0 million has been dedicated towards shared construction costs in the Las Vegas podium. The Company began drawing for the shared costs in August 2008. On September 16, 2008, Lehman Brothers filed for bankruptcy. At this time, it remains uncertain whether Lehman Brothers will continue funding its remaining obligation under the retail construction facility. We have been working diligently with Lehman Brothers and the co-lenders to the facility to ensure that there is no interruption in funding for the retail facility. The Company has received indications from the co-lenders to the facility that they intend to fund any potential Lehman Brothers shortfall on an interim basis. The Company will continue working on a permanent solution if one becomes necessary. There can be no assurances that Lehman Brothers will fund all or any portion of its remaining obligation under the retail construction facility, or that the co-lenders will fund any Lehman Brothers shortfall in funding and a failure to fund the retail loan could ultimately result in a default under our other financing arrangements, including the Las Vegas Credit Facility.

Following completion of Fontainebleau Las Vegas, we expect to fund our operations, capital requirements and interest on outstanding borrowings from operating cash flow and borrowings under the revolving portion of the Las Vegas Credit Facility. If completion of the project is delayed, then our debt service obligations accruing prior to the actual opening of Fontainebleau Las Vegas will increase correspondingly. We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings available to us under the Las Vegas Credit Facility will be sufficient to enable us to service and repay our indebtedness and to fund our other liquidity needs. We may need to refinance all or a portion of our indebtedness on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness, including the Las Vegas Credit Facility or the notes on acceptable terms or at all. We are highly leveraged and any future cash flow may not be sufficient to meet our obligations, including our obligations under the notes.

The current general economic conditions have adversely affected Nevada and the Las Vegas casino industry in particular and may continue through the planned opening of Fontainebleau Las Vegas in the fourth quarter of 2009, which could adversely affect our ability to generate sufficient cash flow to sustain our operations and service our indebtedness.

A description of each of the Las Vegas Credit Facility, notes and disbursement agreement is summarized below.

#### *Las Vegas Credit Facility*

On June 6, 2007, Fontainebleau Las Vegas, LLC and Fontainebleau Las Vegas II, LLC, which are collectively referred to below as the Borrowers, entered into a \$1.85 billion senior secured credit facility, comprised of an \$800.0 million revolving credit facility, a \$700.0 million senior secured term loan facility funded at the closing and a \$350.0 million senior secured delay draw term loan facility (collectively, the "Las Vegas Credit Facility"). The Las Vegas Credit Facility provides for interest on each component of the facility to be at LIBOR plus a margin of 3.25%. This margin will remain in effect until after the second full quarter after the opening date of Fontainebleau Las Vegas, subject to adjustment for the pace of condominium sales. Commencing with the three-month period beginning May 1, 2009, the interest rate described above may be increased by up to 0.75% if the Borrowers are unable to meet certain performance targets related to the sales of condominium-hotel units. Based on current condominium sales projections, we expect the Las Vegas Credit Facility to bear interest at LIBOR plus a margin of 4.00% beginning May 1, 2009. The \$800.0 million revolving credit facility will mature in June 2012.

Borrowings under the delay draw term loan facility will be available for twenty-four months after the closing of the Las Vegas Credit Facility. The funded senior secured term loan and the senior secured delay draw term loan facilities will require quarterly principal repayments commencing on the last day of the fiscal quarter in which the one-year anniversary of the opening of Fontainebleau Las Vegas occurs, until the seventh anniversary of the closing of the Las Vegas Credit Facility when the balance of each loan will be due.

The Las Vegas Credit Facility requires mandatory repayments under certain conditions, including from the net proceeds of asset sales, loss proceeds, subordinated debt issuances, the proceeds from the sale of condominium units and excess cash flow after the opening of Fontainebleau Las Vegas, as determined by the total leverage ratio.

The Las Vegas Credit Facility required the Borrowers to enter into hedge agreements to be at least three years in tenure and equal to 75% (or, on and after December 31, 2009, 50%) of the anticipated maximum amount borrowed as reasonably determined as of the date of initial effectiveness of the required hedge agreement. As of December 31, 2007, the Borrowers had entered into hedging

transactions in accordance with the Las Vegas Credit Facility.

Loans under the Las Vegas Credit Facility are secured by, subject to specified permitted liens, first priority liens on substantially all our, the Borrowers and the other restricted entities' existing and future assets, except for the remaining net proceeds of the old notes offering, the Fontainebleau retail component (other than the air rights comprising our leasehold interest in the retail and restaurant space that we will lease in the Fontainebleau retail component of the Las Vegas Project, as defined below, and gaming licenses and other assets in which the grant of a security interest is prohibited by law. Fontainebleau Resorts and Fontainebleau Resorts Properties I have guaranteed the obligations under the Las Vegas Credit Facility. The guarantees of Fontainebleau Resorts and Fontainebleau Resort Properties I are unsecured.

The Las Vegas Credit Facility contains certain financial ratios and other financial covenants with which we will have to comply, including, among other things, a maximum first lien leverage ratio, a maximum total leverage ratio and a minimum fixed charge coverage ratio. The first time that a ratio is required to be measured is as of the second quarter of 2010. After the opening of Fontainebleau Las Vegas, we are required to make mandatory prepayments equal to a certain percentage of our excess cash flow, as determined by the total leverage ratio, and payable semi-annually. We and the Borrowers are also subject to covenants, including delivery of financial statements and limitations on use of proceeds and condominium proceeds. We and the Borrowers were in compliance with these covenants as of June 30, 2008 and December 31, 2007.

Subject to specified exceptions, the Borrowers have the option to prepay all or any portion of the indebtedness under the Las Vegas Credit Facility at any time without premium or penalty.

At June 30, 2008, the full amount of the \$800.0 million revolving credit facility and the \$350.0 million senior secured delay draw term loan were available to borrow, subject to compliance with applicable terms and conditions. Interest and bank fees related to the Las Vegas Credit Facility are paid from the \$700.0 million senior secured term loan. At June 30, 2008, the remaining proceeds of the senior secured term loan were \$657.4 million. At June 30, 2008, the interest rate on the term loan was 5.9%.

Our ability to borrow under the Las Vegas Credit Facility is subject to various conditions precedent. In addition to other customary conditions to funding for these types of facilities, our ability to obtain disbursements of proceeds of the credit facilities for payment of construction costs will be subject to the following conditions. We, along with Turnberry West, our general contractor, the lenders' independent construction consultant and certain other third parties, must certify:

- as to various matters regarding the progress of construction;
- as to the conformity of the portions of the project then completed with the plans and specifications;
- that Fontainebleau Las Vegas will be opened by the scheduled opening date, which may be extended in accordance with the disbursement agreement, but not beyond March 31, 2010, except for certain limited permitted extensions due to force majeure events;
- the construction of Fontainebleau Las Vegas must be "in balance," meaning that the undisbursed portions of the equity funding account, note proceeds account, and the Las Vegas Credit Facility and Fontainebleau Retail's retail financing transaction (to the extent allocated to the podium), together with the balances in various construction accounts, letters of credit and cash amounts supporting the obligations of the completion guarantor, and certain other funds available to us, must equal or exceed the remaining costs to complete the construction of Fontainebleau Las Vegas, including the hard costs

associated with the podium, plus a required minimum unallocated contingency, required minimum cash liquidity reserve and required minimum excess revolver availability; and

- our general contractor must have entered into subcontracts by certain dates in respect of specified percentages of the total hard costs of Fontainebleau Las Vegas.

We cannot assure you that we will be able to satisfy the conditions to funding at the time disbursements or drawdowns are required to make payments of our construction costs. Satisfaction of various conditions is subject to the discretion of our lenders under the Las Vegas Credit Facility and their consultants and therefore may be beyond our control.

The Las Vegas Credit Facility contains customary events of default, subject in some cases to applicable notice provisions, grace periods and certain exceptions, including the failure to make payments when due, defaults of certain instruments of indebtedness, loss of, or defaults under, other material agreements, loss of material licenses or permits (including gaming licenses), failure to open Fontainebleau Las Vegas by March 31, 2010 (subject to extension as a result of events of loss or force majeure), failure to complete Fontainebleau Las Vegas within a specified time following the opening of Fontainebleau Las Vegas (subject to available extensions), noncompliance with covenants, material inaccuracies of representations and warranties, bankruptcy, judgments in excess of specified amounts, ERISA matters, impairment of security interests in collateral and change of control. Events of default will apply to the Las Vegas Restricted Group and, in some cases, to Fontainebleau Resorts, Fontainebleau Resort Properties I and TRLP.

#### *Second Mortgage Notes*

Fontainebleau Las Vegas Holdings and Fontainebleau Capital Corp. issued \$675.0 million aggregate principal amount of 10.25% Second Mortgage Notes due June 15, 2015 pursuant to a private placement transaction consummated in June 2007. The net proceeds of \$658.1 million from the issuance of the old notes were deposited into a note proceeds account for the construction of Fontainebleau Las Vegas. Interest is payable semi-annually in arrears on June 15 and December 15, commencing on December 15, 2007.

At any time before June 15, 2010, Fontainebleau Las Vegas Holdings and Fontainebleau Capital Corp. may redeem up to 35% of the outstanding notes at a price of 110.25% plus accrued interest from the net proceeds of one or more qualified equity offerings. Subsequent to June 15, 2011, Fontainebleau Las Vegas Holdings and Fontainebleau Capital Corp. may redeem all or some of the outstanding notes at a premium of 5.125% on or after June 15, 2011, 2.563% on or after June 15, 2012 and zero on or after June 15, 2013, plus accrued interest.

The notes are secured by a first priority lien on the remaining net proceeds of the old notes offering until the remaining net proceeds are released from the note proceeds account in accordance with the disbursement agreement. The notes are also secured by a second priority lien on substantially all the other existing and future assets of Fontainebleau Las Vegas Holdings and its subsidiaries, excluding the equity interests in such subsidiaries and subject to certain other exceptions. The notes are effectively subordinated to Fontainebleau Las Vegas Holdings' and Fontainebleau Capital Corp.'s obligations under the Las Vegas Credit Facility.

The notes are guaranteed by Fontainebleau Las Vegas, LLC and Fontainebleau Las Vegas II, LLC, and these guarantees are secured by a second priority lien on the assets of these subsidiaries. Fontainebleau Resorts and Fontainebleau Resort Properties I guarantee the notes on an unsecured basis.

At June 30, 2008, \$20.2 million was remaining to be disbursed from the note proceeds account,

representing the remaining proceeds from the issuance of the notes. Subsequent to June 30, 2008, the remainder of the funds in the note proceeds account has been disbursed from the note proceeds account as part of the normal monthly funding process.

*Disbursement Agreement*

Fontainebleau Las Vegas Holdings and its subsidiaries, along with Fontainebleau Las Vegas Retail, LLC entered into a disbursement agreement with Bank of America, as the bank agent, Wells Fargo Bank, National Association, as the notes trustee, Lehman Brothers Holdings, Inc., as the retail agent, and Bank of America, N.A. as the disbursement agent. The disbursement agreement sets forth the material obligations to develop, construct and complete Fontainebleau Las Vegas, and Fontainebleau Las Vegas Retail, LLC's obligation to develop, construct and complete the Fontainebleau retail component of Fontainebleau Las Vegas. The disbursement agreement establishes the conditions to, and the relative sequencing of, the making of disbursements from the proceeds of the equity contributions, the Las Vegas Credit Facility, loans obtained by Fontainebleau Las Vegas Retail, LLC, referred to throughout this section as the retail loans, and the notes. It also establishes the obligations of the bank agent, the retail agent and the disbursement agent to make disbursements of loan proceeds from the bank proceeds account and the retail funding account and the obligation of the notes trustee to release funds from the note proceeds account upon satisfaction of such conditions. The disbursement agreement also sets forth the mechanics for approving change orders and amendments to the project budget and the schedule for the construction period. Finally, the disbursement agreement includes certain construction-related representations, warranties, covenants and events of default common to the Las Vegas Credit Facility, the retail loans and the notes indenture. Under the disbursement agreement, the proceeds of the Las Vegas Credit Facility, the retail loans and the old notes offering will only be permitted to be used to pay or reimburse prior payments for project costs related to Fontainebleau Las Vegas and the Fontainebleau retail component and, to the extent contained in the budget and subject to certain limitations, corporate overhead and related costs.

The disbursement agreement contains various affirmative covenants with which Fontainebleau Las Vegas Holdings and its subsidiaries are obligated to comply, such as: use of the proceeds, delivery of certain financial statements and reports, and maintenance and compliance with required insurance policies. The disbursement agreement also requires compliance with negative covenants. These covenants limit Fontainebleau Las Vegas Holdings' ability to: enter into new material project documents that increase the construction budget without complying with the procedures for amending the project budget, provided that increase is funded by savings in other line items of the budget or by additional equity contributions; require that the Fontainebleau Las Vegas budget remains "in balance," which means that Fontainebleau Las Vegas Holdings may not permit on two consecutive scheduled advance dates all amounts available pursuant to our funding sources that are permitted under the disbursement agreement to be in an amount that is less than the amount sufficient to pay all remaining costs to complete Fontainebleau Las Vegas. Fontainebleau Las Vegas Holdings was in compliance with these covenants as of June 30, 2008.

*Restrictions on Activities of Fontainebleau Las Vegas Capital Corp.*

Fontainebleau Capital Corp. will not hold any material assets, hold any equity securities, incur any material indebtedness, become liable for any material obligations, engage in any material business activities or have any subsidiaries. However, Fontainebleau Capital Corp. may be a co-obligor with respect to indebtedness if Fontainebleau Las Vegas Holdings is a primary obligor of such indebtedness and the net proceeds of such indebtedness are received by Fontainebleau Las Vegas Holdings or one or more of its wholly owned restricted subsidiaries other than Fontainebleau Capital Corp.

### *Retail Development*

The Fontainebleau retail component is a separate air rights parcel with respect to approximately 286,500 square feet of rentable area in Fontainebleau Las Vegas and will be initially leased and eventually owned by Fontainebleau Las Vegas Retail, LLC, a subsidiary of Fontainebleau Resorts. We will sublease approximately one-third of the Fontainebleau retail component from Fontainebleau Las Vegas Retail, LLC for the operation of restaurants, a marquee nightclub and related amenities. Fontainebleau Las Vegas Holdings and its subsidiaries and Fontainebleau Las Vegas Retail, LLC have entered into a master lease agreement along with mutually acceptable reciprocal easement agreements governing the use of the Fontainebleau retail component and the other portions of Fontainebleau Las Vegas. Fontainebleau Las Vegas Retail, LLC will finance certain costs of the podium of Fontainebleau Las Vegas and the Fontainebleau retail component from \$400.0 million of proceeds from a combination of debt offerings. Up to \$195.0 million of the proceeds is to be used for costs of construction of the podium, tenant allowances, tenant improvements and lease commissions and interest expenses, fees and other expenses related to the Fontainebleau retail component, and the remaining \$205.0 million was upstreamed to Fontainebleau Holdings, a wholly-owned subsidiary of Fontainebleau Resorts. See "Overview of Expected Capital Resources and Capital Contributions" above.

### *Condominium-Hotel Unit Deposits*

Initially we projected aggregate net sales proceeds of approximately \$700.0 million from the sale of our approximately 1,000 condominium-hotel units, of which we expected \$75.0 million would be available to be bonded and used towards budgeted costs during the construction period prior to the opening of Fontainebleau Las Vegas. Since that time, the market for condominium-hotel units in Las Vegas has weakened generally and this has had an adverse effect on the timing and pricing of sales in this market. We cannot predict the extent or duration of the weakening of the Las Vegas market for sales of condominium-hotel units or the severity of the effect of this weakening on our future sales. However, the degree of weakening of demand and the period of time that such conditions exist could have a material adverse effect upon the amounts or timing of aggregate net sales proceeds we receive from the sale of our units, as well as the amounts of deposits that we are able to bond and use for budgeted costs prior to the opening of Fontainebleau Las Vegas. Our current estimates with respect to the expected deposits from the sale of these units may ultimately be incorrect, and the actual deposits could differ materially from such estimates. In addition, we may be unable to bond any deposits received from the sale of our condominium-hotel units in accordance with local law, which may result in our not being able to use any deposits from such sales towards the construction costs for Fontainebleau Las Vegas.

### **Off-Balance Sheet Arrangements**

We have not entered into any derivatives except for interest rate swaps and collars. For a description of our derivatives see footnotes to the consolidated financial statements of Las Vegas Holdings for the six months and the quarter ended June 30, 2008, respectively. We do not have any retained or contingent interest in assets transferred to an unconsolidated entity.

### **Related Parties**

The consolidated financial statements of Fontainebleau Las Vegas Holdings reflect various transactions with related parties. Transactions with related parties, by their nature, may involve terms or aspects that differ from those that would have resulted from negotiations with independent third parties. For a description of related parties see the footnotes to the consolidated financial statements of Las Vegas Holdings for the six months and the quarter ended June 30, 2008.

### **Quantitative and Qualitative Disclosures about Market Risk**

Market risk is the risk of loss arising from adverse changes in market rates and prices, such as interest rates, foreign currency exchange rates and commodity prices. Our primary exposure to market risk is interest rate risk associated with the Las Vegas Credit Facility, which will bear interest based at floating rates. We will attempt to manage our interest rate risk by managing the mix of our long-term fixed rate borrowings and variable borrowings. We obtained interest rate protection through interest rate swaps and collars with respect to 75% of anticipated borrowings under the Las Vegas Credit Facility through June 30, 2009, to be reduced to 50% of such borrowings thereafter. The hedging agreements entered into during 2007 have reduced our exposure to interest rate increases. However, we cannot assure you that these risk management strategies will have the desired effect, and interest rate fluctuations could have a negative impact on our results of operations. Based on June 30, 2008 debt levels and the risk management strategies in place, an assumed 100 basis point change in LIBOR would not significantly impact our annual interest cost.

We do not use derivative financial instruments, other financial instruments or derivative commodity instruments for trading or speculative purposes.

### **Inflation**

We believe that our results of operations do not depend upon moderate changes in the inflation rate.

### **Critical Accounting Policies and Estimates for Fontainebleau Las Vegas Holdings, LLC**

The consolidated financial statements of Fontainebleau Las Vegas Holdings and its subsidiaries were prepared in conformity with accounting principles generally accepted in the United States. Those principles require our management to make estimates and assumptions that affect reported amounts and related disclosures. Management identifies critical accounting estimates as:

- those that require the use of assumptions about matters that are inherently and highly uncertain at the time the estimates are made;
- those estimates where, had we chosen different estimates or assumptions, the resulting differences would have had a material impact on our financial condition, changes in financial condition or results of operations; and
- those estimates that, if they were to change from period to period, likely would result in a material impact on our financial condition, changes in financial condition or results of operations.

These estimates require that management apply significant judgment in defining the appropriate assumptions based upon historical experience, terms of existing contracts, industry trends and information available from outside sources. Management evaluates those estimates on an ongoing basis by reviewing expected trends and from industry experience and adjusts the assumptions utilized as necessary.

Based upon management's discussion of the development and selection of these critical accounting estimates, we believe the following accounting estimates involve a higher degree of judgment and complexity.

*Development, Construction and Property and Equipment Estimates*

As of June 30, 2008, the Company had property and equipment, net of accumulated depreciation of \$1.0 billion and \$147.9 million in condominium units in development, the combined total represents 56.2% of total assets. Of the total, \$903.4 million represents construction in progress on the Las Vegas Project.

The Company and its subsidiaries are capitalizing interest costs associated with the construction of Fontainebleau Las Vegas as part of the cost of the constructed assets. Capitalization of interest will cease when each project is substantially complete or construction activities are no longer underway. Capitalized interest is amortized over the estimated useful life of the related assets.

During the period of the construction of Fontainebleau Las Vegas direct costs such as those expected to be incurred for the design and construction of the hotel and casino will be capitalized. Accordingly, we expect the recorded amounts of property and equipment to increase significantly. Depreciation expense related to the capitalized construction costs will not be recognized until the related assets are put in service. Accordingly, upon completion of construction and commencement of operation of Fontainebleau Las Vegas, with respect to Fontainebleau Las Vegas Holdings and its subsidiaries, depreciation expense recognized based on the estimated useful life of the corresponding asset will have a significant effect on the results of our operations. The remaining estimated useful lives of assets are periodically reviewed.

