
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 30, 2005

Stratus Properties Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

0-19989

(Commission File Number)

72-1211572

(IRS Employer Identification Number)

98 San Jacinto Blvd., Suite 220

Austin, Texas

(Address of principal executive offices)

78701

(Zip Code)

Registrant's telephone number, including area code: (512) 478-5788

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On September 30, 2005, Stratus Properties Inc. entered into a Loan Agreement (“Loan Agreement”) by and among (1) Stratus Properties Operating Co., L.P., Circle C Land, L.P., Austin 290 Properties, Inc., Calera Court, L.P., all of which are wholly owned subsidiaries of the Company and (2) Comerica Bank (“Comerica”). The Loan Agreement replaces and supersedes our existing \$30 million revolving credit facility with Comerica.

The Loan Agreement provides for a \$45 million revolving credit facility, the entire amount of which is available to fund our working capital needs. The Loan Agreement expires and is repayable in full on May 30, 2007.

The Loan Agreement contains customary financial covenants and other restrictions. We are required, with some exceptions, to make certain prepayments as further described in the Loan Agreement. Amounts borrowed under the Loan Agreement bear interest, at our option, at an annual rate of either the base rate plus 0.5% with a minimum interest rate of 5.0% or the LIBOR rate plus 2.5% with a minimum interest rate of 5%. Repayments under the Loan Agreement can be accelerated by Comerica upon the occurrence of certain customary events of default.

Our obligations under the Loan Agreement are secured by substantially all of our assets, except for Escarpment Village, 7000 West, Deerfield, and the Meridian project.

A copy of the Loan Agreement and the Revolving Promissory Note are attached hereto as Exhibits 10.1 and 10.2.

Item 1.02. Termination of a Material Definitive Agreement.

See Item 1.01 which is incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant.

See Item 1.01 which is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits.

The Exhibits included as part of this Current Report are listed in the attached Exhibit Index.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Stratus Properties Inc.

By: /s/ John E. Baker

John E. Baker
Senior Vice President and
Chief Financial Officer
(authorized signatory and
Principal Financial Officer)

Date: October 5, 2005

Stratus Properties Inc.
Exhibit Index

Exhibit
Number

- [10.1](#) Loan Agreement by and between Stratus Properties Inc., Stratus Properties Operating Co., L.P., Circle C Land, L.P., Austin 290 Properties, Inc., Calera Court, L.P., and Comerica Bank dated as of September 30, 2005.
- [10.2](#) Revolving Promissory Note by and between Stratus Properties Inc., Stratus Properties Operating Co., L.P., Circle C Land, L.P., Austin 290 Properties, Inc., Calera Court, L.P., and Comerica Bank dated as of September 30, 2005.



LOAN AGREEMENT
BY AND BETWEEN
COMERICA BANK
AND
STRATUS PROPERTIES INC.,
STRATUS PROPERTIES OPERATING CO., L.P.
CIRCLE C LAND, L.P.
AUSTIN 290 PROPERTIES, INC.
CALERA COURT, L.P.
Dated September 30, 2005

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is made and delivered effective as of the 30th day of September, 2005, by and between **STRATUS PROPERTIES INC.**, a Delaware corporation ("Stratus"), **STRATUS PROPERTIES OPERATING CO., L.P.**, a Delaware limited partnership ("SPOC"), **CIRCLE C LAND, L.P.**, a Texas limited partnership ("Circle C"), and **AUSTIN 290 PROPERTIES, INC.**, a Texas corporation ("Austin") (Stratus, SPOC, Circle C and Austin are sometimes referred to in this Agreement severally as "Borrower" and jointly as "Borrowers"), **CALERA COURT, L.P.**, a Texas limited partnership and **COMERICA BANK** ("Bank").

RECITALS

A. Borrowers desire to obtain certain credit facilities from the Bank, and the Bank is willing to provide such credit facilities to and in favor of Borrowers.