Management evaluates property and equipment and other long-lived assets for impairment in accordance with SFAS 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. For assets to be disposed of the Company recognize the asset at the lower of carrying value or fair value less costs of disposal, as estimated based upon comparable asset sales, solicited offers or a discounted cash flow model. For assets to be held and used, management reviews for impairment whenever indicators of impairment exist. Then the estimated future cash flows of the asset, on an undiscounted basis, is compared to the carrying value of the asset. If the undiscounted cash flows exceed the carrying value, no impairment is indicated. If the undiscounted cash flows do not exceed the carrying value, then an impairment is recorded based on the fair value of the asset, typically measured using a discounted cash flow model. If an asset is still under development, future cash flows include remaining construction costs. All recognized impairment losses, whether for assets to be disposed of or assets to be held and used are recorded as operating expenses.

*Pre-Opening Costs*

During the construction and development of a resort, pre-opening or start-up costs are expensed when incurred. Pre-opening expense is primarily composed of salaries and wages, legal and consulting fees, sales and marketing and travel costs. With respect to the Las Vegas Project and Fontainebleau Las Vegas, it is expected that the Company will incur significant pre-opening expenses until opened.

*Insurance Accounting*

The Company has insurance coverage related to damage from the collapse of a portion of the Fontainebleau Las Vegas garage in the third quarter of 2007. Estimated losses were recognized as a receivable from the insurance carrier. Losses are expected to be recovered as part of the insurance coverage during the time of the garage collapse.



*Derivative Instruments*

The Company is party to derivative instruments—interest rate swaps, collars, and caps— related to its long-term debt, through subsidiaries and accounts for derivative instruments in accordance with FASB Statement No. 133. The estimated fair values of derivative instruments represent the estimated amounts that the party would receive or pay to terminate the contracts. The fair value of these derivative instruments is estimated using “Level 2” inputs under SFAS No. 157, *Fair Value Measurements*.

***Fair Value Hierarchy***—SFAS No. 157 requires disclosure about how fair value is determined for assets and liabilities and establishes a hierarchy for which these assets and liabilities must be grouped, based on significant levels of observable or unobservable inputs. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect the Company’s market assumptions. This hierarchy requires the use of observable market data when available.

These two types of inputs have created the following fair-value hierarchy:

- Level 1—Quoted prices for identical instruments in active markets.
- Level 2—Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets.
- Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

***Determination of Fair Value*** — The Company generally uses quoted market prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access to determine fair value, and classifies such items in Level 1. Fair values determined by Level 2 inputs utilize inputs other than quoted market prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted market prices in active markets for similar assets or liabilities, and inputs other than quoted market prices that are observable for the asset or liability. Level 3 inputs are unobservable inputs for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability.

If quoted market prices are not available, fair value is based upon internally developed valuation techniques that use, where possible, current market-based or independently sourced market parameters, such as interest rates, currency rates, etc. Assets or liabilities valued using such internally generated valuation techniques are classified according to the lowest level input or value driver that is significant to the valuation. Thus, an item may be classified in Level 3 even though there may be some significant inputs that are readily observable.

Exchange traded derivatives valued using quoted prices are classified within level 1 of the valuation hierarchy. However, few classes of derivative contracts are listed on an exchange; thus, the majority of our derivative positions are valued using internally developed models that use as their basis readily observable market parameters and are classified within level 2 of the valuation hierarchy. Such derivatives include basic interest rate caps, interest rate swaps, and interest rate collars. In some cases derivatives may be valued based upon models with significant unobservable market parameters. These would be classified within level 3 of the valuation hierarchy. As of June 30, 2008, we did not have any level 3 classifications.

Derivative instruments are recognized as assets or liabilities, with changes in fair value affecting net income (loss) or comprehensive income (loss) as applicable.

#### *Equity-Based Compensation*

SFAS 123R, *Share-Based Payment*, establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods and services or incurs a liability in exchange for goods and services that are based on the fair value of the entity's equity instruments or that may be settled by the issuance of those equity instruments. It requires an entity to measure the costs of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award and recognize that cost over the service period. Fontainebleau Resorts adopted this statement under the modified prospective method and uses the Black-Scholes valuation model to value the equity instruments issued. Management uses assumptions of expected volatility, risk-free interest rates, the expected term of options granted, and expected rates of dividends and determines these assumptions by reviewing current market rates, making industry comparisons and reviewing conditions relevant to us. Fontainebleau Resorts accounted for the portion of equity grants awarded and vested prior to the adoption of SFAS 123R according to Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*.

#### **Internal Controls and Procedures for Fontainebleau Resorts, LLC and Fontainebleau Las Vegas Holdings, LLC**

In preparing the financial statements for the three-months ended March 31, 2008, Fontainebleau Resorts incorrectly recorded the cost of sales related to condominium sales at the Fontainebleau Miami Beach, resulting in an overstatement of the gross profit recognized upon the sale of condominiums and an understatement of real estate under development. In preparing internal financial statements for the six months ending June 30, 2008, we and Fontainebleau Resorts determined that the reporting of condominium units in development in previously issued financial statements was incorrect in the balance sheet and statement of cash flows. Condominium units in development were reclassified from property and equipment to condominium units in development and certain cash flows used in investing were reclassified to cash flows used in operating activities. In preparing internal financial statements for the year ending December 31, 2007, we and Fontainebleau Resorts noted an overstatement of capitalized interest and the failure to accrue credit enhancement fees for the period from June 6, 2007 to September 30, 2007.

In conjunction with the preparation of financial statements for the three month period ended June 30, 2008, and with the audits of our and Fontainebleau Resorts' consolidated financial statements for the year ended December 31, 2007, we, Fontainebleau Resorts and our independent registered public accounting firm identified deficiencies in our and Fontainebleau Resorts' internal controls, which were deemed to be material weaknesses. A material weakness, as defined under standards established by the Public Company Accounting Oversight Board, is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by an entity's internal control over financial reporting.

As of December 31, 2007, we and Fontainebleau Resorts did not have sufficient accounting and financial reporting personnel to mitigate the risk of reporting and accounting for inaccurate financial and non-financial data. As a result, entries for construction in progress, capitalized financing fees and the related amortization, capitalized interest, and deferred rent were adjusted during the audit process. We and Fontainebleau Resorts also did not have sufficient general computer controls over the process of installing and testing computer systems, and the security controls concerning system access and

appropriateness of access was not adequate.

We are in the process of remedying the deficiencies noted. This process of adopting and implementing procedures to improve our and Fontainebleau Resorts' internal controls is continuing. Additional accounting and financial personnel have been hired through June 30, 2008, with additional personnel hired in the third quarter of 2008. If the remedial procedures we and Fontainebleau Resorts expect to adopt and implement prove to be insufficient to address our significant deficiencies and material weaknesses, we and Fontainebleau Resorts may fail to meet our future reporting obligations, our financial statements may contain material misstatements and our operating results may be impacted. A failure to meet our future reporting obligations could result in an event of default under the credit facilities and the indenture governing the notes.

We cannot assure you that significant deficiencies or material weaknesses in our or Fontainebleau Resorts' internal controls over financial reporting will not be identified in the future. Any failure to maintain or implement required new or improved controls, or difficulties we encounter in their implementation, could result in additional significant deficiencies or material weaknesses, cause us to fail to meet our future reporting obligations or cause our financial statements to contain material misstatements. A failure to meet our future reporting obligations could result in an event of default under the credit facilities and the indenture governing the notes.



# Fontainebleau Resorts, LLC and Subsidiaries

*Unaudited Condensed Consolidated Financial Statements as of  
June 30, 2008 and December 31, 2007 (Restated), and for the  
Three and Six Months Ended June 30, 2008 and 2007 (Restated)*

**FONTAINEBLEAU RESORTS, LLC AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED BALANCE SHEETS**  
**AS OF JUNE 30, 2008 AND DECEMBER 31, 2007 (RESTATED)**  
(In thousands except unit data)  
(Unaudited)

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
<b>ASSETS</b>		<b>As Restated - See Note 2</b>
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 172,710	\$ 34,898
Buyer deposits in escrow	9,088	23,336
Restricted cash	756	-
Accounts receivable, net	1,561	1,810
Insurance receivable	2,017	3,275
Receivables from related parties	3,377	1,448
Inventories	137	104
Prepaid expenses and other current assets	6,004	1,510
Condominium units held for sale	48,248	-
Total current assets	<u>243,898</u>	<u>66,381</u>
<b>CONDOMINIUM UNITS IN DEVELOPMENT</b>	<u>147,925</u>	<u>220,089</u>
<b>PROPERTY AND EQUIPMENT - NET</b>	<u>1,647,107</u>	<u>1,026,966</u>
<b>OTHER NON-CURRENT ASSETS:</b>		
Restricted cash, non-current	788,607	1,139,519
Deferred financing fees	62,317	75,287
Receivables from related parties	337	237
Other intangible assets, net	46,639	46,807
Deposits and other non-current assets	13,672	5,012
Goodwill	62,020	62,020
Total other non-current assets	<u>973,592</u>	<u>1,328,882</u>
<b>TOTAL ASSETS</b>	<u>\$ 3,012,522</u>	<u>\$ 2,642,318</u>
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 13,097	\$ 9,767
Accounts payable to related parties	525	1,507
Construction payables to related parties	141,401	80,082
Construction retention payable to related parties	38,984	15,838
Accrued interest	8,566	9,241
Accrued expenses	12,970	15,024
Buyer deposit liability	16,172	60,704
Condominium unit guarantee payable	2,568	3,314
Other current liabilities	5,089	2,548
Current portion of long-term debt	-	71,779
Total current liabilities	<u>239,762</u>	<u>269,804</u>
<b>LONG-TERM LIABILITIES:</b>		
Long-term debt, net of current portion	2,141,340	2,049,739
Construction retention and contractor fees payable to related parties	64,497	39,033
Fees payable to related parties	4,999	2,687
Deferred gain (Note 2)	266,303	-
Other long-term liabilities	1,981	1,853
Fair value of derivative instruments	29,166	29,597
Total long-term liabilities	<u>2,508,286</u>	<u>2,122,909</u>
<b>TOTAL LIABILITIES</b>	<u>2,748,048</u>	<u>2,392,713</u>
<b>COMMITMENTS AND CONTINGENCIES (Note 9)</b>		
<b>MINORITY INTEREST</b>	52,401	-
<b>MEMBERS' EQUITY</b>		
Members' equity (75,000,000 Series A non voting units authorized, issued and outstanding as of June 30, 2008 and December 31, 2007)	-	-
Members' equity (68,394,500 Series B voting units authorized, issued and outstanding as of June 30, 2008 and December 31, 2007)	-	-
Preferred units (190,000 units authorized and redemption value of \$211,822 as of June 30, 2008 and \$205,760 as of December 31, 2007)	210,171	197,129
Contributed capital	503,273	443,731
Accumulated deficit	(475,977)	(366,274)
Accumulated other comprehensive loss	(25,394)	(24,981)
Total members' equity	<u>212,073</u>	<u>249,605</u>
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY</b>	<u>\$ 3,012,522</u>	<u>\$ 2,642,318</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements

**FONTAINEBLEAU RESORTS, LLC AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2008**

(In thousands)  
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2007	2008	2007
<b>REVENUES:</b>				
Sale of condominium units	\$ 16,370	\$ -	\$ 123,148	\$ -
Hotel	5,400	4,605	12,589	12,714
Food and beverage	663	680	1,490	1,675
Retail	27	31	53	84
Other	2,456	605	3,224	1,346
Total revenues	<u>24,916</u>	<u>5,921</u>	<u>140,504</u>	<u>15,819</u>
<b>OPERATING EXPENSES:</b>				
Cost of sales of condominium units	14,585	-	109,563	-
Hotel	4,994	4,718	10,839	11,500
Food and beverage	1,526	1,123	2,786	2,402
Retail	52	26	199	64
Other	698	369	1,249	736
General and administrative	8,232	5,505	15,354	10,159
Corporate	11,584	20,805	19,348	26,460
Gain on sale of operating assets	(200)	(112)	(200)	(112)
Preopening	5,139	2,139	8,477	2,643
Depreciation and amortization	744	554	1,381	1,057
Total operating expense	<u>47,334</u>	<u>35,127</u>	<u>168,996</u>	<u>54,909</u>
<b>LOSS FROM OPERATIONS</b>	<u>(22,418)</u>	<u>(29,206)</u>	<u>(28,492)</u>	<u>(39,090)</u>
<b>NON-OPERATING (INCOME) EXPENSES:</b>				
Interest income	(6,494)	(5,563)	(16,348)	(5,811)
Interest expense - net of capitalized interest	40,127	24,075	85,543	37,612
Unrealized gain on derivative instruments - net of settlements	(11,738)	(281)	(1,025)	(223)
Deferred financing fees - write off	-	3,643	-	3,643
Other	(1)	(20)	(1)	(45)
Total non-operating expenses	<u>21,894</u>	<u>21,854</u>	<u>68,169</u>	<u>35,176</u>
<b>NET LOSS BEFORE MINORITY INTEREST</b>	<u>(44,312)</u>	<u>(51,060)</u>	<u>(96,661)</u>	<u>(74,266)</u>
<b>MINORITY INTEREST</b>	<u>45</u>	<u>-</u>	<u>45</u>	<u>-</u>
<b>NET LOSS</b>	<u>\$ (44,267)</u>	<u>\$ (51,060)</u>	<u>\$ (96,616)</u>	<u>\$ (74,266)</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements

**FONTAINEBLEAU RESORTS, LLC AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2008 AND 2007 (RESTATED)**

(In thousands)  
(Unaudited)

	Six Months Ended June 30,	
	2008	2007
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		<b>As Restated - See Note 2</b>
Net loss	\$ (96,616)	\$ (74,266)
<i>Adjustments to reconcile net loss to net cash used in operating activities:</i>		
Depreciation and amortization	1,382	1,058
Amortization of deferred financing fees	16,474	5,093
Amortization of condominium unit guarantees	282	960
Deferred financing fees - write off	-	3,643
Equity-based compensation	3,248	11,354
Change in market value of derivative instruments - net of settlements	(1,025)	(223)
Change in derivative instrument liability	(637)	-
Cost of sales of condominium units	109,563	-
Reserve for doubtful accounts	-	(7)
Application of buyer deposits	14,248	-
Gain on sales of assets	(200)	(112)
Deferred gain on sale of interests in Florida Holdings	262,500	-
Interest paid in kind	11,201	1,897
Fees payable to related parties	2,312	-
<i>Changes in operating assets and liabilities:</i>		
Accounts receivable, net	249	(458)
Insurance receivable	1,257	-
Receivables from related parties	(2,028)	(37)
Inventories	(33)	15
Prepaid expenses and other current assets	(4,980)	(197)
Condominium unit development expenditures	(85,647)	(58,634)
Deposits and other non-current assets	(8,853)	572
Accounts payable	3,330	4,634
Accounts payable to related parties	(982)	827
Accrued interest	(285)	8,850
Accrued expenses	(2,054)	(2,227)
Buyer deposits liability	(44,532)	235
Other current liabilities	2,541	(1,130)
Accrued bonuses	-	(6,894)
Condominium unit guarantee payable	(746)	-
Other long-term liabilities	303	-
Deferred income	-	637
Net cash used in operating activities	<u>180,272</u>	<u>(104,410)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Payments for property and equipment	(2,777)	(434)
Payments for construction in progress to related parties	(508,426)	(187,146)
Proceeds from sale of property	970	112
Reductions (additions) to restricted cash	350,156	(1,436,570)
Net cash used in investing activities	<u>(160,077)</u>	<u>(1,624,038)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from the Miami Senior Credit Facilities	-	280,829
Proceeds from the Scotia loan	7,005	19,525
Proceeds from the Prudential loan	-	32,500
Proceeds from the Miami Mezzanine loan	-	40,000
Proceeds from the Las Vegas Senior Credit Facility	-	700,000
Proceeds from the Second Mortgage Notes	-	675,000
Proceeds from the Retail Senior loan	-	125,400
Proceeds from the Mezzanine Retail loan	-	85,000
Proceeds from the PIK preferred private placement	-	182,955
Proceeds from the senior credit facility	80,400	85,368
Proceeds from buyer deposits available for construction	-	2,051
Proceeds from termination of derivative instruments	-	3,580
Proceeds from related party	-	43,872
Contributions	112,500	361,287
Payments to related party	-	(43,872)
Payments of the softer preferred unit	-	(45,813)
Payments on Prudential loan	-	(199,099)
Payments on Scotia loan	(78,784)	-
Payments on Senior Credit Facilities	-	(150,000)
Payments on Senior Credit Facilities	-	(339,035)
Payments for deferred financing fees	(3,504)	(85,657)
Net cash provided by financing activities	<u>117,617</u>	<u>1,773,891</u>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	<b>137,812</b>	<b>45,443</b>
<b>CASH AND CASH EQUIVALENTS - Beginning of period</b>	<b>34,898</b>	<b>749</b>
<b>CASH AND CASH EQUIVALENTS - End of period</b>	<b>\$ 172,710</b>	<b>\$ 46,192</b>
<b>SUPPLEMENTAL DISCLOSURES OF NONCASH INVESTING AND FINANCING ACTIVITIES:</b>		
Interest paid during the period, net of amounts capitalized	<u>\$ 54,429</u>	<u>\$ 40,050</u>
Amount of preferred unit dividend	<u>\$ 13,042</u>	<u>\$ 1,649</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements

**FONTAINEBLEAU RESORTS, LLC AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE THREE AND SIX MONTH PERIODS ENDED JUNE 30, 2008 AND 2007**

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**1. ORGANIZATION, BASIS OF PRESENTATION AND ACCOUNTING POLICIES**

*Organization* — Fontainebleau Resorts, LLC (“Fontainebleau Resorts” or the “Company”), a Delaware limited liability company, was formed February 16, 2005. As of June 30, 2008, approximately 74% of the outstanding voting interests in the Company and 59% of the outstanding economic interests were owned or controlled directly or indirectly by Jeffrey Soffer, one of the principals in Turnberry, a multi-service real estate development and property management business. In April 2007, Fontainebleau Resorts reorganized to facilitate raising common equity and its ultimate licensing under Nevada gaming and gambling laws. See Note 1 to the Company’s previously issued and restated consolidated financial statements as of and for the years ended December 31, 2007 and 2006 for further details on the reorganization of Fontainebleau Resorts.

*Business* — Fontainebleau Resorts acts largely as a holding company and, through wholly-owned subsidiaries, develops, owns and operates resorts and casinos. The Company, in conjunction with a U.S. affiliate of Nakheel PJSC (see Note 3), owns and operates the Fontainebleau Miami Beach in Miami Beach, Florida and independently is developing the Fontainebleau Las Vegas in Las Vegas, Nevada.

The Fontainebleau Miami Beach (the “Miami Property”) consists of two hotel towers and two condominium-hotel towers located on an approximately 18.8 acre site on Miami Beach. The two hotel towers — the 539-room Chateau (referred to as FB I), and the 307-room Versailles tower (referred to as FB IV) — comprise the original Fontainebleau Hotel (collectively, the “FB I Towers”). The Trésor (completed in 2005 and referred to as FB II) is a 37-story condominium-hotel tower with 462 junior, one-bedroom, two-bedroom and penthouse suites. The Sorrento (completed in January 2008 and referred to as FB III) is an 18-story condominium-hotel tower with 286 junior and one-bedroom suites. Each condominium owner at FB II and FB III has the option to enter his or her unit into a rental program that provides the owner with the opportunity to share in the rental revenue from that unit.

In March 2006, the Company suspended operations of the Chateau and Versailles towers to renovate substantially all of the property (the “Florida Project”). The Florida Project consists of refurbishing the Miami Property that will include a larger spa, additional restaurants, and entertainment offerings. The Florida Project and the FB III construction are referred to as the “Resort Projects.”

The Company is also developing two parcels — referred to as the “El Rancho property” and the “Algiers property” — which collectively approximate 24.4 acres on the Las Vegas Strip into the Fontainebleau Las Vegas (the “Las Vegas Property”), a signature casino hotel resort with gaming, lodging, convention and entertainment amenities (collectively, the “Las Vegas Project”). The Las Vegas Project includes a 63-story tower with approximately 3,800 guest rooms, suites and condominium-hotel units, a 100,000 square-foot casino, a 353,000 square-foot convention center and a 60,000 square-foot spa. In addition, the Las Vegas Project will include a 286,500 square-foot retail component with restaurants, nightclub and related amenities.

The Company is subject to many risks, rules, and regulations during the construction and development phases and will be subject to additional regulatory oversight when it operates gaming facilities. This includes, but is not limited to, obtaining and maintaining the various construction permits in both Miami and Las Vegas and securing a Nevada gaming license required to own and operate the planned casino in Las Vegas. The completion of these projects is dependent upon compliance with these rules and regulations.



***Basis of Presentation and Consolidation*** — The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Those principles require the Company's management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The accompanying unaudited condensed consolidated financial statements include all adjustments of a normal, recurring nature that are necessary to fairly present our consolidated results of operations, financial position and cash flows for each period presented.

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and all majority-owned or controlled subsidiaries and variable interest entities of which the Company or its subsidiaries are the primary beneficiary. All appropriate intercompany accounts and transactions with subsidiaries, including contributions and distributions, have been eliminated in consolidation. However, the financial information included herein may not necessarily be indicative of the conditions that would have existed or the results of operations had the Company been a separate, stand-alone entity during the periods presented. The results for the three and six months ended June 30, 2008 are not necessarily indicative of results to be expected for the full fiscal year.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted, although the Company believes that the disclosures herein are adequate to make the information presented not misleading. As such, these unaudited condensed consolidated financial statements should be read in conjunction with the Company's consolidated financial statements as of December 31, 2007 and 2006 and for the years then ended.

***Significant Accounting Policies***

***Buyer Deposits in Escrow and Buyer Deposit Liability*** — As customers execute a condominium unit purchase agreement, a deposit of at least 10% is tendered. The Company records the deposit as buyer deposits in escrow, with a corresponding buyer deposit liability. The interest earned on these 10% deposits is recognized as earned, but recorded as buyer deposits in escrow until available to be withdrawn. In certain instances, interest rate riders were offered to condominium buyers as an incentive to encourage accelerated deposits on FB III. The incentive consisted of an offer to accrue interest at rates between 5% and 6% on the balance of the deposits through the date of closing. The interest accrued pursuant to the interest rate riders is available to the buyer and will reduce the amount due from the buyers at closing. The accrued interest is recognized as part of interest expense in the accompanying condensed consolidated statements of operations. The Company recorded the aggregate amount of buyer deposits and interest rate riders accrued as a current liability as of June 30, 2008 and December 31, 2007 based on the January 2008 completion date of FB III.

Under the terms of the condominium unit purchase agreements, buyer deposit amounts that exceed 10% of the purchase price of each condominium may be used towards the construction costs (and are classified within cash flows from financing activities, whereas the initial deposits of 10% or less are classified within cash flows from operating activities on the accompanying condensed consolidated statements of cash flows).

The following table outlines the buyer deposit liability (which includes interest earned under the interest rate rider), the amounts used for construction costs, and the remaining amount held in escrow (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
Buyer deposit liability	\$ 16,172	\$ 60,704
Amount used for construction	<u>(7,084)</u>	<u>(37,368)</u>
Buyer deposits in escrow	<u>\$ 9,088</u>	<u>\$ 23,336</u>

*Restricted Cash* — Restricted cash consists primarily of certain proceeds of the Company’s financing activities restricted by agreements governing the payment of certain construction and development costs relating to the Resort Projects and the Las Vegas Project. The table below outlines the components of restricted cash at June 30, 2008 and December 31, 2007 (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
Senior Secured Term Loan proceeds	\$ 657,381	\$ 681,546
Second Mortgage Notes proceeds	20,239	375,667
Las Vegas Project liquidity reserve	50,000	50,000
Letter of credit	30,000	-
Construction draw	<u>756</u>	<u>-</u>
Total restricted cash related to the Las Vegas Project	<u>758,376</u>	<u>1,107,213</u>
FB III profit reserve	18,638	25,000
Miami Mezzanine lender reserve	5,161	7,306
FB III condominium sales proceeds	5,973	-
Letter of credit	1,200	-
Florida equity proceeds	<u>15</u>	<u>-</u>
Total restricted cash related to the Miami Project	<u>30,987</u>	<u>32,306</u>
Total restricted cash	789,363	1,139,519
Restricted cash - current	<u>756</u>	<u>-</u>
Restricted cash - non current	<u>\$ 788,607</u>	<u>\$ 1,139,519</u>

*Condominium Sales* — Construction of FB III was completed in January 2008, at which time the allocated and direct costs of constructing the units was transferred from condominium units in development to condominium units held for sale. Closings of the FB III condominium units commenced in February 2008. As closings occur, buyer deposits in escrow are applied, the Company recognizes revenue and profit in accordance with Financial Accounting Standards Board (“FASB”) Statement of Financial Accounting Standards (“SFAS”) No. 66, *Accounting for Sales of Real Estate*, and condominium units held for sale is relieved by and cost of sales is recognized in accordance with SFAS No. 67, *Accounting for Costs and Initial Rental Operations of Real Estate Projects*. The principal due on the loan from the Bank of Nova Scotia (the “Scotia Loan”) was \$71.8 million as of December 31, 2007, which was repaid, in addition to \$7.0 million of additional borrowings, in its entirety in April 2008 using proceeds from the closing of condominium unit sales.

*Preopening* — Preopening costs are expensed as incurred, consistent with Statement of Position 98-5, *Reporting on the Costs of Start-up Activities*. Preopening costs consist primarily of salaries and wages (including equity-based compensation), legal and consulting fees, sales and marketing, and travel. For the periods presented in the accompanying condensed consolidated financial statement of operations, all preopening costs related to the Las Vegas Project.

*Accounting Policies Adopted During 2008* — In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements*, which defines fair value, establishes a framework for measuring fair value in

accordance with accounting principles generally accepted in the United States, and expands disclosures about fair value measurements. SFAS 157 applies under other accounting pronouncements that require or permit fair value measurement. SFAS 157 does not require any new fair value measurements. The provisions of SFAS 157 are effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. In January 2008, the FASB deferred the effective date for one year for certain non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company adopted the provisions of this standard, as amended, on January 1, 2008, and the adoption of SFAS 157 did not have a material effect on its financial condition, results of operations or cash flows. See "Note 7 — Fair Value Measurements" for disclosures required by this standard.

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Liabilities Including an Amendment of FASB Statement No. 115*. Under SFAS 159, the Company may elect to measure many financial instruments and certain other items at fair value, which are not otherwise currently required to be measured at fair value. The decision to measure items at fair value is made at specific election dates on an irrevocable instrument-by-instrument basis and requires recognition of the changes in fair value in earnings and expensing upfront costs and fees associated with the item for which the fair value option is elected. Fair value instruments for which the fair value option has been elected and similar instruments measured using another measurement attribute are to be distinguished on the face of the statement of financial position. SFAS 159 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. The Company adopted the provisions of this standard on January 1, 2008, and the adoption did not have a material effect on its financial condition, results of operations or cash flows.

**Recently Issued Accounting Pronouncements** — In December 2007, the FASB issued SFAS No. 160, *Noncontrolling Interest in Consolidated Financial Statements, an amendment of ARB No. 51*. This statement establishes accounting and reporting standards for ownership interest in subsidiaries held by parties other than the parent and for the deconsolidation of a subsidiary. It also clarifies that a noncontrolling interest in a subsidiary is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements. SFAS 160 changes the way the consolidated statement of operations is presented by requiring consolidated net income to be reported at amounts that include the amount attributable to both the parent and the noncontrolling interests. The statement also establishes reporting requirements that provide sufficient disclosure that clearly identify and distinguish between the interest of the parent and those of the noncontrolling owners. This statement is effective for fiscal years beginning on or after December 15, 2008. The adoption of SFAS No. 160 is not expected to have a material impact on the Company's financial position, results of operations or cash flows.

In March 2008, the FASB issued SFAS No. 161, *Disclosures About Derivative Instruments and Hedging Activities, an amendment of SFAS No. 133*. SFAS 161 is intended to improve financial reporting about derivative instruments and hedging activities by requiring enhanced disclosures to enable investors to better understand their effects on an entity's financial position, financial performance, and cash flows. This statement is effective for fiscal years beginning after November 15, 2008. SFAS 161 is not expected to have a material impact on the Company's financial position, results of operations or cash flows.

## 2. FINANCIAL STATEMENT RESTATEMENTS

In the second quarter of 2008, management determined that the reporting of condominium units in development and condominium units held for sale, in previously issued consolidated financial statements, was incorrect. Also, management determined that the reporting of allocated and direct costs of certain common area amenities was incorrect. Accordingly, the Company is restating its previously issued consolidated financial statements as of December 31, 2007 and for the six months ended June 30 2007 to present condominium units in development separately from property and equipment and to correct the

allocation of common area amenities. The previous reporting presentation resulted in an understatement of condominiums in development and a corresponding overstatement of property and equipment in the December 31, 2007 condensed consolidated balance sheet. The previous reporting presentation also resulted in the overstatement of cash flows used in investing activities and the understatement of cash flows used in operating activities. In addition, cash flows provided by financing activities were overstated for proceeds from buyer deposits that were not part of the financing funds available for use in development of the aforementioned condominium units. The change in the balances of buyer deposits in escrow was also misclassified as cash flows from investing activities instead of as cash flows from operating activities. These corrections had no effect on total assets, total liabilities, and members' equity (deficit) in the accompanying condensed consolidated balance sheets nor any portion of the accompanying condensed consolidated statements of operations, and had no effect on the amount of cash and cash equivalents in the accompanying condensed consolidated financial statements.

Additionally, management initially recorded a purchase price adjustment to the Company's purchase of the Miami Property as an increase to goodwill in the consolidated balance sheets as of June 30 and September 30, 2007, instead of recording the amount as an increase to construction-in-progress. Management also recorded the termination of a derivative instrument as a source of cash within the deposits and other long-term assets in cash flows from operating activities instead of presenting the proceeds within cash flows from financing activities. Accordingly, the Company is restating its previously issued condensed consolidated financial statements as of and for the six months ended June 30 2007 to properly present the Miami purchase price adjustment and termination of the derivative contract. Both of these items were properly presented in the Company's financial statements as of and for the year ended December 31, 2007.

The effect of these restatements on the accompanying condensed consolidated financial statements is summarized below:

	<u>As Previously Reported</u>	<u>Adjustments</u>	<u>As Restated</u>
<b>Condensed Consolidated Balance Sheet Data</b>			
<b>As of December 31, 2007:</b>			
Condominium units in development	\$ -	\$ 220,089	\$ 220,089
Property and equipment - net	\$ 1,247,055	\$ (220,089)	\$ 1,026,966
<b>Condensed Consolidated Statement of Operations Data</b>			
<b>For the Three Months Ended June 30, 2007</b>			
Preopening	\$ 1,738	\$ 401	\$ 2,139
Total operating expense	\$ 35,236	\$ (109)	\$ 35,127
Loss from operations	\$ (29,315)	\$ 109	\$ (29,206)
Net loss	\$ (51,066)	\$ 6	\$ (51,060)
<b>For the Six Months Ended June 30, 2007</b>			
Preopening	\$ 2,188	\$ 455	\$ 2,643
Total operating expense	\$ 54,997	\$ (88)	\$ 54,909
Loss from operations	\$ (39,178)	\$ 88	\$ (39,090)
Net loss	\$ (74,251)	\$ (15)	\$ (74,266)

	As Previously Reported	Adjustments	As Restated
<b>Condensed Consolidated Statement of Cash Flows Data</b>			
<b>For the Six Months Ended June 30, 2007</b>			
Net loss	\$ (74,251)	\$ (15)	\$ (74,266)
Equity-based compensation	\$ 11,301	\$ 53	\$ 11,354
Condominium unit development expenditures	\$ -	\$ (58,634)	\$ (58,634)
Buyer deposit liability	\$ -	\$ 235	\$ 235
Net cash used in operating activities	\$ (41,831)	\$ (62,579)	\$ (104,410)
Payments for construction in progress to related parties	\$ (243,550)	\$ 56,404	\$ (187,146)
Net cash used in investing activities	\$ (1,680,546)	\$ 56,508	\$ (1,624,038)
Contributions	\$ 361,325	\$ (38)	\$ 361,287
Proceeds from buyer deposits available for construction	\$ 2,286	\$ (235)	\$ 2,051
Net cash provided by financing activities	\$ 1,767,820	\$ 6,071	\$ 1,773,891

### 3. FONTAINEBLEAU FLORIDA HOLDINGS, LLC TRANSACTION

On April 9, 2008, a wholly-owned indirect subsidiary of the Company and Nakheel Hotels FB US Miami LLC, (“Nakheel”) entered into a limited liability company agreement for Fontainebleau Nakheel Miami JV, LLC (the “Miami Joint Venture”), a 50/50 joint venture for the Miami Property. On April 9, 2008, the Company contributed 100% of its interests in Fontainebleau Florida Holdings, LLC (“Florida Holdings”), the owner of the Miami Property, to the Miami Joint Venture and Nakheel contributed \$375.0 million in cash. Of the cash contributed by Nakheel, \$112.5 million remained at the Miami Joint Venture and \$262.5 million was distributed to the Company and, combined with the Company’s \$3.8 million of negative basis in Florida Holdings, was recorded as a deferred gain.

In accordance with the provisions of Financial Interpretations No. 46R, *Variable Interest Entities*, the Company determined that the Miami Joint Venture is a variable interest entity and that Fontainebleau Resorts, through certain subsidiaries, is the primary beneficiary of the operating results of the Miami Joint Venture. Under the transaction agreements, from April 9, 2008 through the substantial completion date of the Florida Project, gains and losses of the Miami Joint Venture are allocated 98% to the Company and 2% to Nakheel. After the substantial completion date, gains and losses are allocated pro rata among the Company and Nakheel in accordance with their percentage ownership interests. In addition to the Company having substantial continuing involvement in the construction and operations of the Miami Property, the Company has made construction completion and debt guarantees to Nakheel. The results of operations, financial position and cash flows of the Miami Joint Venture are included within the unaudited condensed consolidated financial statements of Fontainebleau Resorts. The Company will reassess the requirements to consolidate the Miami Joint Venture upon completion of the Florida Project and upon changes in the terms of the management agreement discussed below.

Fontainebleau Resort Manager, LLC (“FB Resort Manager”), a wholly-owned and indirect subsidiary of the Company entered into a management agreement with the Miami Joint Venture for the Miami Property with a term of 30 years. The compensation for FB Resort Manager’s management services is a management fee equal to 3% of gross revenues and 1.5% of third party revenue of the Miami Property’s operations and an incentive fee of approximately 10% of operating income. There are no amounts accrued or payable under the management Agreement through December 31, 2014. The deferred management fees are considered to be included as a component of the deferred gain. Because of the uncertainty in

calculating the net present value of estimated fees to be earned by FB Resort Manager, no separate recognition of the deferred management fee has been made. Management fees will be recognized as income when earned by reducing the deferred gain described above.

Other contingent adjustments to capital contributions include, but are not limited to, the following:

- If legislation permitting gaming at the Miami Property is passed by December 31, 2012, subject to certain conditions, the Company will receive additional contingent consideration of \$75.0 million or \$90.0 million depending whether slot gaming or slot and table gaming is permitted, respectively.
- The Company will receive additional capital contributions of \$20.0 million from Nakheel if the net income of the Miami Joint Venture is at least \$93.2 million for the year ending December 31, 2012.
- The Company will make a repayment to Nakheel of \$50.0 million if legislation permitting gaming is not passed by December 31, 2012, subject to certain conditions.
- The Company will pay Nakheel up to \$10 million as part of a rental participation guarantee that the condominium/hotel rental participation will not be less than 88% as of January 1, 2013.
- The Company will pay liquidated damages to Nakheel if the Miami Property is not completed by February 28, 2009.

The Company has not recorded the two contingencies requiring Nakheel to make additional payments as the likelihood of their occurrence is not readily determinable. The effects of the repayments to Nakheel of a portion of its capital contribution have been deferred as they are either not readily determinable or are remote.

The transaction did not affect existing mortgages, pledges, and other collateral securing the existing debt related to the Miami Property and Nakheel JV Member took its interest in the Miami Joint Venture subject to the conditions of existing debt, as amended.

#### **4. CONDOMINIUM UNITS IN DEVELOPMENT AND CONDOMINIUMS HELD FOR SALE**

Condominium units in development represents the capitalized costs of wholly-owned real estate projects to be sold, which consisted entirely of condominium-hotel units in the Las Vegas Project at June 30, 2008, and condominium-hotel units in both the Miami Project and the Las Vegas Project at December 31, 2007. The balance includes land, direct construction and development costs, deferred sales commissions, property taxes and capitalized interest. Upon completion of the unit, the related cost is transferred to condominium units held for sale, which occurred in January 2008 for most of the Miami Project. The components at June 30, 2008 and December 31, 2007 were (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>
Land	\$ 17,456	\$ 51,814
Direct construction and development costs	126,535	154,620
Deferred selling costs	-	5,022
Capitalized interest	<u>3,934</u>	<u>8,633</u>
Condominium units in development	<u>\$ 147,925</u>	<u>\$ 220,089</u>
Land	\$ 34,358	
Direct construction and development costs	106,983	
Deferred selling costs	9,050	
Capitalized interest	<u>7,420</u>	
Total cost of condominium units developed	157,811	
Cumulative cost of sales of condominium units	<u>(109,563)</u>	
Condominium units held for sale	<u>\$ 48,248</u>	

## 5. PROPERTY AND EQUIPMENT - NET

Property and equipment consist of the following at June 30, 2008 and December 31, 2007 (in thousands):

	<u>June 30, 2008</u>	<u>December 31, 2007</u>	<u>Estimated Useful Lives</u>
Land	\$ 265,108	\$ 265,108	
Buildings	38,106	31,885	30-40 years
Leasehold improvements	1,186	1,186	1 - 1/2 years
Furniture, fixtures and equipment	7,325	4,553	1 - 5 years
Construction in progress:			
Development artwork	4,338	5,108	
Las Vegas Project	936,759	490,668	
Miami Project	394,084	227,060	
FB III Project (garage)	<u>6,224</u>	<u>6,224</u>	
	1,653,130	1,031,792	
Accumulated depreciation	<u>(6,023)</u>	<u>(4,826)</u>	
Property and equipment - net	<u>\$ 1,647,107</u>	<u>\$ 1,026,966</u>	
Capitalized interest included in CIP	<u>\$ 45,512</u>	<u>\$ 15,373</u>	

## 6. RELATED AND AFFILIATED PARTY TRANSACTIONS AND AGREEMENTS

As of June 30, 2008, approximately 74% and 59%, respectively, of the outstanding voting and economic interests in the Company were owned or controlled directly or indirectly by Jeffrey Soffer, one of the principals in Turnberry, a multi-service real estate development and property management business. Subsidiaries of Fontainebleau Resorts have entered into a variety of agreements with subsidiaries and affiliates of Turnberry, certain of which are highlighted below.

The Company had \$3.7 million and \$1.7 million of related party receivables at June 30, 2008 and December 31, 2007, respectively. The June 30, 2008 balance includes 1) a receivable of approximately \$1.0 million representing estimated withholding tax paid on behalf of a significant preferred unit holder; 2) a receivable of approximately \$0.6 million from Turnberry Aviation relating to excess billings paid by the Company for personal use of aircraft; and 3) a receivable of approximately \$1.4 million representing

construction-related amounts paid on behalf of Turnberry Construction Inc. ("TCI") and Turnberry West Construction, Inc. ("TWC"). The December 31, 2007 balance of \$1.7 million includes: 1) a receivable of approximately \$0.6 million from Turnberry Aviation relating to excess billings paid by the Company for personal use of aircraft; 2) a receivable of approximately \$0.6 million representing withholding tax paid on behalf of a significant preferred unit holder; and 3) a receivable of approximately \$0.5 million representing construction-related amounts paid on behalf of TCI and TWC.

Included in current liabilities are accounts payables to related parties at June 30, 2008 and December 31, 2007, in the amounts of \$0.5 million and \$1.5 million, respectively, the majority of which was due to a Turnberry Aviation entity for the use of its aircraft by Company executives.

Construction payables to related parties, construction retention payable to related parties (both current and long-term) and contractor fees payable to related parties represent amounts due to TCI and TWC for work on the Miami Project and the Las Vegas Project, respectively. The sum of these amounts increased by approximately \$109.9 million in the six months ended June 30, 2008, the result of increased development and construction activities at the Las Vegas Project.

*Credit Enhancement Fee Agreement* — In conjunction with the completion guarantees for the Las Vegas, Retail and Miami projects issued by Turnberry entities, subsidiaries of the Company entered into credit enhancement fee agreements that provide for: (i) a 1% annual credit enhancement fee that the Company will pay on the undrawn amount of the completion guarantee; (ii) repayment by the Company of any drawn amounts under the completion guarantee, plus accrued interest at 10% per annum; (iii) repayment by the Company of any amounts advanced in order to satisfy disbursement conditions under the Company's financing documents, plus accrued interest at 10% per annum; and (iv) repayment of any amounts paid pursuant to any title insurance indemnity, plus accrued interest at 10% per annum. The agreements are dated June 6, 2007, and are effective as long as the underlying payment guarantee exists. On May 15, 2008, the credit enhancement agreement for the Las Vegas Project was amended to reduce the amount of the guarantee subject to the credit enhancement fee from \$100.0 million to \$70.0 million. As of and for the six months ended June 30, 2008 and the year ended December 31, 2007, no payments have been made and \$5.0 million and \$2.7 million was accrued to fees payable to related parties, respectively.