B. Such credit facilities are subject to the terms and conditions set forth herein and in every other Loan Document.

C. This Agreement is entered into for purposes of renewing, extending and modifying the credit facilities and extensions of credit made pursuant to that certain Loan Agreement dated effective as of December 16, 1999 entered into by the Bank and Borrowers, as the same has heretofore been amended, restated and modified from time to time (the "Original Credit Agreement") and amending and restating the Original Credit Agreement in its entirety.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, Borrowers and Bank agree as follows:

SECTIONDEFINITIONS

1.

1.1 Defined Terms. The terms as used in this Agreement shall have the meanings assigned to such terms in the Defined Terms Addendum.

1.2 Accounting Terms. All accounting terms not specifically defined in this Agreement shall be determined and construed in accordance with GAAP.

1.3 Singular and Plural. Where the context herein requires, the singular number shall be deemed to include the plural, the masculine gender shall include the feminine and neuter genders, and vice versa.

SECTIONTERMS, CONDITIONS AND PROCEDURES FOR BORROWING

2.

Subject to the terms, conditions and procedures of this Agreement and each other Loan Document including, but not limited to, the terms, conditions and procedures set forth in the Defined Terms Addendum and Loan Terms, Conditions and Procedures Addendum, Bank agrees to make credit available to the Borrowers on such dates and in such amounts as the Borrowers shall request from time to time or as may otherwise be agreed to by Borrowers and Bank.

SECTIONREPRESENTATIONS AND WARRANTIES

3.

Each Borrower represents and warrants as to itself and, as the context requires, each Loan Party within its control, and such representations and warranties shall be deemed to be continuing representations and warranties during the entire life of this Agreement, and so long as Bank shall have any commitment or obligation to make any Advances hereunder, and so long as any Indebtedness remains unpaid and outstanding under any Loan Document, as follows:

3.1 Authority. Stratus and Austin are each a corporation. SPOC and Circle C are each limited partnerships of which Stratus is an indirect or direct owner. Each of Stratus, Circle C, Austin and SPOC is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and is duly qualified and authorized to do business in the state where the Land it owns is located and in each other jurisdiction in which the character of its assets or the nature of its business makes such qualification necessary.

3.2 Due Authorization. Each Loan Party has all requisite power and authority to execute, deliver and perform its obligations under each Loan Document to which it is a party or is otherwise bound, all of which have been duly authorized by all necessary action, and are not in contravention of law or the terms of any Loan Party's organizational or other governing documents.

3.3 Title to Property. Each Loan Party has good title to all property and assets purported to be owned by it, including those assets identified on the Financial Statements most recently delivered by Borrowers to Bank, subject to the Permitted Encumbrances.

3.4 Encumbrances. There are no Liens on, and no financing statements on file with respect to, any of the property or assets of any Loan Party, except for Permitted Encumbrances and any Liens or financing statements in favor of Bank.

3.5 Subsidiaries. As of the date hereof, none of the Borrowers has any Subsidiaries, except as set forth in Schedule 3.5, which Schedule sets forth the percentage of ownership of such Borrower in each such Subsidiary as of the date of this Agreement.

3.6 Taxes. Each Loan Party (i) has filed, on or before their respective delinquency dates, all federal, state, local and foreign tax returns that are required to be filed, or has obtained extensions for filing such tax returns, (ii) is not delinquent in filing such returns in accordance with such extensions, and (iii) has paid all taxes which have become due pursuant to those returns or pursuant to any assessments received by any such party, as the case may be, to the extent such taxes have become due, except to the extent such tax payments are being actively and diligently contested in good faith by appropriate proceedings, and, if requested by Bank, have been bonded or reserved in an amount and manner satisfactory to Bank. Further, no Loan Party knows of any additional assessments in respect of any such taxes and related liabilities.

3.7 No-Defaults. There exists no default (or event which, with the giving of notice or passage of time, or both, would result in a default) under the provisions of any instrument or agreement evidencing, governing, securing or otherwise relating to any Debt of any Loan Party or pertaining to any of the Permitted Encumbrances (other than Contested Items) except to the extent that any such failure has been waived or that such failure to comply would not have a Material Adverse Effect.