*Subordination and Deferred Payment Agreements* — The Company and Subsidiaries entered into an affiliate subordination agreement with Turnberry Residential Limited Partners, L.P. ("TRLP"), TCI, and TWC, in favor of the lenders under the Company's Credit Facilities, Bank of America, N.A., as administrative agent, and Wells Fargo Bank, National Association, as trustee. This agreement subordinates the Company's obligations to pay (i) the construction fees to TWC and TCI under the construction contracts and (ii) the credit enhancement fees, repayment of amounts drawn under the completion guarantee and certain other amounts due under the credit enhancement fee agreements. The agreement is dated June 6, 2007, and is effective until all of the Company's subsidiaries obligations to the lenders under the Company's Credit Facilities have been satisfied. For the six months ended June 30, 2008 and the year ended December 31, 2007, no payments have been made and \$5.0 million and \$2.7 million has been accrued as fees payable to related parties, respectively.

## 7. FAIR VALUE MEASUREMENTS

As discussed in Note 1, effective January 1, 2008, the Company adopted the provisions of SFAS No. 157, "Fair Value Measurements," which defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles and expands disclosures about fair value measurements. SFAS 157 also clarifies that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants.



Exchange traded derivatives valued using quoted prices are classified within Level 1 of the valuation hierarchy. However, few classes of derivative contracts are listed on an exchange; thus, the majority of the Company's derivative positions are valued using readily observable market parameters and are classified within Level 2 of the valuation hierarchy. Such derivatives include basic interest rate caps, interest rate swaps, and interest rate collars. In some cases, derivatives may be valued based upon models with significant unobservable market parameters. These would be classified within Level 3 of the valuation hierarchy. As of June 30, 2008, the Company did not have any Level 3 classifications. See Note 8 for further details on the derivative instruments.

As of June 30, 2008 and December 31, 2007, all of our derivative instruments carried at fair value were measured using Level 2 inputs. At June 30, 2008, this included \$1.5 million of non-current and total assets, a \$1.2 million current liability and a \$29.2 million non-current liability, or \$30.4 million of total liabilities. At December 31, 2007, the Company's derivative instruments carried at fair value included a \$0.2 million current asset and a \$0.6 million non-current asset, or \$0.8 million of total assets, and \$29.6 million of non-current and total liabilities.

The current carrying amounts reflected in the accompanying unaudited condensed consolidated balance sheets for accounts receivable and accounts payable (including related party balances), accrued liabilities and construction payables, retention and contractor fees approximate their respective fair values because of their short-term maturities. The Company has \$675.0 million of Second Mortgage Notes with a coupon rate of 10.25% and a book value of \$675.0 million. The fair value of this fixed rate long-term debt at June 30, 2008 and December 31, 2007 was \$445.5 million and \$587.3 million, respectively, measured using trading values in active markets at the end of the reporting period based upon trading information from external sources. The carrying amounts of variable rate long-term debt currently approximate their respective fair values based on the regular resetting of interest rates. Management's fair value estimates for the fixed rate debt also approximate the carrying values of such debt.

## 8. DERIVATIVE INSTRUMENTS

The Company's credit agreements require that subsidiaries of the Company enter into hedging transactions to limit its exposure to interest rate fluctuations and the Company utilizes derivative financial instruments to manage its interest rate risk on variable interest borrowings. Although the Company's derivative instruments are highly effective in fixing interest rate exposure, not all of the Company's derivative financial instruments qualify for hedge accounting under SFAS No. 133, *Accounting for Derivative Financial Instruments and Hedging Activities, as amended*. For the derivative instruments that qualify, adjustments to record the change in fair market value of the agreements are reflected in other comprehensive income in members' equity. For the derivative instruments that do not qualify or are not designated as eligible, adjustments to record the change in fair market value of the agreements are reflected in unrealized loss on derivative instruments in the unaudited condensed consolidated statements of operations. The unpaid net settlements on hedging instruments are recorded as a receivable or a payable on the accompanying unaudited condensed consolidated balance sheets. The Company records settlements on derivative instruments as an adjustment to interest expense in the unaudited condensed consolidated statement of operations if the instrument qualifies for hedge accounting under SFAS 133. Net settlements on derivative instruments that do not qualify under SFAS 133 are recorded as an adjustment to unrealized loss on derivative instruments in the unaudited condensed consolidated statement of operations. See Note 7 for fair value information related to these instruments.

At June 30, 2008, the Company's subsidiaries were party to three interest rate caps with a total notional value of \$274.8 million (at June 30, 2008) accreting to \$440.0 million, seven interest rate swaps with a total notional value of \$666.0 million and nine interest rate collars with a total notional value accreting from \$669.0 million (at June 30, 2008) to \$1.2 billion.

The interest rate caps were effective July 2007. Notional amounts totaling \$400.0 million mature in November 2010 and notional amounts totaling \$40.0 million mature in July 2012. The agreements limit the Company's interest rate exposure on one-month LIBOR to no greater than a weighted-average 5.96%. The interest rate swaps were effective September 2007. Notional amounts totaling \$466.0 million mature in September 2010 and notional amounts totaling \$200.0 million mature in January 2012. The Company is paying a fixed interest rate and receiving interest at three-month LIBOR. The weighted-average fixed rate payable under these swaps is 4.91%.

The interest rate collars were effective September 2007 and October 2007. Notional amounts totaling \$234.0 million mature in September 2010 and notional amounts totaling \$250.0 million mature in March 2012. The agreement provides for a weighted-average cap of 5.60% and a weighted-average floor of 4.95%.

The net difference between the interest receivable and the interest payable under the interest rate agreements was a payable of \$1.2 million at June 30, 2008 and a receivable of \$0.2 million at December 31, 2007, which is included in 'other long-term liabilities' and 'deposits and other long-term assets', respectively, in the accompanying condensed consolidated balance sheets.

## 9. COMMITMENTS AND CONTINGENCIES

### Legal Matters

*Krystle Towers* — Fontainebleau Las Vegas II, LLC ("FBLV II" and formerly known as Krystle Towers, LLC) and Fontainebleau Las Vegas Holdings (together with FBLV II, the "Company Parties"), both wholly-owned indirect subsidiaries of the Company, were defendants, among others, in litigation filed March 28, 2005, in the District Court of Clark County, Nevada. The litigation is comprised of 35 consolidated cases in which the plaintiffs alleged that the Company Parties and certain other defendants wrongfully terminated the plaintiffs' purchase agreements for condominium units in a condominium development to be located on the Algiers property. On October 30, 2007, all parties executed a settlement agreement obligating the parties to fully release each other and dismiss all cases with prejudice upon the payment of \$6.0 million by the Company Parties and additional consideration by non-Company defendants. The Company recorded the expense and related liability for this settlement as of September 30, 2007 and made the \$6.0 million payment in January 2008. On January 30, 2008, all cases were dismissed with prejudice in accordance with the settlement agreement.

On July 17, 2007, a separate action that was initially filed in 2005 and later dismissed was refiled against the Company Parties by another potential purchaser of a condominium unit in the defunct condominium development. The plaintiff in this action, which was not consolidated with the other cases, made the same claims of an equitable interest in the property and monetary damages. On February 13, 2008, the case was dismissed with prejudice upon the payment of \$18,000 by the Company and additional consideration by non-Company defendants, and the execution of full releases by the parties.

*Termination of an Executive* — On May 4, 2006, the Company terminated an executive's employment with the Company, asserting a right to do so for cause. On May 17, 2006, the executive filed a Demand for Arbitration with the American Arbitration Association requesting damages in excess of \$5 million, plus fees and costs in connection with the termination of her employment under her employment agreement with the Company. However, the Company disputed the claims of the executive and filed a counter claim that claimed damages in excess of \$10 million and intended to vigorously defend the Demand for Arbitration.

In a related matter, on June 1, 2006, the Company's Board of Managers acted to invalidate, nullify, and void an action previously taken on January 31, 2006, in which the Board approved the acceleration of vesting of an additional 30% (258,750 Class A Units) of the executive's initial equity award of 862,500 Class A Units under the Company's Plan adopted by Equity. It is the Company's position that the senior executive holds 172,500 vested Class A Units in Equity, and has forfeited the remaining 690,000 Class A Units of the initial equity award granted under the Plan. In accordance with the Plan, any Class A Units granted to the executive that are forfeited will be reissued to SFALP and will not have an effect on the total number of outstanding Class A Units of Equity.

In February 2008, all parties agreed to a settlement that obligates the parties to fully release each other and to dismiss the arbitration with prejudice upon the payment by the Company to the estate of the terminated executive of \$4.5 million and the forgiveness of \$0.2 million in amounts receivable from the terminated executive. The settlement was recorded as a settlement of litigation expense in the consolidated statement of operations for the year ended December 31, 2007. On May 23, 2008, the Company paid \$1.0 million of the \$4.5 million settlement. The remaining \$3.5 million unpaid settlement liability at June 30, 2008 is recorded as an accrued expense within current liabilities on the accompanying condensed consolidated balance sheet as of June 30, 2008. The Company is required to pay \$2.0 million of the settlement by September 15, 2008 and the remaining \$1.5 million by December 31, 2008.

The parties further agreed that the terminated executive holds a total of 220,000 vested Class A Units of Equity. All remaining Class A Units of the initial equity award granted to the executive on May 11, 2005, under the Incentive Award Plan were forfeited.

***Biloxi*** — In October 2005, the Company considered entry into the Biloxi, Mississippi market in light of changes to the Mississippi laws following Hurricane Katrina to permit land-based casinos. The Company was approached by an investor ("Investor") who proposed a joint venture to develop a hotel, condominium and casino project (referred to as the "Biloxi project"). The Company was unsuccessful in negotiating the acquisition of a key property to enter the market and discontinued efforts to enter the market. The Company paid \$0.3 million as 50% of a deposit on a parcel of land called the Hancock Bank site, with the expectation by the Company of a successful Biloxi project. Investor also expected that the Company would be successful and purchased or made additional deposits toward the purchase of, the Hancock Bank site and six other properties that could provide contiguous land for the proposed Biloxi project. In May 2006, Investor submitted to the Company a request for reimbursement for the Company's purported 80% share of the \$7.3 million in acquisition and other costs that Investor had paid.

Because no formal joint venture with Investor was consummated and the Company does not hold legal title to any of the properties involved, the Company recorded only the \$0.3 million deposit as of December 31, 2005. The Company's \$0.3 million deposit was forfeited on June 27, 2006 and written off. In April 2008, following approximately two years without further demand by the Investor, the Company received a notice of claim from counsel representing the estate of the now deceased Investor for reimbursement of an unspecified amount for the Company's purported share of the acquisition price and maintenance costs for land acquired by the Investor. No proceeding has been filed against the Company. The Company intends to vigorously dispute the claim, denies that any joint venture was formed or that it has any obligation to Investor's estate to reimburse any sums expended by Investor and asserts that Investor's actions to acquire land were made individually by the Investor without any participation by the Company.

***Turnberry Place*** — On July 27, 2007, certain residents (the "Petitioners") of the Turnberry Place condominium complex filed suit in Clark County District Court against the Clark County Board of Commissioners (the "County Board"), petitioning the court to set aside a special use permit granted by the County Board that allowed the Company to increase the height of the parking garage/convention center complex (the "Garage Complex") at the Las Vegas Project on the basis that the Garage Complex violated residential zoning standards. On August 9, 2007, the Company intervened in the action to oppose the

residents' petition. The Petitioners requested that the court order construction to be halted on the Garage Complex, the special use permit be set aside, and the County Board to set the matter for rehearing so that the Petitioners can have adequate time to present their case to the County Board. On October 19, 2007, the court affirmed the decision of the County Board and denied the petition in its entirety. On or about November 8, 2007, the Petitioners filed a Notice of Appeal with the Supreme Court of Nevada. The Petitioners and Company representatives attended a court mandated settlement conference on February 7, 2008, but did not reach a settlement. The parties are in the process of filing briefs with the Supreme Court of Nevada.

**FB III** — The Company is also a party to five lawsuits by purchasers of units in FB III asserting a right not to close. The first lawsuit was filed on January 8, 2007 and settled on August 14, 2008. Settlement terms included the purchaser/plaintiff terminating his interest in the purchase agreement for one unit, and applying the deposit from this unit to the purchase of the second unit under contract, such that FB III did not have to provide any additional cash outlay. The second lawsuit was filed on March 7, 2008, and is currently in discovery. The remaining lawsuits were filed on May 23, May 27, 2008 and June 18, 2008, respectively, and are in the preliminary stages. All of these lawsuits are filed in the Circuit Court of the Eleventh Judicial Circuit in Miami Dade County, Florida. No substantive rulings have been made in any case.

The Company has also received and continues to receive notices of objections to closing brought by purchasers of units in FB III, asserting a right not to close as well as requests to terminate the purchase agreements. As of June 30, 2008, the Company has agreed to allow the rescission of purchase agreements for three units with an aggregate purchase price of \$2.1 million and to refund the deposits in the amount of \$0.6 million. The unit purchase and sale agreements provide that if they are terminated by the purchaser, the Company is entitled to retain the deposit amount equal to 15% of the purchase price as liquidated damages, and will refund the balance to the purchaser. The Company is in the process of working with purchasers who have requested to terminate the purchase and sale agreements and is continually evaluating the remainder of the claims.

In addition, Fontainebleau Florida Tower 3, LLC and Fontainebleau 3 Garage/Restaurant, LLC (the "FB3 Parties"), two fifty-percent owned indirect subsidiaries of the Company, are parties to a lawsuit brought by a subcontractor on the FB III project. The subcontractor asserts that it is owed \$0.5 million for labor and materials, and asserts claims of unjust enrichment and an equitable lien against the FB3 Parties. The Company has tendered the defense of the action to the general contractor on the project.

The Company is also a party to other claims and litigation related to its business. While it is not possible to predict with certainty the outcome of these cases, management believes that the ultimate disposition of these matters will not have a material adverse effect on the Company's consolidated financial condition, results of operations, or cash flows.

## 10. GUARANTOR FINANCIAL STATEMENTS

In June 2007, Fontainebleau Las Vegas Holdings, LLC ("FBLV Holdings") and Fontainebleau Las Vegas Capital Corp., LLC ("Capital", and collectively with FBLV Holdings, the "Issuers"), both wholly-owned indirect subsidiaries of the Company, issued \$675.0 million of 10.25% Second Mortgage Notes due 2015 ("Second Mortgage Notes"). Fontainebleau Las Vegas LLC ("FBLV"), Fontainebleau Las Vegas II, LLC ("FBLV II"), and Fontainebleau Resort Properties I, LLC ("FBRP I") (collectively referred to as the "Guarantor Subsidiaries" and all of which are wholly-owned indirect subsidiaries of Fontainebleau Resorts), the Issuers and the Company all provided full and unconditional guarantees on a joint and several basis in connection with the issuance of the Second Mortgage Notes. However, the guarantee provided by FBRP I is subordinated to its guarantee of a bank loan. The following condensed consolidating financial statements present information related to Fontainebleau Resorts (referred to as "Parent" in the following

tables), the Issuers, the Guarantor Subsidiaries and the nonguarantor subsidiaries of the Company as of June 30, 2008 and December 31, 2007 and for the three and six months ended June 30, 2008 and 2007.

The following condensed consolidating information is presented in the form provided because: (i) the Guarantor Subsidiaries are wholly-owned subsidiaries of FBLV Holdings (an issuer of the Second Mortgage Notes); (ii) the guarantees are considered to be full and unconditional (that is, if the Issuers fail to make a scheduled payment, the Guarantor Subsidiaries are obligated to make the scheduled payment immediately and, if they do not, any holder of the Second Mortgage Notes may immediately bring suit directly against the Guarantor Subsidiaries for payment of all amounts due and payable); and (iii) the guarantees are joint and several.

June 30, 2008

	Parent	Issuors	Guarantor Subsidiaries	Non - Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>						
<b>CURRENT ASSETS</b>						
Cash and cash equivalents	\$ 45,603	\$ -	\$ 118,282	\$ 8,625	\$ -	\$ 172,710
Buyer deposits in escrow	-	-	-	9,088	-	9,088
Restricted cash	-	-	-	756	-	756
Accounts receivable, net	-	-	-	1,561	-	1,561
Insurance receivable	-	-	2,017	-	-	2,017
Receivables from related parties	1,574	-	943	660	-	3,377
Receivable from affiliated entity	-	-	25,167	-	(25,167)	-
Inventories	-	-	-	137	-	137
Prepaid expenses and other current assets	473	-	4,436	1,095	-	6,004
Condominium units held for sale	-	-	-	48,248	-	48,248
Total current assets	47,650	-	150,845	70,570	(25,167)	243,898
CONDOMINIUM UNITS IN DEVELOPMENT	-	-	147,925	-	-	147,925
PROPERTY AND EQUIPMENT - NET	6,630	28,508	1,010,284	603,675	-	1,647,107
<b>OTHER ASSETS:</b>						
Restricted cash	-	20,239	707,381	60,587	-	788,607
Deferred financing fees	166	18,597	25,056	18,498	-	62,317
Receivables from related parties	-	-	337	-	-	337
Other intangible assets, net	-	-	-	46,639	-	46,639
Deposits and other non-current assets	71	-	1,983	11,619	-	13,672
Investment in subsidiaries	41,000	121,205	-	-	(162,205)	-
Goodwill	-	-	-	62,020	-	62,020
Total other assets	41,237	160,041	734,767	198,762	(162,205)	973,592
<b>TOTAL ASSETS</b>	<b>\$ 95,517</b>	<b>\$ 186,549</b>	<b>\$ 2,043,821</b>	<b>\$ 874,007</b>	<b>\$ (187,372)</b>	<b>\$ 3,012,522</b>
<b>LIABILITIES AND MEMBERS' EQUITY (DEFICIT)</b>						
<b>CURRENT LIABILITIES</b>						
Accounts payable	\$ 1,096	\$ -	\$ 1,684	\$ 10,317	\$ -	\$ 13,097
Accounts payable to related parties	525	-	-	-	-	525
Construction payables to related parties	-	-	105,141	38,260	-	141,401
Construction retention payable to related parties	-	-	20,170	18,814	-	38,984
Construction payable to affiliated entity	-	-	-	25,167	(25,167)	-
Accrued interest	-	3,138	3,643	2,177	-	8,958
Accrued expenses	5,581	1,372	1,074	4,943	-	12,970
Residential sales deposits	-	-	-	16,172	-	16,172
Condominium unit guarantee payable	-	-	-	2,568	-	2,568
Other current liabilities	1	-	18	5,070	-	5,089
Current portion of long-term debt	-	-	-	-	-	-
Total current liabilities	7,203	4,508	131,730	121,488	(25,167)	239,762
<b>LONG - TERM LIABILITIES</b>						
Long-term debt, net of current portion	-	675,000	700,000	768,340	-	2,141,340
Investment in subsidiaries	323,437	-	-	-	(323,437)	-
Construction retention and contractor fees payable to related parties	-	-	53,574	10,523	-	64,497
Fees payable to related parties	-	-	1,045	3,554	-	4,999
Deferred gain	-	-	-	266,303	-	266,303
Other long-term liabilities	160	-	535	1,268	-	1,961
Fair value of derivative instruments	-	-	18,548	12,620	-	29,168
Total long - term liabilities	323,597	675,000	771,700	1,061,428	(323,437)	2,506,288
<b>TOTAL LIABILITIES</b>	<b>330,800</b>	<b>679,508</b>	<b>903,430</b>	<b>1,182,914</b>	<b>(348,604)</b>	<b>2,746,048</b>
MINORITY INTEREST	-	-	-	52,401	-	52,401
<b>MEMBERS' EQUITY (DEFICIT)</b>						
Members' equity - Class A units	-	-	-	-	-	-
Members' equity - Series A non voting units	-	-	-	-	-	-
Members' equity - Series B voting units	-	-	-	-	-	-
Preferred units	210,171	-	-	-	-	210,171
Contributed capital	13,122	(430,138)	1,250,900	(168,408)	(162,205)	503,273
Accumulated deficit	(458,576)	(62,821)	(83,925)	(184,092)	323,437	(475,977)
Accumulated other comprehensive loss	-	-	(16,584)	(8,610)	-	(25,394)
Total members' equity (deficit)	(235,283)	(492,959)	1,140,391	(361,308)	161,232	212,073
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY (DEFICIT)</b>	<b>\$ 95,517</b>	<b>\$ 186,549</b>	<b>\$ 2,043,821</b>	<b>\$ 874,007</b>	<b>\$ (187,372)</b>	<b>\$ 3,012,522</b>