3.8 Enforceability of Agreement and Loan Documents. Each Loan Document has been duly executed and delivered by duly authorized officer(s) or other representative(s) of each Loan Party that is a party thereto, and constitutes the valid and binding obligations of each such Loan Party, enforceable in accordance with their respective terms, except to the extent that enforcement thereof may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting the enforcement of creditors' rights generally at the time in effect.

3.9 Non-contravention. The execution, delivery and performance by each Loan Party of the Loan Documents to which such Loan Party is a party or otherwise bound, are not in contravention of the terms of any indenture, agreement or undertaking to which any such Loan Party is a party or by which it is bound, except to the extent that such terms have been waived or that failure to comply with any such terms would not have a Material Adverse Effect.

3.10 Actions, Suits, Litigation or Proceedings. Except as shown on Schedule 3.10, there is no Material Litigation, and, to the best knowledge of each Borrower, no Loan Party is under investigation by, or is operating under any restrictions imposed by, any Governmental Authority.

3.11 Compliance with Laws. To the best knowledge of each Borrower, each Loan Party has complied with all applicable Governmental Requirements, including, without limitation, Environmental Laws, to the extent that failure to so comply could have a Material Adverse Effect.

3.12 Consents, Approvals and Filings, Etc. Except as have been previously obtained or as otherwise expressly provided in this Agreement, no authorization, consent, approval license, qualification or formal exemption from, nor any filing, declaration or registration with, any Governmental Authority and no material authorization, consent or approval from any other Person, is required in connection with the execution, delivery and performance by each Loan Party of any Loan Document to which it is a party. All such authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations and registrations which have previously been obtained or made, as the case may be, are in full force and effect and are not the subject of any attack, or to the best knowledge of each Borrower, any threatened attack, in any material respect, by appeal, direct proceeding or otherwise.

3.13 Contracts, Agreements and Leases. To each Borrower's best knowledge and after due inquiry, no Loan Party is in default (beyond any applicable period of grace or cure) in complying with any provision of any material contract, agreement, indenture, lease or instrument to which it is a party or by which it or any of its properties or assets are bound, where such default would have a Material Adverse Effect. To each Borrower's knowledge, each such material contract, commitment, undertaking, agreement, indenture and instrument is in full force and effect and is valid and legally binding.

3.14 ERISA. Except as shown on Schedule 3.14, no Loan Party maintains or contributes to any employee benefit plan subject to Title IV of ERISA. Furthermore, no Loan Party has incurred any accumulated funding deficiency within the meaning of ERISA or incurred any liability to the PBGC in connection with any employee benefit plan established or maintained by such Loan Party, and no reportable event or prohibited transaction, as defined in ERISA, has occurred with respect to such plans.

3.15 No Investment Company. No Loan Party is an "investment company" within the meaning of the Investment Company Act of 1940, as amended, nor is any Loan Party "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

3.16 No Margin Stock. No Loan Party is engaged principally, or as one of its important activities, directly or indirectly, in the business of extending credit for the purpose of purchasing or carrying margin stock, and none of the proceeds of the Loan will be used, directly or indirectly, to purchase or carry any margin stock or made available by any Loan Party in any manner to any other Person to enable or assist such Person in purchasing or carrying margin stock, or otherwise used or made available for any other purpose which might violate the provisions of Regulations G, T, U, or X of the Board of Governors of the Federal Reserve System.

3.17 Environmental Representations.

(a) No Loan Party has received any notice of any violation of any Environmental Law(s); and no Loan Party is a party to any litigation or administrative proceeding, nor, so far as is known by any Borrower, is any litigation or administrative proceeding threatened against any Loan Party which, in any event, (i) asserts or alleges that any Loan Party violated any Environmental Law(s), (ii) asserts or alleges that any Loan Party is required to clean up, remove or take any other remedial or response action due to the disposal, depositing, discharge, leaking or other release of any Hazardous Materials, or (iii) asserts or alleges that any Loan Party is required to pay all or a portion of any past, present or future clean-up, removal or other remedial or response action which arises out of or is related to the disposal, depositing, discharge, leaking or other release of any Hazardous Materials by any Loan Party, and which in each case of (i)-(iii), either singularly or in the aggregate, could have a Material Adverse Effect.

(b) To Borrowers' knowledge, there are no conditions existing currently which could subject any Loan Party to damages, penalties, injunctive relief or clean-up costs under any applicable Environmental Law(s), or which require, or are likely to require, clean-up, removal, remedial action or other response pursuant to any applicable Environmental Law(s) by any Loan Party, and which, in any event, either singularly or in aggregate, could have a Material Adverse Effect.

(c) No Loan Party is subject to any judgment, decree, order or citation related to or arising out of any applicable Environmental Law(s), which, either singularly or in the aggregate, could have a Material Adverse Effect; and, to Borrowers' knowledge, no Loan Party has been named or listed as a potentially responsible party by any Governmental Authority in any matter arising under any applicable Environmental Law(s), except as disclosed in Schedule 3.16, and, in the event that any such matters are disclosed in said Schedule 3.16 they will not, either singularly or in the aggregate, have a Material Adverse Effect.

(d) Each Loan Party has all permits, licenses and approvals required under applicable Environmental Laws, where the failure to so obtain or maintain any such permits, licenses or approvals could have a Material Adverse Effect.

3.18 Accuracy of Information. The Financial Statements previously furnished to Bank have been prepared in accordance with GAAP and fairly present the financial condition of Borrower and, as applicable, the consolidated financial condition of Borrower and such other Person(s) as such Financial Statements purport to present, and the results of their respective operations as of the dates and for the periods covered thereby; and since the date(s) of said Financial Statements, there has been no material adverse change in the financial condition of Borrower or any other Person covered by such Financial Statements. No Loan Party, nor any such other Person has any material contingent obligations, liabilities for taxes, long-term leases or long-term commitments not disclosed by, or reserved against in, such Financial Statements. Each Loan Party is solvent, able to pay its respective debts as they mature, has capital sufficient to carry on its business and has assets the fair market value of which exceed its liabilities, and no Loan Party will be rendered insolvent, under-capitalized or unable to pay debts generally as they become due by the execution or performance of any Loan Document to which it is a party or by which it is otherwise bound.

3.19 Equity Ownership. Stratus' entire issued and outstanding capital stock consists of 7,205,690 shares of common stock, \$.01 par value; and the names of all Persons who own beneficially five percent (5%) or more of such shares, together with the amount of such ownership, are set forth in Schedule 3.19, Part 1 attached hereto. All of the partnership interests in Circle C are owned beneficially and of record by the Persons and in the amounts/percentages set forth in Schedule 3.19, Part 2 attached hereto. Austin's entire issued and outstanding capital stock consists of 1,000 shares of common stock, \$1.00 par value; and the names of all Persons who own beneficially five percent (5%) or more of such shares, together with the amount of such ownership, are set forth in Schedule 3.19, Part 4 attached hereto. All of the partnership interests in SPOC are owned beneficially and of record by the Persons and in the amounts/percentages set forth in Schedule 3.19, Part 3. To the extent that any such partner is a corporation (other than Stratus or Austin), limited liability company or partnership (other than Circle C), similar information with respect to the beneficial and record owners of all equity ownership interests in each such entity is set forth in Schedule 3.19, Part 3. There are no outstanding options, warrants or rights to purchase, nor any agreement for the subscription, purchase or acquisition of, any equity ownership interests of any Loan Party, except described in Schedule 3.19, Part 5.

3.20 Business Loan. The Loan is a business loan transaction in the stated amount solely for the purpose of carrying on the businesses of Borrowers and none of the proceeds of the Loan will be used for the personal, family, household or agricultural purposes of any Borrower.

3.21 Relationship. The relationship between each Borrower and Bank is solely that of borrower and lender, and Bank has no fiduciary or other special relationship with any Borrower or any other Loan Party, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between any Borrower or any other Loan Party and Bank to be other than that of borrower and lender.