December 31, 2007 (RESTATED)						
	Parent	Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>						
<b>CURRENT ASSETS:</b>						
Cash and cash equivalents	\$ 20,741	\$ -	\$ 10,191	\$ 3,968	\$ -	\$ 34,898
Restricted cash	-	-	-	23,336	-	23,336
Accounts receivable, net	-	-	-	1,810	-	1,810
Insurance receivable	-	-	3,275	-	-	3,275
Receivables from related parties	1,081	-	-	367	-	1,448
Receivable from affiliated entity	-	-	12,476	-	(12,476)	-
Inventories	-	-	-	104	-	104
Prepaid expenses and other current assets	242	-	678	590	-	1,510
Total current assets	22,064	-	26,620	30,173	(12,476)	66,381
CONDOMINIUM UNITS IN DEVELOPMENT	-	-	-	220,089	-	220,089
PROPERTY AND EQUIPMENT - NET	7,302	10,700	669,804	340,160	-	1,028,966
<b>OTHER ASSETS:</b>						
Restricted cash	25,000	375,666	731,546	7,307	-	1,139,519
Deferred financing fees	-	19,454	34,092	21,741	-	75,287
Receivables from related parties	-	-	237	-	-	237
Other intangible assets, net	-	-	-	48,807	-	48,807
Deposits and other non-current assets	68	-	700	4,244	-	5,012
Goodwill	-	-	-	62,020	-	62,020
Investment in subsidiaries	41,000	121,205	-	-	(162,205)	-
Total other assets	66,068	516,325	766,575	142,119	(162,205)	1,323,882
<b>TOTAL ASSETS</b>	<b>\$ 95,434</b>	<b>\$ 527,025</b>	<b>\$ 1,461,999</b>	<b>\$ 732,541</b>	<b>\$ (174,681)</b>	<b>\$ 2,642,318</b>
<b>LIABILITIES AND MEMBERS' EQUITY (DEFICIT)</b>						
<b>CURRENT LIABILITIES:</b>						
Accounts payable	\$ 919	\$ -	\$ 321	\$ 8,527	\$ -	\$ 9,767
Accounts payable to related parties	1,474	-	20	4	-	1,507
Construction payables to related parties	-	-	55,715	24,367	-	80,082
Construction retention payable to related parties	-	-	1,309	14,529	-	15,838
Construction payable to affiliated entity	-	-	-	12,478	(12,476)	-
Accrued interest	-	2,883	4,083	2,275	-	9,241
Accrued expenses	8,545	-	8,526	1,953	-	15,024
Residential sales deposits	-	-	-	60,704	-	60,704
Condominium unit guarantee payable	-	-	-	3,314	-	3,314
Other current liabilities	1	-	9	2,538	-	2,548
Current portion of long-term debt	-	-	-	71,779	-	71,779
Total current liabilities	8,939	2,883	67,992	202,466	(12,476)	269,804
<b>LONG-TERM LIABILITIES:</b>						
Long-term debt, net of current portion	-	675,000	700,000	674,739	-	2,049,739
Investment in subsidiaries	248,025	-	-	-	(248,025)	-
Construction retention and contractor fees payable to related parties	-	-	34,278	4,755	-	39,033
Fees payable to related parties	-	-	578	2,109	-	2,687
Other long-term liabilities	-	-	586	1,287	-	1,873
Fair value of derivative instruments	-	-	16,190	13,407	-	29,597
Total long-term liabilities	248,025	675,000	751,612	696,297	(248,025)	2,122,909
<b>TOTAL LIABILITIES</b>	<b>254,964</b>	<b>677,883</b>	<b>819,604</b>	<b>898,763</b>	<b>(258,501)</b>	<b>2,392,713</b>
<b>MEMBERS' EQUITY (DEFICIT)</b>						
Members' equity - Series A non voting units	-	-	-	-	-	-
Members' equity - Series B voting units	-	-	-	-	-	-
Preferred units	197,129	-	-	-	-	197,129
Contributed capital	(7,780)	(107,385)	722,002	(915)	(162,205)	443,731
Accumulated deficit	(348,873)	(43,493)	(63,942)	(155,991)	246,025	(388,274)
Accumulated other comprehensive loss	-	-	(15,665)	(9,310)	-	(24,981)
Total members' equity (deficit)	(158,530)	(150,858)	642,395	(165,222)	63,820	249,605
<b>TOTAL LIABILITIES AND MEMBERS EQUITY (DEFICIT)</b>	<b>\$ 66,434</b>	<b>\$ 527,025</b>	<b>\$ 1,461,999</b>	<b>\$ 732,541</b>	<b>\$ (174,681)</b>	<b>\$ 2,642,318</b>

Three Months Ended June 30, 2008						
	Parent	Issuer Subsidiaries	Guarantor Subsidiaries	Non - Guarantor Subsidiaries	Eliminations	Consolidated
<b>REVENUES:</b>						
Sale of condominium units	\$ -	\$ -	\$ -	\$ 16,370		16,370
Hotel	-	-	-	5,400		5,400
Food and beverage	-	-	-	663		663
Retail	-	-	-	27		27
Other	-	-	-	2,456		2,456
Total revenues	-	-	-	24,916	-	24,916
<b>OPERATING EXPENSES:</b>						
Cost of sales of condominium units	-	-	-	14,565		14,565
Hotel	-	-	-	4,994		4,994
Food and beverage	-	-	-	1,526		1,526
Retail	-	-	-	52		52
Other	-	-	-	698		698
General and administrative	176	14	204	7,838		8,232
Corporate	11,584	-	-	-		11,584
Gain on sales of assets	(200)	-	-	-		(200)
Preopening	-	-	4,646	493		5,139
Depreciation and amortization	207	-	123	414		744
Equity in loss of subsidiaries	32,807	-	-	-	(32,807)	-
Total operating expenses	44,574	14	4,973	30,580	(32,807)	47,334
<b>LOSS FROM OPERATIONS</b>	(44,574)	(14)	(4,973)	(5,664)	32,807	(22,410)
<b>NON-OPERATING (INCOME) EXPENSES:</b>						
Interest income	(307)	(315)	(4,759)	(1,112)		(6,494)
Interest expense - net of capitalized interest	-	9,408	17,254	13,465		40,127
Unrealized loss on derivative instruments - net of settlements	-	-	(4,383)	(7,355)		(11,738)
Other	-	-	-	(1)		(1)
Total non-operating expenses	(307)	9,092	8,112	4,997	-	21,894
<b>NET LOSS BEFORE MINORITY INTEREST</b>	(44,267)	(9,106)	(13,085)	(10,661)	32,807	(44,312)
<b>MINORITY INTEREST</b>	-	-	-	45		45
<b>NET LOSS</b>	<u>\$ (44,267)</u>	<u>\$ (9,106)</u>	<u>\$ (13,085)</u>	<u>\$ (10,616)</u>	<u>\$ 32,807</u>	<u>\$ (44,267)</u>



Three Months Ended June 30, 2007

	Parent	Issuer Subsidiaries	Guarantor Subsidiaries	Non - Guarantor Subsidiaries	Eliminations	Consolidated
<b>REVENUES:</b>						
Hotel	\$ -	\$ -	\$ -	\$ 4,605	\$ -	\$ 4,605
Food and beverage	-	-	-	680	-	680
Retail	-	-	-	31	-	31
Other	-	-	-	605	-	605
Total revenues	-	-	-	5,921	-	5,921
<b>OPERATING EXPENSES:</b>						
Hotel	-	-	-	4,718	-	4,718
Food and beverage	-	-	-	1,123	-	1,123
Retail	-	-	-	26	-	26
Other	-	-	-	369	-	369
General and administrative	96	50	664	4,695	-	5,505
Corporate	20,805	-	-	-	-	20,805
Gain on sales of assets	-	-	-	(112)	-	(112)
Preopening	-	-	2,163	(24)	-	2,139
Depreciation and amortization	180	-	3	371	-	554
Equity in loss of subsidiaries	29,204	-	-	-	(29,204)	-
Total operating expenses	50,285	50	2,830	11,165	(29,204)	35,127
<b>LOSS FROM OPERATIONS</b>	<b>(50,285)</b>	<b>(50)</b>	<b>(2,830)</b>	<b>(5,245)</b>	<b>29,204</b>	<b>(29,206)</b>
<b>NON-OPERATING (INCOME) EXPENSES:</b>						
Interest income	(231)	(1,970)	(2,852)	(510)	-	(5,563)
Interest expense - net of capitalized interest	1,017	8,926	556	13,576	-	24,075
Unrealized loss on derivative instruments - net of settlements	-	(146)	-	(135)	-	(281)
Deferred financing fees - write off	-	2,494	-	1,149	-	3,643
Other	(11)	-	(9)	-	-	(20)
Total non-operating expenses	775	9,304	(2,305)	14,080	-	21,854
<b>NET LOSS</b>	<b>\$ (51,060)</b>	<b>\$ (9,354)</b>	<b>\$ (525)</b>	<b>\$ (19,325)</b>	<b>\$ 29,204</b>	<b>\$ (51,060)</b>

Six Months Ended June 30, 2008

	Parent	Issuer Subsidiaries	Guarantor Subsidiaries	Non - Guarantor Subsidiaries	Eliminations	Consolidated
<b>REVENUES:</b>						
Sale of condominium units	\$ -	\$ -	\$ -	\$ 123,148	\$ -	\$ 123,148
Hotel	-	-	-	12,589	-	12,589
Food and beverage	-	-	-	1,490	-	1,490
Retail	-	-	-	53	-	53
Other	-	-	-	3,224	-	3,224
Total revenues	-	-	-	140,504	-	140,504
<b>OPERATING EXPENSES:</b>						
Cost of sales of condominium units	-	-	-	109,563	-	109,563
Hotel	-	-	-	10,839	-	10,839
Food and beverage	-	-	-	2,786	-	2,786
Retail	-	-	-	199	-	199
Other	-	-	-	1,249	-	1,249
General and administrative	371	258	401	14,324	-	15,354
Corporate	19,348	-	-	-	-	19,348
Gain on sales of assets	(200)	-	-	-	-	(200)
Preopening	-	-	7,855	622	-	8,477
Depreciation and amortization	406	-	233	742	-	1,381
Equity in loss of subsidiaries	77,366	-	-	-	(77,366)	-
Total operating expenses	97,291	258	8,489	140,324	(77,366)	168,996
<b>INCOME (LOSS) FROM OPERATIONS</b>	(97,291)	(258)	(8,489)	180	77,366	(28,492)
<b>NON-OPERATING (INCOME) EXPENSES:</b>						
Interest income	(675)	(2,195)	(11,696)	(1,780)	-	(16,346)
Interest expense - net of capitalized interest	-	21,266	34,174	30,103	-	85,543
Unrealized loss on derivative instruments - net of settlements	-	-	(983)	(42)	-	(1,025)
Other	-	-	-	(1)	-	(1)
Total non - operating expenses	(675)	19,071	21,493	28,280	-	68,169
<b>NET LOSS BEFORE MINORITY INTEREST</b>	(96,616)	(19,329)	(29,982)	(28,100)	77,366	(96,661)
<b>MINORITY INTEREST</b>	-	-	-	45	-	45
<b>NET LOSS</b>	<u>\$ (96,616)</u>	<u>\$ (19,329)</u>	<u>\$ (29,982)</u>	<u>\$ (28,055)</u>	<u>\$ 77,366</u>	<u>\$ (96,616)</u>

	Six Months Ended June 30, 2007					
	Parent	Issuer Subsidiaries	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
<b>REVENUES:</b>						
Hotel	\$ -	\$ -	\$ -	\$ 12,714	\$ -	\$ 12,714
Food and beverage	-	-	-	1,675	-	1,675
Retail	-	-	-	84	-	84
Other	7	-	-	1,339	-	1,346
Total revenues	<u>7</u>	<u>-</u>	<u>-</u>	<u>15,812</u>	<u>-</u>	<u>15,819</u>
<b>OPERATING EXPENSES:</b>						
Hotel	-	-	-	11,500	-	11,500
Food and beverage	-	-	-	2,402	-	2,402
Retail	-	-	-	64	-	64
Other	-	-	-	736	-	736
General and administrative	166	50	799	9,144	-	10,159
Corporate	26,460	-	-	-	-	26,460
(Gain) / loss on sales of assets	-	-	-	(112)	-	(112)
Preopening	-	-	2,643	-	-	2,643
Depreciation and amortization	355	-	3	699	-	1,057
Equity in loss of subsidiaries	46,489	-	-	-	(46,489)	-
Total operating expense	<u>73,470</u>	<u>50</u>	<u>3,445</u>	<u>24,433</u>	<u>(46,489)</u>	<u>54,909</u>
<b>LOSS FROM OPERATIONS</b>	<b>(73,463)</b>	<b>(50)</b>	<b>(3,445)</b>	<b>(8,621)</b>	<b>46,489</b>	<b>(39,090)</b>
<b>NON-OPERATING (INCOME) EXPENSES:</b>						
Interest income	(231)	(1,970)	(2,944)	(666)	-	(5,811)
Interest expense - net of capitalized interest	1,060	11,605	1,639	23,308	-	37,612
Unrealized loss on derivative instruments - net of settlements	-	(122)	-	(104)	-	(223)
Deferred financing fees - write off	-	2,494	-	1,149	-	3,643
Other	(26)	-	(21)	2	-	(45)
Total non-operating expenses	<u>803</u>	<u>12,007</u>	<u>(1,326)</u>	<u>23,692</u>	<u>-</u>	<u>35,176</u>
<b>NET LOSS</b>	<b>\$ (74,266)</b>	<b>\$ (12,057)</b>	<b>\$ (2,119)</b>	<b>\$ (32,313)</b>	<b>\$ 46,489</b>	<b>\$ (74,266)</b>

	Six Months ended June 30, 2008					
	Parent	Issuers	Guarantor Subsidiaries	Non-guarantor Subsidiaries	Eliminations	Consolidated
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>						
Net loss	\$ (96,616)	\$ (10,329)	\$ (29,982)	\$ (28,055)	\$ 77,366	(96,616)
<i>Adjustments to reconcile net loss to net cash used in operating activities:</i>						
Depreciation and amortization	406	-	233	743	-	1,382
Amortization of deferred financing fees	-	2,162	9,035	5,277	-	16,474
Amortization of condominium unit guarantee	-	-	-	282	-	282
Equity-based compensation	2,573	-	675	-	-	3,248
Change in market value of derivative instruments - net of settlements	-	-	(983)	(42)	-	(1,025)
Change in derivative instrument liability	-	-	-	(637)	-	(637)
Cost of sales of condominium units	-	-	-	109,563	-	109,563
Reserve for doubtful accounts	-	-	-	-	-	-
Application of buyer deposits	-	-	-	14,248	-	14,248
Gain on sales of asset	(200)	-	-	-	-	(200)
Deferred gain on sale of interest in Florida Holdings	-	-	-	262,500	-	262,500
Interest paid in kind	-	-	-	11,201	-	11,201
Fees payable to related parties	-	-	467	1,845	-	2,312
Equity in income of affiliates	(77,366)	-	-	-	77,366	-
<i>Changes in operating assets and liabilities:</i>						
Accounts receivable, net	(1)	-	-	250	-	249
Insurance receivable	-	-	1,257	-	-	1,257
Receivables from related parties	(492)	-	(1,043)	(493)	-	(2,028)
Inventories	-	-	-	(33)	-	(33)
Prepaid expenses and other current assets	(230)	-	(4,244)	(506)	-	(4,980)
Condominium unit development expenditures	-	-	(73,225)	(12,422)	-	(85,647)
Deposits and non-current other assets	(4)	-	(1,546)	(7,303)	-	(8,853)
Accounts payable	177	-	1,362	1,791	-	3,330
Accounts payable to related parties	(949)	-	(29)	(4)	-	(982)
Accrued interest	-	253	(440)	(98)	-	(285)
Accrued expenses	(964)	1,372	(5,442)	2,980	-	(2,054)
Buyer deposits liability	-	-	-	(44,532)	-	(44,532)
Other current liabilities	-	-	-	2,541	-	2,541
Condominium unit guarantee payable	-	-	-	(746)	-	(746)
Other long-term liabilities	160	-	144	(1)	-	303
Net cash (used in) provided by operating activities	(173,506)	(15,542)	(103,761)	318,349	154,732	180,272
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>						
Payments for property and equipment	(504)	-	(1,345)	(928)	-	(2,777)
Payments for construction in progress to related parties	-	(15,808)	(339,191)	(153,427)	-	(508,426)
Proceeds from sale of property	970	-	-	-	-	970
Reductions (additions) to restricted cash	25,000	355,427	24,165	(54,436)	-	350,156
Net cash (used in) provided by investing activities	25,466	339,619	(316,371)	(208,791)	-	(160,077)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>						
Proceeds from Scotia loan	-	-	-	7,005	-	7,005
Proceeds from the Senior Credit Facility	-	-	-	80,400	-	80,400
Contributions	18,336	-	205,450	(111,286)	-	112,500
Distributions to affiliated entities	-	(322,773)	322,773	-	-	-
Payments on Scotia loan	-	-	-	(78,784)	-	(78,784)
Payments of deferred financing fees	(166)	(1,304)	-	(2,034)	-	(3,504)
Net cash (used in) provided by financing activities	18,170	(324,077)	528,223	(104,699)	-	117,617
NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS	(129,870)	-	108,091	4,859	154,732	137,812
CASH AND CASH EQUIVALENTS - Beginning of period	20,741	-	10,191	3,966	-	34,898
CASH AND CASH EQUIVALENTS - End of period	\$ (109,129)	\$ -	\$ 118,282	\$ 8,825	\$ 154,732	\$ 172,710

Six Months Ended June 30, 2007 (RESTATED)						
CASH FLOWS FROM OPERATING ACTIVITIES:	Parent	Issuer	Guarantor Subsidiaries	Non-guarantor Subsidiaries	Eliminations	Consolidated
Net loss	\$ (74,266)	\$ (12,057)	\$ (2,119)	\$ (32,313)	\$ 46,489	(74,266)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:						
Depreciation and amortization	355	-	3	700	-	1,058
Amortization of deferred financing fees	49	1,200	412	3,432	-	5,093
Amortization of condominium unit guarantees	-	-	-	960	-	960
Deferred financing fees - write off	521	2,494	-	628	-	3,643
Equity-based compensation	10,382	-	972	-	-	11,354
Change in market value of derivative instruments - net of settlements	-	-	(122)	(101)	-	(223)
Reserve for doubtful accounts	-	-	-	(7)	-	(7)
Gain on sale of asset	-	-	-	(112)	-	(112)
Interest paid in kind	-	-	1,897	-	-	1,897
Equity in net loss of subsidiaries	46,489	-	-	-	(46,489)	-
Changes in operating assets and liabilities:						
Accounts receivable, net	503	-	(500)	(461)	-	(458)
Receivables from related parties	(36)	-	(237)	236	-	(37)
Inventories	-	-	-	15	-	15
Prepaid expenses and other current assets	(226)	-	150	(121)	-	(187)
Condominium unit development expenditures	-	-	(23,350)	(35,284)	-	(58,634)
Deposits and other assets non-current	40	497	(80)	115	-	572
Accounts payable	2,215	(403)	(27)	2,649	-	4,634
Accounts payable to related parties	828	-	-	(1)	-	827
Accrued interest	-	7,598	-	1,252	-	8,850
Accrued expenses	(290)	-	192	(2,128)	-	(2,227)
Buyer deposits liability	-	-	-	235	-	235
Other current liabilities	118	-	-	(1,248)	-	(1,130)
Accrued bonuses	(6,894)	-	-	-	-	(6,894)
Condominium unit guarantee payable	-	-	-	-	-	-
Other long-term liabilities	-	-	637	-	-	637
Deferred income	-	-	-	-	-	-
Net cash (used in) provided by operating activities	(20,212)	(671)	(22,172)	(61,355)	-	(104,410)
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>						
Payments for property and equipment	(175)	-	(63)	(196)	-	(434)
Payments for construction in progress to related parties	(3,780)	(3,845)	(134,227)	(45,294)	-	(187,146)
Proceeds from sale of property	-	-	-	112	-	112
Reduction to restricted cash	(25,090)	(660,095)	(752,489)	1,104	-	(1,436,570)
Net cash used in investing activities	(29,045)	(663,940)	(886,779)	(44,274)	-	(1,624,038)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>						
Proceeds from the Miami Senior Credit Facilities	-	-	-	280,829	-	280,829
Proceeds from Scotia loan	-	-	-	19,525	-	19,525
Proceeds from the Prudential loan	-	-	-	32,500	-	32,500
Proceeds from Miami Mezzanine loan	-	-	-	40,000	-	40,000
Proceeds from the Las Vegas Senior Credit Facility	-	-	700,000	-	-	700,000
Proceeds from the Second Mortgage Notes	-	675,000	-	-	-	675,000
Proceeds from the Retail Senior loan	-	-	-	125,400	-	125,400
Proceeds from the Mezzanine Real loan	-	-	-	85,000	-	85,000
Proceeds from the PIK preferred private placement	182,955	-	-	-	-	182,955
Proceeds from the senior credit facility	-	-	-	85,368	-	85,368
Proceeds from buyer deposits available for construction	-	-	-	2,051	-	2,051
Proceeds from termination of derivative instruments	-	1,534	-	2,046	-	3,580
Proceeds from related party	43,872	-	-	-	-	43,872
Contributed capital	(91,476)	158,241	297,822	(3,300)	-	361,287
Distributed capital	-	-	-	-	-	-
Payment to related party	(43,872)	-	-	-	-	(43,872)
Payment of the Sofier preferred unit	-	-	(45,813)	-	-	(45,813)
Payment on the Prudential loan	-	-	-	(199,099)	-	(199,099)
Payments on Senior Credit Facility	-	(150,000)	-	-	-	(150,000)
Payments on Senior Credit Facility	-	-	-	(339,035)	-	(339,035)
Payments for deferred financing fees	(521)	(20,164)	(41,225)	(23,747)	-	(85,657)
Net cash provided by financing activities	90,958	664,611	910,784	107,538	-	1,773,891
NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS	41,701	-	1,833	1,909	-	45,443
CASH AND CASH EQUIVALENTS - Beginning of period	(8,637)	-	9,678	(292)	-	749
CASH AND CASH EQUIVALENTS - End of period	\$ 33,064	\$ -	\$ 11,511	\$ 1,617	\$ -	\$ 46,192