3.22 Experience. The principals of each Borrower are knowledgeable businessmen with experience in real estate transactions and real estate financing. In all of their transactions with Bank, each Borrower and its principals have been represented by (or have had the opportunity to be represented by) legal counsel independent of Bank and independent of counsel for Bank.

3.23 Compliance with Laws. The Land and any Improvements thereon comply, in all material respects, with all applicable Governmental Requirements and restrictive covenants, including, without limitation, zoning laws, building codes, handicap or disability legislation, and all rules, regulations and orders relating thereto, and all Environmental Laws, and the use to which a Borrower is using or intends to use its Land and Improvements complies with all Governmental Regulations in all material respects, specifically including, but not limited to, any and all land use and development entitlements and Municipal Utility District requirements for the Primary Collateral and the Other Collateral, and that Borrower has taken all action necessary to preserve and maintain the land use and development entitlements, and has taken no action which would cause a loss of any such entitlements.

3.24 Access. Access by vehicles to the Land exists over paved roadways that have been completed, dedicated to the public use and accepted by the appropriate Governmental Authority.

3.25 Statements. No certificate, statement, report or other information delivered heretofore, concurrently herewith or hereafter by any Loan Party to Bank in connection herewith, or in connection with any transaction contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being materially misleading, and same were true, complete and accurate as of the date hereof in all material respects.

3.26 Disclaimer of Permanent Financing. Each Borrower acknowledges and agrees that Bank has not made any commitments, either express or implied, to extend the terms of the Loan past its stated maturity date or to provide Borrowers with any permanent financing, except to the extent, if any, that the same is expressly stated in this Agreement and the other Loan Documents.

3.27 Not a Broker Or Dealer. No Loan Party is a "broker" or a "dealer" within the meaning of the Securities Exchange Act of 1934, as amended from time to time, and any rules or regulations promulgated thereunder.

SECTION AFFIRMATIVE COVENANTS

4.

Each Borrower covenants and agrees that, so long as Bank is committed to make any Advance or issue any Letter of Credit under this Agreement, and until all instruments and agreements evidencing any Loan which is payable on demand or which conditions Advances upon the Bank's discretion are fully discharged and terminated, and thereafter, so long as any Indebtedness remains outstanding, it will, and, as applicable, it will cause each Loan Party within its control or under common control to:

4.1 Preservation of Existence, Etc. Preserve and maintain its existence and preserve and maintain such of its rights, licenses, and privileges as are material to the business and operations conducted by it; qualify and remain qualified to do business in each jurisdiction in which the Land it owns is located and where such qualification is material to its business and operations or ownership of its properties; continue to conduct and operate its business substantially as conducted and operated during the present and preceding calendar year; at all times maintain, preserve and protect all of its franchises and trade names and preserve all the remainder of its property and keep the same in good repair, working order and condition; and from time to time make, or cause to be made such repairs or betterments as Borrower is obligated to make under any Governmental Requirements.

4.2 Keeping of Books. Keep proper books of record and account in which full and correct entries shall be made of all of its financial transactions and its assets and businesses so as to permit the presentation of financial statements (including, without limitation, those Financial Statements to be delivered to Bank pursuant to Section 4.3 hereof) prepared in accordance with GAAP; and permit Bank, or its representatives, at reasonable times and intervals after forty-eight (48) hours prior notice, at Borrowers' cost and expense, to visit any office of any Loan Party, discuss its financial matters with its officers, employees, and independent certified public accountants, and by this provision, each Borrower authorizes such officers, employees and accountants to discuss the finances and affairs of any Loan Party and to examine any of its books and other corporate records; provided, however, if no Event of Default exists, such visit will not occur more often than four (4) times in any calendar year.

4.3 Reporting Requirements. Stratus shall furnish to Bank, or cause to be furnished to Bank, the following:

(a) As soon as possible, and in any event within five (5) calendar days after becoming aware of the occurrence or existence of each Default or Event of Default hereunder or of any Material Adverse Effect, a written statement of the chief financial officer or other appropriate authorized representative of Stratus, setting forth details of such Default, Event of Default or Material Adverse Effect, and the action which Stratus has taken, or has caused to be taken, or proposes to take, or to cause to be taken, with respect thereto.