## 11. SUBSEQUENT EVENTS

In July 2008, a wholly-owned indirect subsidiary of Fontainebleau Resorts signed a non-binding memorandum of understanding with Istithmar Hotels FZE, an affiliate of Nakheel PJSC, regarding the potential formation of a joint venture initially to develop a luxury hotel and resort at the crown of the Palm Jebel Ali, Dubai. The joint venture is expected to be a 50-50 joint venture, with each party contributing the same initial consideration to the development of the resort. A Company subsidiary would serve as the developer of the project and earn a development fee in connection with those services. It is also contemplated that a separate wholly-owned indirect subsidiary of Fontainebleau Resorts would serve as the resort manager of the resort and earn a separate fee. Any such development would be subject to, among other things, obtaining adequate financing, securing appropriate land, and securing appropriate development and construction permits and other necessary licenses. The parties have not signed any definitive agreements in respect of the proposed development, and there can be no assurance that any such agreements will be signed. Fontainebleau Resorts' involvement in this project would require it to raise, invest and spend significant amounts of capital. There can be no assurance that it will elect to do so or be able to do so on terms that are acceptable to it.

Also in July 2008, a wholly-owned indirect subsidiary of the Company entered into a lease agreement for approximately 10,500 square feet of office space and 59,000 square feet of warehouse space as well as related parking lot spaces at a location near the Las Vegas project. The lease commences August 1, 2008 and runs through July 31, 2013, and calls for monthly rent of approximately \$43,000 for the first year, increasing to approximately \$47,000 in the final year of the lease. The total rental commitment (exclusive of any common area or similar charges) is approximately \$2.4 million over the life of the lease.

**Reopening of the Chateau and the Versailles Hotel Towers** — Prior to the close of the second quarter 2008, the scheduled reopening date of the FB I Towers was changed from July 1, 2008 to September 6, 2008. In August 2008, the scheduled reopening date of the FB I Towers was changed again, to October 18, 2008. One group with a scheduled arrival date of October 20, 2008 has asserted a contractual right to cancel its booking if the Chateau and Versailles hotel towers are not open at least 60 days before the group's scheduled arrival. The group further asserted a right to collect liquidated damages in the amount of \$3 million in the event of such termination. The Company disputes the group's liquidated damages claim and, on August 17, 2008, the Company notified the group that it was terminating the contract without liability as a consequence of delays caused by force majeure events. Although it is likely that this group will assert a right to damages, the Company cannot quantify the range of potential damages and no provision for liability has been made.

The Company has 13 customers with group reservations under contract between September 6 and October 18, 2008. The Company is negotiating the amount of reimbursements of cost due to the cancellations such as transportation, reprint collateral material or other incidental expenses. Excluding any potential damages relating to the October 20, 2008 group noted in the preceding paragraph, the Company estimates that the total amount paid related to the delayed opening date will be approximately \$1.3 million.

\* \* \* \* \*

**Dep. Ex. 92**

**From:** Doug Pardon  
**To:** Doug Pardon  
**Sent:** 9/23/2008 3:07:13 PM  
**Subject:** Fontainebleau Notes - Call w/ Freeman on 9/23/08

- \$120m unfunded LEH exposure on retail loans
- Working on contingencies w/ LEH, with our credit facilities, with equity
- Want to make sure there are no legal issues with substituting equity for the retail facilities
- Soffer is leading the process from managing the multiple equity sponsors
- Wont comment on middle eastern interest in LV
- Lehman is the servicer and is telling them they will fund on the facility
- Understands its in the best interest to solve this process w/ consents
- Don told them it should be easy getting a consent if equity is involved and they should be able to get a consent w/o equity but it would be more expensive

Doug Pardon  
Brigade Capital Management  
717 5<sup>th</sup> Avenue, Suite 1301  
New York, NY 10022  
212-745-9784 (P)  
212-745-9701 (F)  
[dp@brigadecapital.com](mailto:dp@brigadecapital.com)

92  
EM 3/31/11

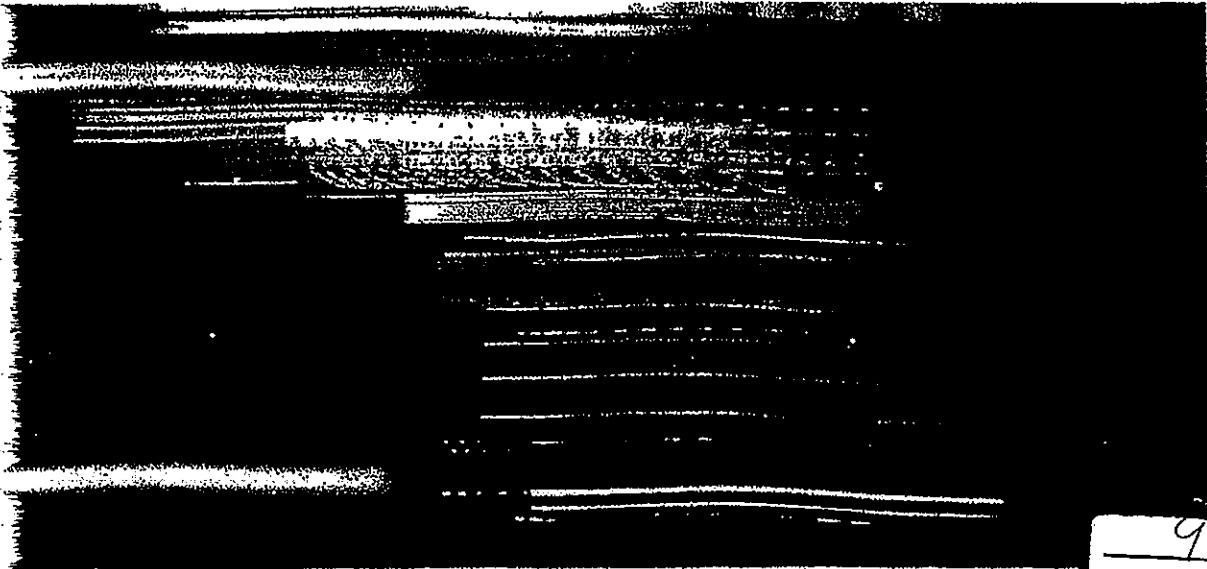


**Dep. Ex. 97**

FONTAINEBLEAU



Lender Update  
As of March 20, 2009



9/7  
EM33/11

## Las Vegas Team

17 key management positions filled to date with veteran Gaming & Hospitality executives

### Current workforce

- 125 employees
  - 47 IT
  - 26 Sales & Marketing
  - 52 Other

### Forecasted opening workforce

- 5,500 full-time employees
- 675 part-time employees



F O N T A I N E B L E A U



## Recruitment Efforts

On-line recruitment efforts launched January 2009

- 2,900 online applications
- 1,960 employment expressions of interest

College recruitment efforts began February 2009

- UNLV, College of Southern Nevada, Le Cordon Bleu, San Diego State, University of Houston, Cornell University & Culinary Institute of America

FB Career Center scheduled to open April 20, 2009  
(located at current FB Preview Center on LV Strip)



## FBLV Senior Management Team

Audrey Oswell, President & COO

29 years in Gaming & Hospitality  
COO of The Cosmopolitan Resort & Casino  
President & CEO of Resorts Atlantic City  
President & COO of Caesars Atlantic City  
President of the Casino Association of New Jersey, 2005 & 2006  
Chief Administrative Officer of Caesars World Marketing

Mark Lefever, CFO

13 years in Gaming & Hospitality (7 years in Las Vegas)  
Corporate EVP Finance & Treasurer of Riviera Holding Corp/  
President Riviera Black Hawk  
GM of Trump 29 Casino  
COO & CFO of The Desert Inn  
10 years with Arthur Andersen LLC

John Cottrill, Senior Vice President Hotel Operations

30 years in Hospitality  
21 years with The Ritz Carlton Hotel Company  
General Manager of four hotel properties

## FBLV Senior Management Team, cont'd

Michael Sacco, CMO & Senior Vice President of Marketing

27 Years in Gaming & Hospitality  
SVP of Casino Customer Development, Caesars Palace  
SVP Table Games & Marketing, Tropicana Atlantic City  
SVP of International & National Marketing, Caesars World

Tim Rod, CIO & Senior Vice President of Information Technology

15 years experience in Gaming & Hospitality  
VP of IT for Hyatt Gaming  
Corporate Director of IT, Harvey's Casino Resorts

Bryan O'Shields, Senior Vice President Food & Beverage

26 years experience in Gaming & Hospitality (20 years in Las Vegas)  
Corporate Senior Vice President Food & Beverage, Mandarin Oriental  
Vice President Food & Beverage, The Bellagio  
Vice President Food & Beverage, The Rio

## FBLV Senior Management Team, cont'd

Sean O'Connell, Executive Chef

21 years culinary experience

Worked around the world with Mandarin Oriental, Raffles Hotel and Ritz  
Carlton

Executive Sous Chef, The Bellagio

Fran Kneisc, Vice President of Human Resources

20 years experience in Gaming & Hospitality

Vice President Human Resources, The Cosmopolitan Resort & Casino Las  
Vegas

Vice President Human Resources, Harrah's Entertainment

## FBLV Hotel Sales Team

Andy Finn -Vice President Sales & Marketing  
Bob Welling --Director of Conference & Convention Sales  
Paul Whitney-Director of Conference Services/Catering  
James Hipp- Director of Sales  
Gregg Weiler - Director of Leisure Sales & Marketing

### Directors of National Accounts

Paula Sweeney  
Darik Malone  
Robert Samuels  
Ann Gorman  
Gary Brown  
Mitchell Ostrow  
Leigh Libero  
Debbie Kase

### Sales Managers, Executive Meetings

Veronica Medina  
Tristan Wood



# Group Reservations/Leisure Market

## Group Room Nights

2010 -	203,800
2011 -	152,900
2012 -	101,500
<b>Total-</b>	<b>458,200</b>

The 2010 Wholesale contracting process is underway

- 9 contracts signed
- 15 pending contracts in process

The 2010 Consortia contracting process begins May 2009

- Expected accounts
  - Amex
  - Thor
  - CCRA
  - Carlson Wagonlit

## Marketing Efforts


FB Brand launched with the opening of FBMB Nov 2008.

Database Acquisition programs began January 2009

Web Reservations scheduled to launch June 2009


Player Development team strategy & acquisition program initiated in January 2009

- Identified key personnel from all major competitors
- Identified key Independent Agents and/or Branch Office personnel in the main Las Vegas feeder markets
  - Southern California
  - Metro New York/New Jersey
  - South Florida
  - Chicago
  - Texas



## Marketing Partnership with Crown Limited

Through an exclusive relationship with Crown Limited, Fontainebleau Las Vegas will...

- Have exclusive rights to market to Crown's world-wide customer database
  - Partner with Crown's branch office network
  - Use Crown's brand recognition to penetrate international VIP markets
- 

## Pre-opening Activities

Casino Mock up complete

Hotel Tower Load In began March 1, 2009

Detailed Critical Path developed

Detailed Training Matrix developed

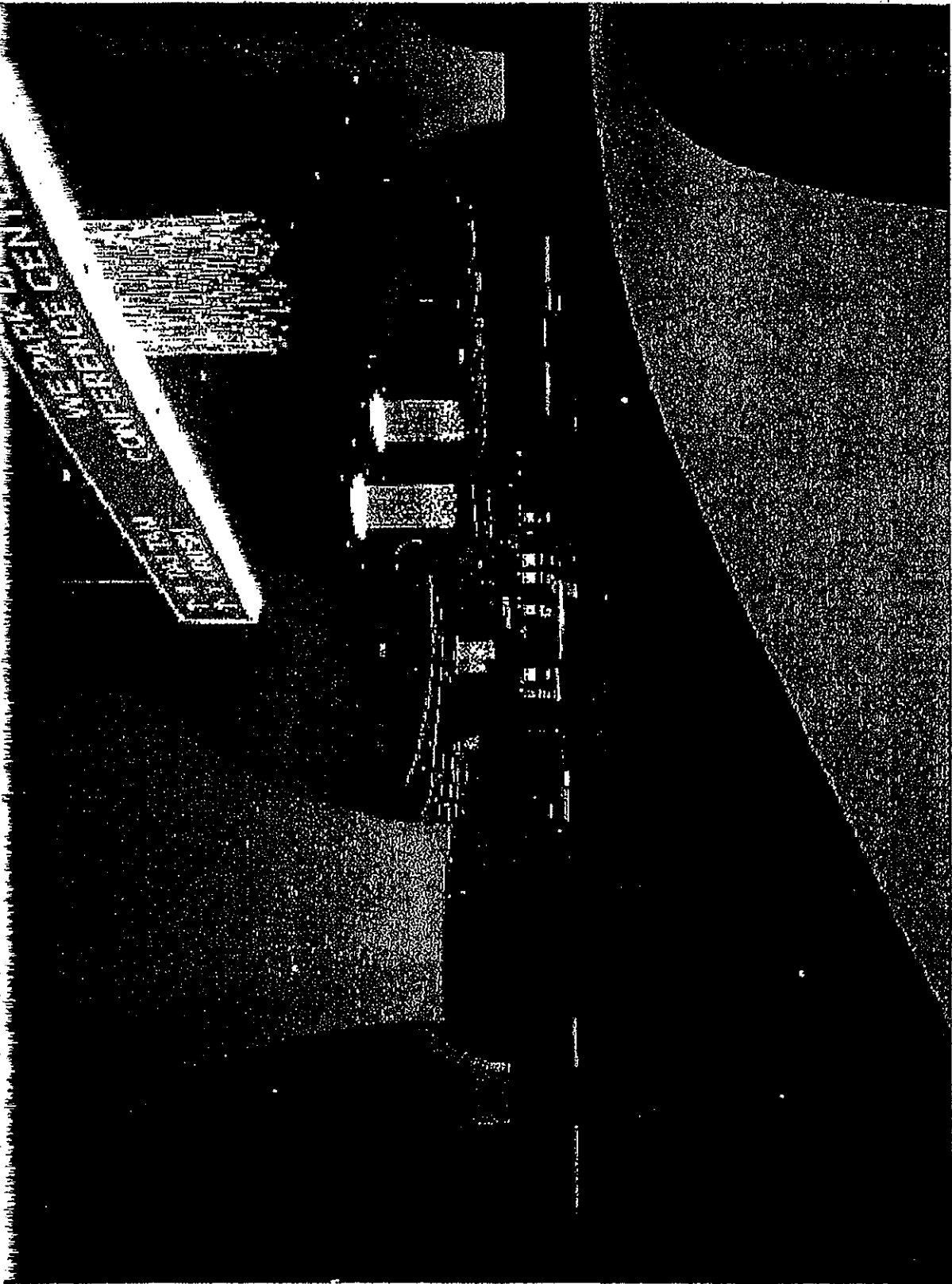
Call center scheduled to open July 2009

All key IT systems have been selected

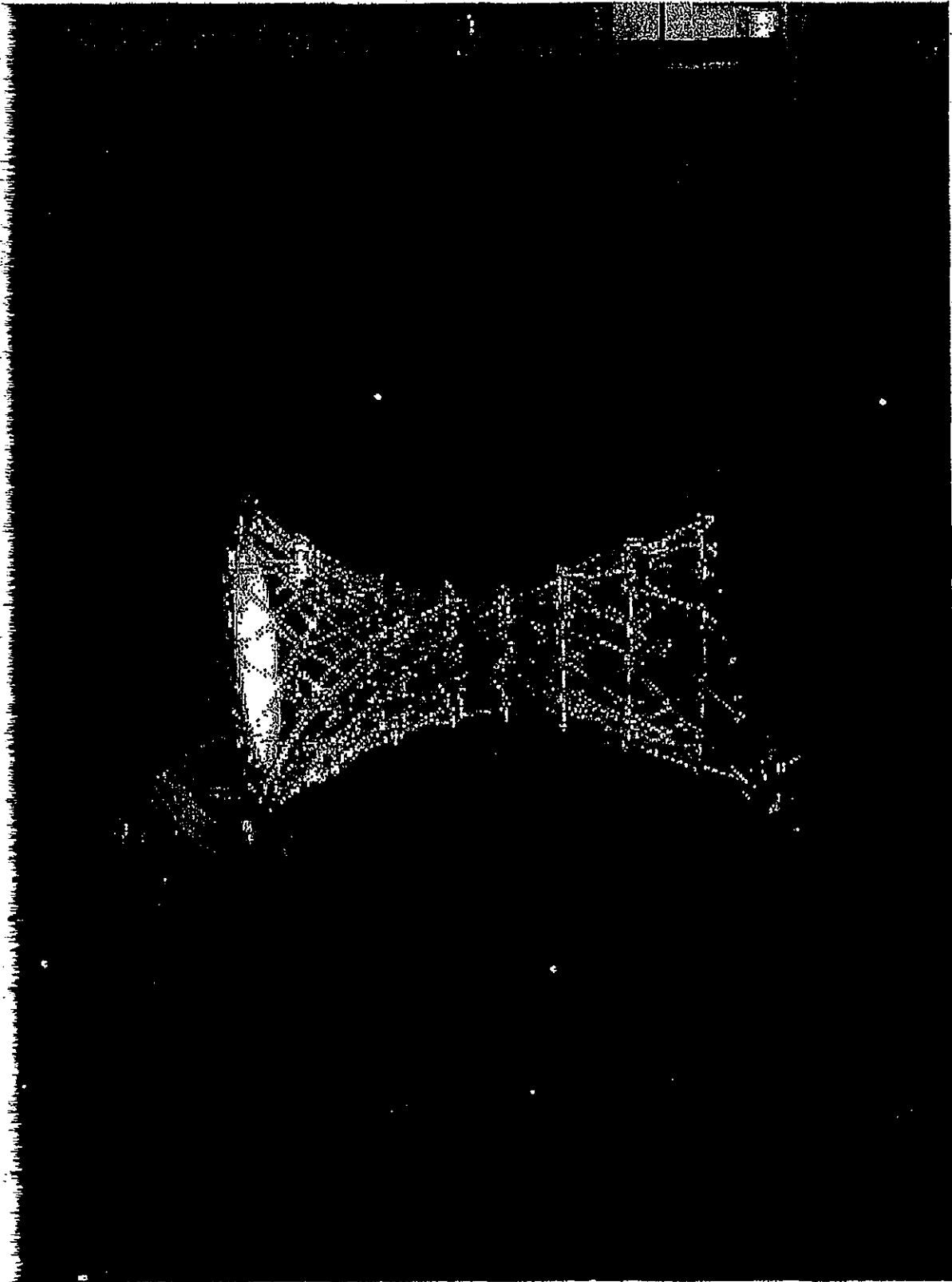
- PMS - Opera
- CRM - Epiphany & Infor.
- CMS - Bally's ACSC
- Financial & HR - Infinium
- Phone Switch - Avaya
- Purchasing - Red Rock