(b) As soon as available, and in any event within ninety (90) days after and as of the end of each fiscal year of Stratus, audited consolidated Financial Statements of Stratus, including a balance sheet, income statement, statement of profit and loss, statement of changes in shareholders equity, statement of cash flows and contingent obligations, for and as of such fiscal year then ending, with comparative numbers for the preceding fiscal year, in each case, prepared by Stratus or such other Person, as applicable, and completed in such detail as Bank shall require, and certified by the chief financial officer or other appropriate authorized representative of Stratus or of such other Person, as applicable, as to consistency with prior financial reports and accounting periods, accuracy and fairness of presentation. Such audited Financial Statements shall be prepared in accordance with GAAP by independent certified public accountants of recognized standing selected by Borrower and approved by Bank and shall contain unqualified opinions as to the fairness of the statements therein contained.

(c) As soon as available, and in any event not later than sixty (60) days after the start of each fiscal year of Stratus, the business plan of Stratus for such forthcoming fiscal year.

(d) As soon as available, and in any event within forty (40) days after and as of the end of each calendar quarter, including the last such reporting period of each calendar year, consolidated Financial Statements of Stratus and, to the extent not covered in the Stratus Financial Statements, from such of the other Loan Parties as may be required by the Bank, Consolidated, as applicable, for and as of such reporting period, including a balance sheet, income statement, statement of profit and loss, surplus reconciliation statement and statement of cash flows and contingency for and as of such reporting period then ending and for and as of that portion of the calendar year then ending, with comparative numbers for the same period of the preceding calendar year, in each case, certified by the chief financial officer or other appropriate authorized representative of Stratus and, as applicable, each other Loan Party as to consistency with prior financial reports and accounting periods, accuracy and fairness of presentation.

(e) As soon as available, and in any event within forty (40) days after and as of the end of each calendar month, a statement of Stratus' sales as of such reporting period then ending and for and as of that portion of the calendar year then ending, with comparative numbers for the same period of the preceding calendar year, in each case, certified by the chief financial officer of Stratus as to consistency with prior reports and accounting periods, accuracy and fairness of presentation ended and the year-to-date.

(f) As soon as available, and in any event within forty (40) days after and as of the end of each calendar quarter, a statement of the status of MUD Reimbursables and the MUD Reimbursables Value, Credit Banks and Credit Bank Value, and Material Litigation as of such reporting period then ending certified by the chief financial officer of Stratus as to accuracy and completeness.

(g) Promptly upon receipt thereof, copies of all management letters and other substantive reports submitted to any Loan Party by independent certified public accountants in connection with any annual audit of any such party.

(h) Promptly after filing the same, a copy of Stratus' annual federal income tax return.

(i) Simultaneously with the Financial Statements to be delivered to Bank pursuant to Sections (b) and (d) above, a Compliance Certificate dated as of the end of such quarter or year, as the case may be.

(j) Promptly, and in form and detail reasonably satisfactory to Bank, such other information as Bank may reasonably request from time to time.

4.4 Intentionally Omitted.

4.5 Further Assurances: Financing Statements. Furnish Bank, at Borrowers' expense, upon Bank's request and in form reasonably satisfactory to Bank, and execute and deliver or cause to be executed and delivered, such additional pledges, assignments, mortgages, lien instruments or other security instruments, consents, acknowledgments, subordinations and financing statements covering any or all of the Mortgaged Property pledged, assigned, mortgaged or encumbered pursuant to any Loan Document, of every nature and description, whether now owned or hereafter acquired by the Person

providing such Mortgaged Property, together with such other documents or instruments as Bank may require to effectuate more fully the express purposes of any Loan Document.

4.6 Compliance with Leases. Comply with all material terms and conditions of the Leases, if any, and all other lease or rental agreements covering any premises or property (real or personal) wherein any of the Mortgaged Property is or may be located, or covering any of the other material personal or real property now or hereafter owned, leased or otherwise used by any Loan Party in the conduct of its business, and any Governmental Requirement, except where the failure to so comply could not cause a Material Adverse Effect.

4.7 Indemnification. Indemnify, defend and save Bank harmless from any and all claims, losses, costs, damages, liabilities, obligations and expenses, including, without limitation, reasonable attorneys' fees, incurred by Bank by reason of any Default or Event of Default, in defending or protecting the Liens which secure or purport to secure all or any portion of the Indebtedness, whether existing under any Loan Document or otherwise or the priority thereof, or in enforcing the obligations of any Borrower or any other Person under or pursuant to any Loan Document, or in the prosecution or defense of any action or proceeding concerning any matter growing out of or connected with the Mortgaged Property or any Loan Document, **INCLUDING ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS, AND EXPENSES RESULTING FROM BANK'S OWN NEGLIGENCE, EXCEPT AND TO THE EXTENT, BUT ONLY TO THE EXTENT, CAUSED BY BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Without limiting in any manner any of the foregoing, it is specifically agreed that the obligations of Borrowers under this section shall extend to any and all claims, losses, costs, damages, liabilities, obligations and expenses, including, without limitation, reasonable attorneys' fees, incurred by Bank by reason that the legal description of any of the Mortgaged Property in any Loan Document is incorrect in any respect or because the Liens of any of the Deeds of Trust are other than first and prior Liens, except to the extent any such Deed of Trust expressly recognizes that it is not a first and prior Lien.

4.8 Governmental and Other Approvals. To the extent necessary to be in compliance, comply with all Governmental Requirements in a timely matter and apply for, obtain and/or maintain in effect, as applicable, all authorizations, consents, approvals, licenses, qualifications, exemptions, filings, declarations, and registrations (whether with any Governmental Authority, securities exchange or otherwise) which are necessary in connection with the execution, delivery and/or performance by any Loan Party of any Loan Document to which it is a party, specifically including, but not limited to, the entitlements necessary to develop the Mortgaged Property.