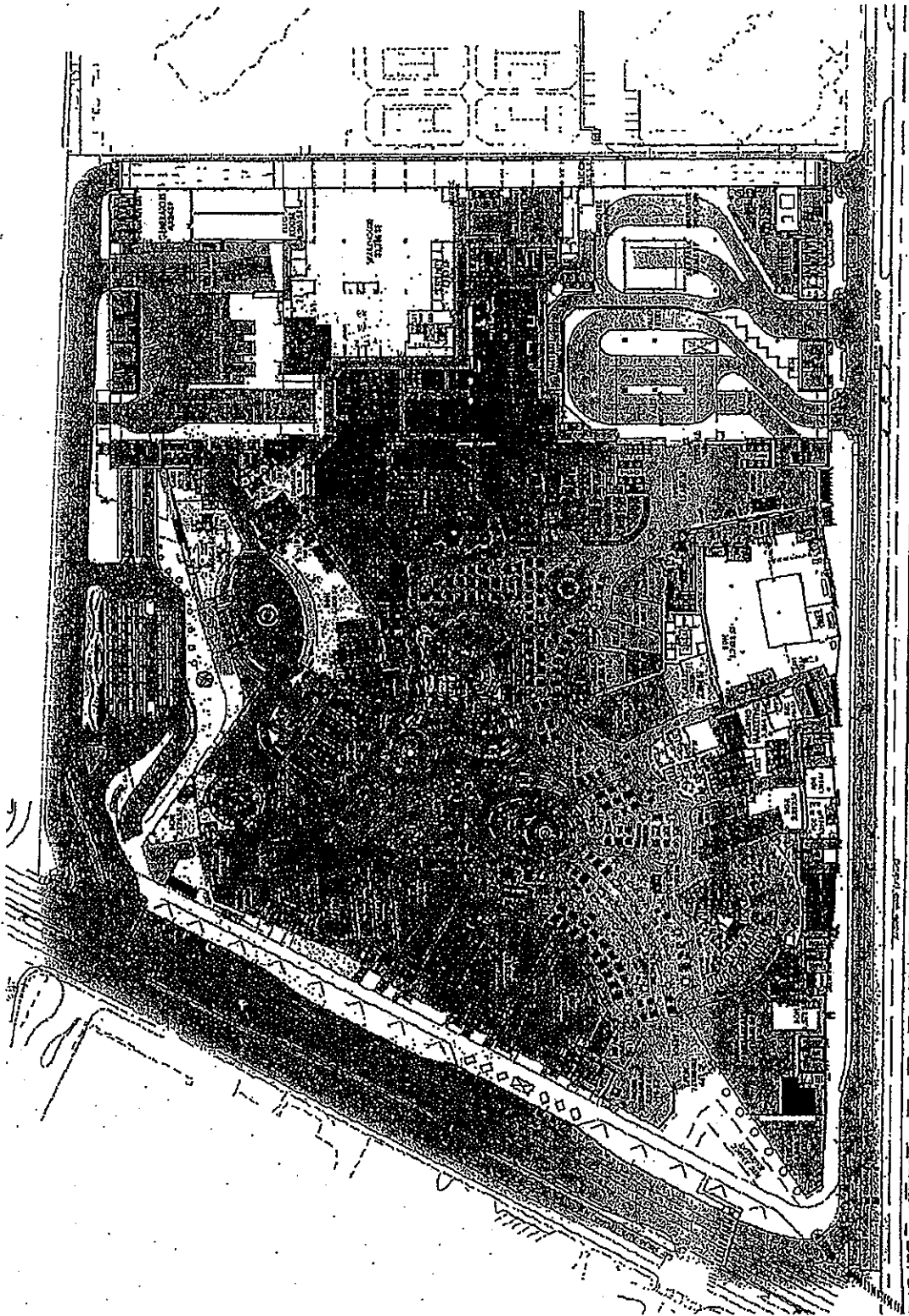
Slot floor mix has been finalized and will include

- IGT
- Bally's
- WMS
- Aristocrat
- Kanomi









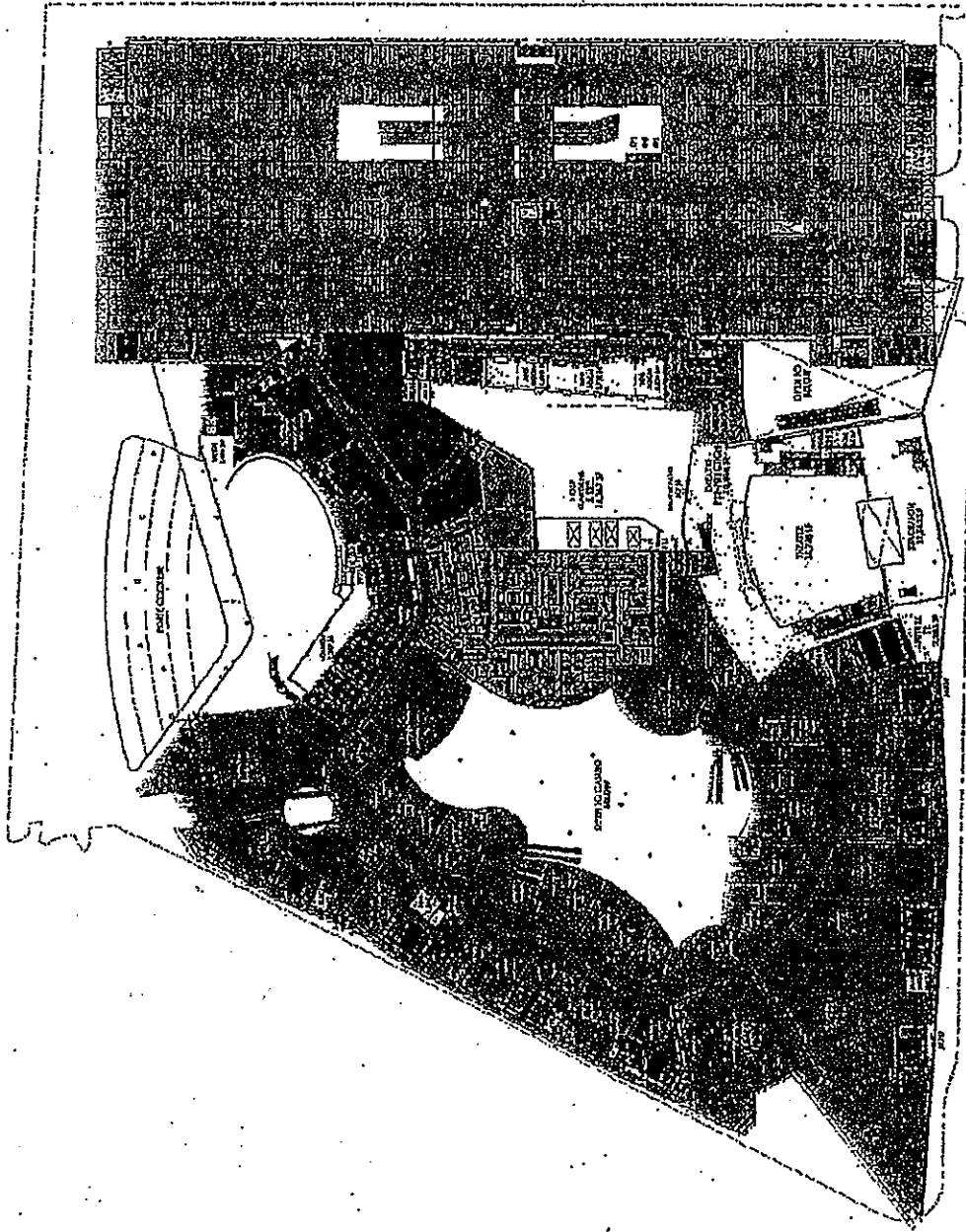
Steelman Partners

April 30, 2008

Third Level Floor Plan

Fontainebleau



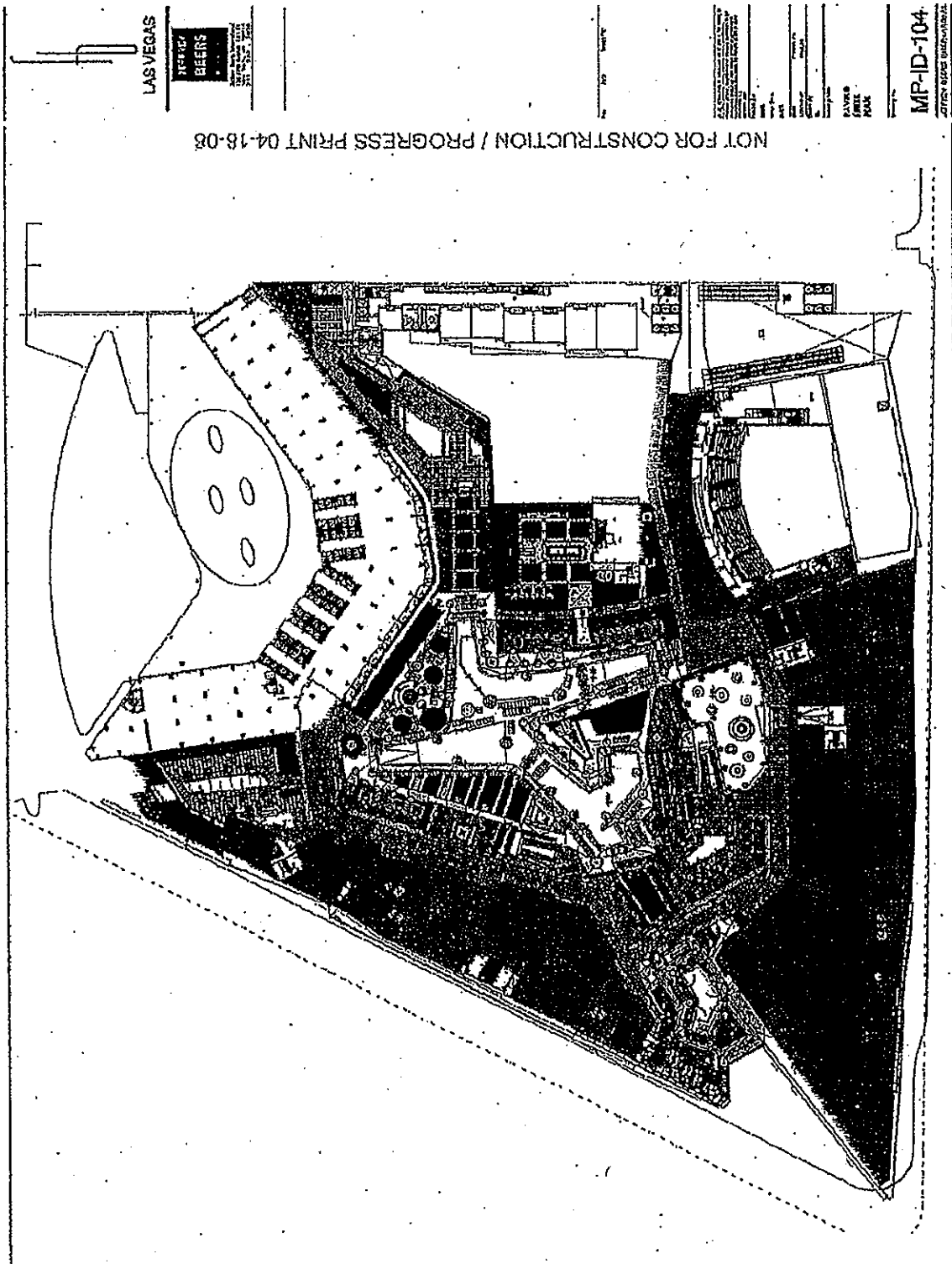


Steelman Partners

April 30, 2005

Fifth Level Floor Plan

Fontainebleau



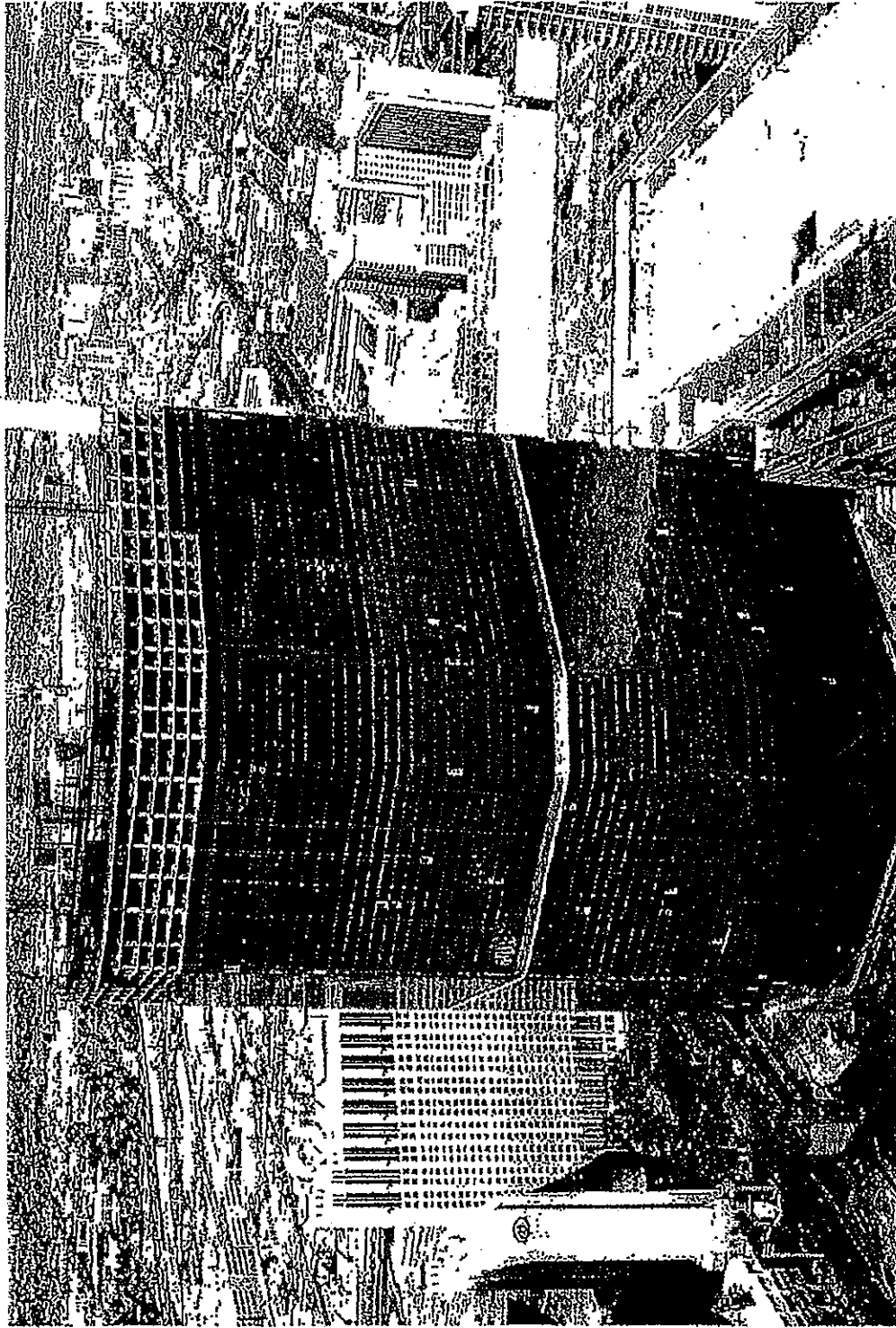
## Nevada Gaming Licensing Update

All ownership and senior management applications have been submitted

On-site and in-depth investigations with the principals and senior management are in process

Anticipated to be on the September 2009 Commission and Gaming Meeting Agendas

# Construction in Progress - Tower



FONTAINEBLEAU

FONTAINEBLEAU

# Construction in Progress - Garage



**Construction in Progress - Podium**



FONTAINBLEAU

# Construction Budget

As of February 28, 2009

Description	Original Budget	Current Budget	Spent-to-Date	Remaining Spend
Turnberry West Construction	\$ 1,753,634,074	\$ 2,048,004,793	\$ 1,460,836,221	\$ 587,168,572
Unallocated Contingency	111,039,860	11,994,445	-	11,994,445
Insurance	40,000,000	40,000,000	25,195,457	14,804,543
<b>Total Construction Costs</b>	<b>\$ 1,904,673,934</b>	<b>\$ 2,099,999,238</b>	<b>\$ 1,486,031,678</b>	<b>\$ 613,967,560</b>
Rooms FF&E	73,784,267	73,784,267	45,856,452	27,927,815
Hotel and F&B Operating Equipment	49,081,957	49,081,957	8,767,747	40,314,210
Kitchen Equipment	22,299,240	22,299,240	541,714	21,757,526
Exterior Signage	26,532,720	26,532,720	11,067,355	15,465,365
Common Area FF&E	28,665,812	28,665,812	20,951,295	7,704,517
<b>Costed FF&amp;E</b>	<b>\$ 200,363,996</b>	<b>\$ 200,363,996</b>	<b>\$ 87,194,563</b>	<b>\$ 113,169,433</b>
Gaming FF&E	40,871,099	40,871,099	1,077,415	39,793,684
Entertainment	12,283,731	12,283,731	-	12,283,731
A&G and Facilities and IT	71,920,596	71,920,596	17,791,501	54,129,095
<b>Other FF&amp;E</b>	<b>\$ 125,075,426</b>	<b>\$ 125,075,426</b>	<b>\$ 18,868,916</b>	<b>\$ 106,206,510</b>
Pre-Opening / Working Capital	93,847,579	75,846,579	45,496,303	30,350,276
Fees / Permits / Taxes / Other	131,814,077	160,838,077	150,787,479	10,050,598
Debt Service	362,756,033	338,126,033	234,443,960	103,682,072
Condominium-Hotel Selling Expenses	49,776,523	20,000,000	17,858,563	2,141,437
Fees and Expenses	60,740,794	60,740,794	59,545,871	1,194,923
<b>Costs Accrued Through Opening</b>	<b>\$ 698,935,005</b>	<b>\$ 655,551,482</b>	<b>\$ 508,132,176</b>	<b>\$ 147,419,306</b>
<b>TOTAL</b>	<b>\$ 2,929,048,361</b>	<b>\$ 3,080,990,142</b>	<b>\$ 2,100,227,333</b>	<b>\$ 980,762,809</b>

## LEEDS Credit Status Update

LEED tax credit recovers 5.75% from 7.75% Nevada sales tax based on materials utilization

- \$59M in total estimated credits built into initial budget

To date, ~\$27M credits achieved, with ~\$26M pending credits

- \$53M in total credits currently forecasted (requires audit)

Receipts of credits ongoing; linked to contractor work completion and pay application submittals

- \$6M shortfall based on a conservative approach (45% hard costs)
- Total material costs to date, as submitted by subcontractors, 26.6%

Fontainebleau reviewing submitted rates (26.6%) against industry standards and comparable LV Strip projects (40-50%)

- TWC is conducting internal review of submittals
- Fontainebleau retained KPMG to audit entire program
- State of NV Tax Division will conduct recap audit after project completion



# Balance Sheet Update

As of March 20, 2009

## Restricted Cash

- Bank Proceeds Account: \$260 million
- Liquidity Account: \$50 million

## Debt Outstanding

- 2<sup>nd</sup> Mortgage Notes: \$675 million
- Term Loan: \$700 million
- Delay Draw Term Loan: \$327 million

## Remaining Available Sources

- Delay Draw Term Loan: \$22 million
- Bank Revolving Facility: \$800 million

## Current Draw

- Total Draw is: \$138 million
- Funding from Retail Facility: \$4.8 million
- Funding from Bank Proceeds: \$133 million

# Retail Facility Update

As of March 20, 2009

## Amount Outstanding

- Construction Loan: \$160 million of the \$315 million
- Mezzanine: \$112 million

## Remaining Uses

- Retail Shared Costs: \$53.7 million
- TI and Lease Commissions: \$62.0 million

# In Balance Calculation

## Summary In Balance Report

DESCRIPTION	IN BALANCE TEST (March 25, 2009)
<b>AVAILABLE FUNDS</b>	
Projected Interest Income (estimated interest earned through completion - primarily on the \$50mm liquidity account)	730,292
Cash Management Account (cash account requirement - available to pay any project costs)	6,000,000
Second Mortgage Proceeds Account (fully exhausted in August 2008)	-
Bank Proceeds Account (amount of cash available from the draw down of Delay Draw Term Loan Facility)	126,513,295
Delay Draw Term Loan Availability (amount available for draw down from Delay Draw Term Loan Facility)	21,666,667
Bank Revolving Availability (amount available for draw down from Bank Revolving Facility)	750,000,000
Cash Support Amount (\$50mm completion guarantee and \$50mm liquidity account)	100,000,000
Retail Lenders Shared Cost Commitment (Less Advances Made for Shared Costs) (Remaining retail shared costs - to be funded by Retail Facility)	48,844,459
Cash Balance in the Resort Payment Account, Interest Account and Resort Loss Proceeds Account	-
<b>TOTAL AVAILABLE FUNDS</b>	<b>\$ 1,053,754,712</b>
<b>LESS: TOTAL</b>	
Remaining Costs (In Balance Test Adjustments Total from the Remaining Cost Report) (Remaining project spend after required contingency and cash support adjustments)	(1,011,749,043)
<b>IN BALANCE POSITIVE / (NEGATIVE)</b>	<b>\$ 42,005,669</b>

## Remaining Project Costs

Total Remaining Project Costs	\$ 980,762,809
Plus: Required Minimum Contingency <sup>(1)</sup>	15,055,653
Plus: Required Minimum Liquidity Account	12,180,355
Plus: Required Minimum Excess Revolver Support Amount	3,750,226
<b>TOTAL</b>	<b>\$ 1,011,749,043</b>
<hr/>	
Total Completed Percentage	75.6%

(1) In addition to \$11.9M of unallocated contingency.

**Dep. Ex. 104**

March 23, 2009

Re: Fontainebleau Las Vegas, LLC

Dear Fontainebleau Las Vegas Lenders,

Bank of America as Disbursement Agent and Administrative Agent has been working with IVI and the Borrower through the weekend to clarify their respective positions on the Remaining Cost Report and the In-Balance Test. We anticipate that the Borrower will submit revised draw materials which will reflect an approximately \$13.8 million positive In-Balance calculation. There are two issues which may impact this calculation:

1) Revolver Availability. There is a divergence in opinions as to the reading of 2.1(c)(iii) of the Credit Agreement. Bank of America's position is that since the Borrower has requested all of the Delay Draw Term Loans, and almost all of the loans have funded (whether or not the outstanding \$21,666,667 is ultimately received), Section 2.1(c)(iii) now permits the Borrower to request Revolving Loans which result in the aggregate amount outstanding under the Revolving Commitments being in excess of \$150,000,000. As a result, we would permit the relevant portion of the Revolving Commitment to be reflected in Available Funds.

2) Treatment of Unfunded Delay Draw Commitments. Several Lenders (including First National Bank of Nevada, whose commitment has been terminated) have not funded the \$350MM Delay Draw Term Loan requested by the Borrower. The Borrower continues to include a \$21,666,667 portion of the Delay Draw Term Loans in its calculation of "Available Funds" for the purpose of the In-Balance Test in their Advance Request certifications. The \$21,666,667 does not include the former commitments of First National Bank of Nevada.

Bank of America's position is that it is willing to include the \$21,666,667 for the March 25 Advance, pending further information about whether these lenders will fund. Absent any other changes, note that the exclusion of the \$21,666,667 amount from Available Funds would result in a failure to satisfy the In-Balance Test.

Please note that we cannot discuss these matters with our public-side colleagues who hold or manage a small term loan exposure, so the positions ascribed to Bank of America do not apply to our public-side colleagues.

We request that any Lender which does not support these interpretations immediately inform us in writing of their specific position.

Sincerely,

BANK OF AMERICA, N.A.  
As Disbursement Agent and Administrative Agent

By:   
Henry Yu, Senior Vice President

W02-WEST:LARM01443443.2

-1-

Exhibit  
104  
Eileen Mulvanna 3/24/11

**Dep. Ex. 115**

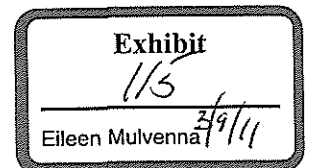
DATE: October 22, 2008  
TO: Las Vegas Bank Group  
FROM: Jim Freeman  
SUBJECT: Retail Loan Agreement

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We are writing to provide an update to the company's October 7, 2008 memo regarding the retail facility. We submitted our draw package for the October 27<sup>th</sup> draw last Thursday and it was approved by the disbursement agent yesterday. The draw included a \$3.7 million funding request from the retail facility to fund the shared costs of the podium. As outlined previously, we expect these monthly shared cost fundings to remain modest for the foreseeable future.

There has been no substantive change to the retail facility since our prior memo. Lehman Brothers' commitment to the facility has not been rejected in bankruptcy and the facility remains in full force and effect. We have been in daily discussions with Lehman Brothers' representatives as well as the co-lenders to the retail facility. Lehman Brothers has indicated to us that it has sought the necessary approvals to fund its commitment this month. If Lehman Brothers is not in a position to perform, we have received assurances from the co-lenders to the retail facility that they would fund Lehman's portion of the draw.

We expect to continue working through the bankruptcy process with Lehman and the co-lenders to craft a permanent solution if one becomes necessary. As you can imagine, the bankruptcy overlay makes the timing and form of an ultimate resolution difficult to predict. Construction continues to move forward rapidly on the project, hopefully you have been out to see the site recently to see the building taking form. We expect to top out the tower within the next month. The preview center is slated to open to the public in the next couple of weeks and we remain on schedule to open in the 4<sup>th</sup> quarter of next year.



F O N T A I N E B L E A U



**Dep. Ex. 126**  
**FILED UNDER SEAL**

**Dep. Ex. 127**  
**FILED UNDER SEAL**

**Dep. Ex. 128**  
**FILED UNDER SEAL**

**Dep. Ex. 129**  
**FILED UNDER SEAL**

**Dep. Ex. 137**  
**FILED UNDER SEAL**

**Dep. Ex. 151**

From: Vincent Fu  
To: Steve Ahearn; John Casparian; Kevin Hickam; James Eustice  
Sent: 6/5/2008 11:09:10 AM  
Subject: Fontainebleau Update

Management now expects a \$200MM cost overrun due to structure and design changes. Recall earlier, Nakheel Hotels (Dubai) bought a 50% stake of Fontainebleau Miami for \$375MM and the assumption of certain debt. \$262MM was up-streamed to Fontainebleau Resorts holding company. This money will be used to fund the \$200MM cost overrun. This means that the \$100MM construction completion guarantee and \$50MM liquidity reserve will still be in tact. The remaining \$62MM will be available to either Las Vegas or Miami properties.

Project is still on time – although garage is 6 weeks behind schedule because of the concrete T collapse. However the garage is already 70% complete and will open well ahead of opening. Main building recently reached the 36<sup>th</sup> floor and expected to top off Q4. There was no construction strike over safety similar to MGM CityCenter and Cosmopolitan (although strike is over as of today).

Condo sales are now slated to start in September, and projected to sell for 18 months afterwards.

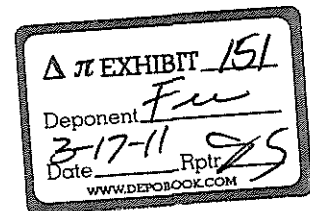
Fontainebleau Resorts is looking to expand into two markets (Vietnam).

---

**Vincent C. Fu**

Churchill Pacific Asset Management LLC  
601 South Figueroa St. | Suite 3600 | Los Angeles, CA 90017  
Tel: (213) 489-4496 | Fax: (213) 489-8073  
E-mail: [vf@churchillpacific.net](mailto:vf@churchillpacific.net)

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**Dep. Ex. 154**



**From:** Vincent Fu  
**To:** Steve Ahearn; John Casparian; Kevin Hickam  
**CC:** Zachary Carboni; James Eustice  
**Sent:** 10/23/2008 9:15:19 AM  
**Subject:** Fontainebleau Update

The letter below from Jim Freeman – CFO explains the latest  
-Oct 27 - \$3.7MM draw package was approved for disbursement  
-Have “assurances” from co-lenders of retail facility that they would fund Lehman's portion of draw if not able to perform

We are writing to provide an update to the company's October 7, 2008 memo regarding the retail facility. We submitted our draw package for the October 27<sup>th</sup> draw last Thursday and it was approved by the disbursement agent yesterday. The draw included a \$3.7 million funding request from the retail facility to fund the shared costs of the podium. As outlined previously, we expect these monthly shared cost fundings to remain modest for the foreseeable future.

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We expect to continue working through the bankruptcy process with Lehman and the colenders to craft a permanent solution if one becomes necessary. As you can imagine, the bankruptcy overlay makes the timing and form of an ultimate resolution difficult to predict. Construction continues to move forward rapidly on the project, hopefully you have been out to see the site recently to see the building taking form. We expect to top out the tower within the next month. The preview center is slated to open to the public in the next couple of weeks and we remain on schedule to open in the 4<sup>th</sup> quarter of next year.

---

**Vincent C. Fu**

Churchill Pacific Asset Management LLC  
601 South Figueroa St. | Suite 3600 | Los Angeles, CA 90017  
Tel: (213) 489-4496 | Fax: (213) 489-8073  
E-mail: [vf@churchillpacific.net](mailto:vf@churchillpacific.net)

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**Dep. Ex. 158**

From: Vincent Fu  
To: John Casparian; Steve Ahearn; Kevin Hickam  
Sent: 10/29/2008 2:20:12 PM  
Subject: Fontainebleau - Update  
Attachments: Fontainebleau2.xls; FONTAINEBLEAU - Oct2.jpg; fontainebleau - Oct.jpg

Glen Schaffer commented that this will be a top hotel on the strip and will be different from anything else – focus on style over theme. Is ready to compete against CityCenter as Mandalay Bay did against Bellagio when opening.

**Retail Loan:**

Lehman's commitment to the facility has not been rejected in bankruptcy and Fontainebleau does not expect that to change. Suspect the loan will be sold out of bankruptcy to a buyer. Every month Fontainebleau expects to put in a \$5MM to \$6MM request for funds. More than half of the \$315MM retail construction loan has been funded - \$85MM of mezz debt fully funded

-Co-lenders have been "supportive" in finishing the project

**Construction: Q409 opening**

\$1.3 billion spend – 55% completion

All of the \$675MM in bond proceeds has been used, \$320MM of \$700MM TL has been used, the company will then draw on the delayed draw term loan and finally the revolver.

The bright side to the economic downturn is lower costs – Fontainebleau is expected to reopen some contracts to bidding. It's early to say but they said they felt they could save 10s of millions maybe up to \$100MM in construction.

Tower currently up to 61<sup>st</sup> floor – there are two floors to go. Glass is up to the 33<sup>rd</sup> floor. Bathrooms to the 24<sup>th</sup> floor. The hotel is expected to top out in the next 2 weeks.

**Condos:**

-Preview center will be opening next 1-2 weeks

-Important in not only selling condos but advertising the Fontainebleau name

**Other:**

Fontainebleau Miami grand opening Nov. 14

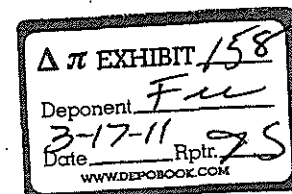
Looking to expand internationally in Dubai and Vietnam

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**Vincent C. Fu**

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**Dep. Ex. 160**

From: Martin Kim  
To: John Casparian; Kevin Hickam; Steve Ahearn  
CC: Vincent Fu  
Sent: 12/4/2008 1:21:03 PM  
Subject: Fontainebleau Earnings - Q3

This was an extremely short call – maybe less than 10 minutes. Here are my notes:

Lehman Brothers – not a lot of update there; the fund remains relatively modest. The facility is still functioning. There is no change. We continue to work with co-lenders of the facility if there is an alternative solution to Lehman brothers.

There is no change in the construction budget.

Miami is open for a week now

Glass curtain wall is going up in March? Building is topped off now.

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Questions

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Glass curtain – other places using it?

We are the only building on the Vegas strip that is using a sheer glass curtain wall. I'm sure there are other buildings that use it around the world.

So it's been tested?

Yes

Will it be working before you open?

Yes. We will have a sign up well before opening.

Lehman issue – can you flush out anymore in terms of where you are and when you hope when you have the thing locked down?

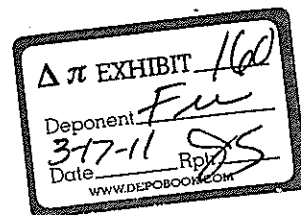
It doesn't change things fundamentally from the last conference call. Discussion are underway. We feel good in the interim basis, and we work towards a solutions. In the meantime, the facility is in good shape, and it is funded. It's difficult to pinpoint timing due to credit markets.

If other lenders have to take Lehman piece, how much will it be?

We haven't gotten into the magnitude of...because it is a separate private facility, we haven't disclosed that.

**Martin Kim**

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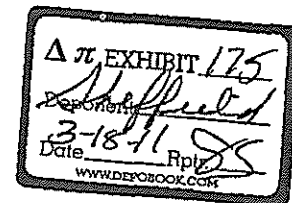


**Dep. Ex. 175**

**From:** Henry Chyung  
**To:** Patrick Dooley  
**Sent:** 6/2/2008 11:28:31 AM  
**Subject:**

Fontainebleu announced a \$200 million increase to its budget. To fund this, they are downstreaming \$200 million from the parent (which is the money that was raised when the parent sold 50% of its stake in its Miami hotel a few months ago). This is not a big surprise. Bank debt still in the mid-80's and bonds still in the low 70's. The project is still scheduled to open Q4 2009.

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**Dep. Ex. 182**



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**From:** Mitch Julis  
**Sent:** Monday, March 02, 2009 8:26 AM  
**To:** Chaney Sheffield; Josh Friedman; Bobby Turner; Patrick Dooley  
**Cc:** Richard Bosworth  
**Subject:** Re: Fontainebleau Summary  
**Attachments:** image001.jpg

Thanks  
Mitchell R. Julis  
Co-Chairman and Co-CEO  
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mjulis@canyonpartners.com

---

**From:** Chaney Sheffield  
**To:** Mitch Julis; Josh Friedman; Bobby Turner; Patrick Dooley  
**Cc:** Richard Bosworth  
**Sent:** Mon Mar 02 08:24:43 2009  
**Subject:** Re: Fontainebleau Summary

They are in compliance with loan document requirements for funding.

Their february draw request was a day late and bofa tried to use the opportunity to encourage management to give an update call and revise their projections and budget.

The company denied the request for a call and highlighted that they were not required to submit a new budget and that they were in compliance.

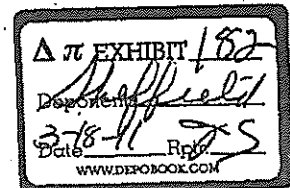
The tone of the letters was certainly forceful on both sides.

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**From:** Mitch Julis  
**To:** Josh Friedman; Bobby Turner; Chaney Sheffield; Patrick Dooley  
**Cc:** Richard Bosworth  
**Sent:** Mon Mar 02 08:16:59 2009  
**Subject:** Re: Fontainebleau Summary

Chaney was saying the banks are trying to cut off their commitment on the construction loan -- don't know whether there is room in the loan docs

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**From:** Josh Friedman  
**To:** Bobby Turner; Chaney Sheffield; Mitch Julis; Patrick Dooley  
**Cc:** Richard Bosworth  
**Sent:** Mon Mar 02 08:13:24 2009  
**Subject:** Re: Fontainebleau Summary

Thanks

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**From:** Bobby Turner  
**To:** Chaney Sheffield; Mitch Julis; Josh Friedman; Patrick Dooley  
**Cc:** Richard Bosworth  
**Sent:** Mon Mar 02 07:51:59 2009  
**Subject:** RE: Fontainebleau Summary

Richard Bosworth was in Vegas recently and heard from one of the project's consultants that the developer was planning on finishing out the project and then mothballing it until the market turns.

BT

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**From:** Chaney Sheffield  
**Sent:** Monday, March 02, 2009 7:31 AM  
**To:** Mitch Julis; Josh Friedman; Patrick Dooley; Bobby Turner  
**Cc:** Chaney Sheffield  
**Subject:** Fontainebleau Summary

**We Own:**

- \$38.5MM of the L+325 TL due 6/14/14
- \$16.7MM of the L+325 DD TL due 6/14/14
- Both tranches are pari-passu

**Overview of Project:**

- Fontainebleau is a \$3.5Bn high-end luxury casino resort under construction on the north end of the Las Vegas Strip
- "Targets consumers with a high level of discretionary income and a desire for aesthetic quality"
- Described as Wynn tower with a Venetian convention element, a Mandalay pool, a Borgata steakhouse, a Caesars nightclub and a Palms rooftop lounge all rolled into one
- Location is somewhat challenging on 24.5 acres comprised of the former El Ranch Hotel and Algiers Hotel
  - North of Riviera across the street from Circus Circus
  - With suspension of Echelon, Fontainebleau is somewhat orphaned from the action center of the strip
- It will be a 63-story casino with 3,889 rooms (including 1,018 condo-hotel units)
  - Condo units were expected to generate \$700MM of proceeds to pay down bank debt (\$690k per unit)
    1. 779 studio units (489 sq ft)
    2. 239 apartments (883 sq ft)
  - Turnberry is a leader in the Las Vegas condo market
- 100,000 square feet of gaming space (with 40-ft tall ceilings)

- 1,700 slot machines and 125 table games
- 280,000 square feet of convention space
- 291,000 square feet of retail space (separately financed with a \$400MM facility arranged by Lehman Brothers)
- Numerous F&B outlets and a 56,000 square foot spa
- Rooftop pool area atop a 12.1 acre, 68-ft high podium with cabanas and lush landscaping
- Penthouse restaurant, lounge and gaming location atop the hotel tower
- 3,200 seat multi-level theater
- The project is on budget and on schedule to open in October 2009

**Project Status: 66% Complete as of January (last Project Status Report). Still under construction**

- Wide speculation that the project will be put on hold for restructuring discussion – 1<sup>st</sup> lien bank debt quoted in mid 20's
  - Even if the project is funded to completion, almost certain covenant violations are expected
- BofA has sent numerous letters to the Company requesting a status update call with the lenders that the Company has rebuffed
- Costs have increased slightly, but the Company claims the project is on schedule for an October 2009 opening
- Funding obligations for the Retail financing held by Lehman Brothers are supposedly being shared by the other lenders in the facility
- Worth noting that the sponsors here do have significant experience with the Las Vegas Condo Market (Turnberry) and casino/resort operations (Shaeffer)
  - Redevelopment of Fontainebleau Miami has been well received by reviewers. We have not received a financial update yet

**Expected Cash Flow:**

- Company originally guided for \$320MM of EBITDA (assumed continued growth in Vegas visitation and hotel room rates on the strip)
- The best comparables to the project are Wynn Las Vegas (and to a lesser extent the Venetian)
  - Wynn Las Vegas has 2,716 and a 111,000 sq foot casino and 200,000 square feet of convention space
  - Venetian has 4,000 rooms, 120,000 sq foot casino and 1.2MM square feet of convention space with the Expo Center
    - With the Palazzo now open, the Venetian / Palazzo has over 7,000 rooms, 225,000 sq feet of gaming space at 2.2MM square feet of convention space
- Both Wynn and the Venetian generated ~\$400MM of EBITDA at their peak in 2007
- Wynn's run-rate EBITDA fell to below ~\$200MM in the 4<sup>th</sup> Quarter
- The Venetian/Palazzo resort's run rate EBITDA fell to \$340MM of EBITDA – this project is much larger than Fontainebleau with 10x the convention space
  - Given the smaller size, unfavorable strip location, and inability to command premium room-rates due to the oversupply in the Las Vegas Market, I believe a \$200MM run-rate is appropriate run rate. Given the ramp-up period required for new developments, 2010 EBITDA is likely to come in below the \$200MM run rate

**Capital Structure:**

- Owned by Jeff Soffer (Turnberry Group), Glenn Shaeffer (former President and CFO of Mandalay), and Crown (purchased 19.6% of the company for \$250MM, representing an equity valuation of \$1.275Bn in April of 2007)

Capital Structure	Canyon Holdings	Fully Funded Amount	Due	Coupon	Revs	Offer Price	YTM	Mkt Lev
2009 MBS		1,000.0						
Term Debt		700.0						
DB Term Loan		350.0						
Total Isolated Debt		1,050.0						
2nd Mortgage Notes: Dec 2013	\$	167.0						
Total Debt		1,217.0						
Cash		5.0						
Contributed and Loans		100.0						
Total Capitalization		1,362.0			17.5%			
Cash Flow Items								
Adjusted EBITDA		200.0						
Cash Interest Expense		16.0						
Maintenance Capex		100.0						
Cash Taxes		2.0						
FCF		(20.0)						

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