4.9 Insurance. Each Borrower shall obtain and maintain or cause to be obtained and maintained at such Borrower's sole expense with respect to the portions of the Mortgaged Property owned by it: (a) all-risk property insurance with respect to all insurable Mortgaged Property, if any, against loss or damage by fire, lightning, windstorm, explosion, hail, tornado and such hazards as are presently included in so-called "all-risk" coverage and against such other insurable hazards as Bank may reasonably require, in an amount not less than 100% of the full replacement cost, including the cost of debris removal, without deduction for depreciation and sufficient to prevent Borrowers or Bank from becoming a coinsurer; (b) if and to the extent any insurable Improvements are in a special flood hazard area, a flood insurance policy in an amount equal to the lesser of the principal balance of the Indebtedness or the maximum amount available or the replacement cost of the insurable Mortgaged Property; (c) commercial general public liability insurance, on an "occurrence" basis, for the benefit of Borrowers with Bank named as loss payee in respect to the Land and Improvements; (d) statutory worker's compensation insurance with respect to any work on or about the Mortgaged Property; and (e) such other insurance on the insurable Mortgaged Property as may from time to time be reasonably required by Bank and against other insurable hazards or casualties which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height, type, construction, location, use and occupancy of buildings and improvements. All insurance policies shall be issued and maintained by insurers, in amounts, with deductibles, and in form reasonably satisfactory to Bank, and shall require not less than fifteen (15) days' prior written notice to Bank of any cancellation or material change of coverage. All insurance policies maintained, or caused to be maintained, by a Borrower with respect to any of the Mortgaged Property shall provide that each such policy shall be primary without right of contribution from any other insurance that may be carried by such Borrower or Bank and that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. If any insurer which has issued a policy of title, hazard, liability or other insurance required pursuant to this Agreement or any other Loan Document becomes insolvent or the subject of any bankruptcy, receivership or similar proceeding or if Bank, in good faith, believes that the financial responsibility of such insurer is or becomes inadequate, the applicable Borrower shall, in each instance, promptly, upon the request of Bank and at such Borrower's expense, obtain and deliver to Bank a certificate of insurance issued by another insurer, which insurer and policy meet the requirements of this Agreement or such other Loan Document, as the case may be and shall furnish a copy of the policy upon Bank's request. Without limiting the discretion of Bank with respect to required endorsements to insurance policies, all such policies for loss of or damage to the Mortgaged Property shall contain a standard mortgage clause (without contribution) naming Bank as mortgagee with loss proceeds payable to Bank notwithstanding (i) any act, failure to act or negligence of or violation of any warranty, declaration or condition contained in any such policy by any named insured; (ii) the occupation or use of the Mortgaged Property for purposes more hazardous than permitted by the terms of any such policy; (iii) any foreclosure or other similar action by Bank under the Loan Documents; or (iv) any change in title to or ownership of the Mortgaged Property or any portion thereof, such proceeds to be held for application as provided in the Loan Documents. The originals of each initial insurance policy (or to the extent permitted by Bank, a copy of the original policy and a satisfactory certificate of insurance) shall be delivered to Bank at the time of execution of this Agreement, with no delinquent premium payments, and each renewal certificate shall be delivered to Bank prior to the expiration of the policy it renews or replaces with no delinquent premium payments; provided that all insurance premiums shall be prepaid on an annual basis. Borrower shall pay all premiums on policies required hereunder as they become due and payable. If any loss occurs at any time when Borrower has failed to perform any Borrower's covenants and agreements in this Paragraph, Bank shall nevertheless be entitled to the benefit of all insurance covering the loss and held by or for all Borrowers, to the same extent as if it had been made payable to Bank. Upon any foreclosure hereof or transfer of title to the Mortgaged Property in extinguishment of the whole or any part of the Indebtedness, all of Borrowers' right, title and interest in and to the insurance policies referred to in this Paragraph (including unearned premiums) and all proceeds payable thereunder shall thereupon vest in the purchaser at foreclosure or other such transferee, to the extent permissible under such policies. Bank shall have the right (but not the obligation) to make proof of loss for, settle and adjust any claim under, and receive the proceeds of, all insurance for loss of or damage to the Mortgaged Property, and the expenses incurred by Bank in the adjustment and collection of insurance proceeds shall be a part of the Indebtedness, shall be due and payable to Bank on demand and shall bear interest from the date paid by Bank until reimbursed at the highest rate of interest applicable to any of the Indebtedness (but not in excess of the highest rate permitted by applicable law). Bank and Bank's employees are each irrevocably appointed attorney-in-fact for Borrowers and are authorized to adjust and compromise each loss without the consent of Bank, to collect, receive and receipt for all insurance proceeds in the name of Bank and/or Borrowers, and to endorse Borrowers' name upon any check in payment of the loss. Bank shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such proceeds or for the obtaining, maintaining or adequacy of any insurance or for failure to see to the proper application of any amount paid over to any Borrower.

4.10 Compliance with ERISA. In the event that any Loan Party or any of its Subsidiaries maintain(s) or establish(es) a Pension Plan subject to

ERISA, (a) comply in all material respects with all requirements imposed by ERISA as presently in effect or hereafter promulgated, including, but not limited to, the minimum funding requirements thereof; (b) promptly notify Bank upon the occurrence of a “reportable event” or “prohibited transaction” within the meaning of ERISA, or that the PBGC or any Loan Party has instituted or will institute proceedings to terminate any Pension Plan, together with a copy of any proposed notice of such event which may be required to be filed with the PBGC; and (c) furnish to Bank (or cause the plan administrator to furnish Bank) a copy of the annual return (including all schedules and attachments) for each Pension Plan covered by ERISA, and filed with the Internal Revenue Service by any Loan Party not later than thirty (30) days after such report has been so filed.

4.11 Environmental Covenants.

(a) Comply with all applicable Environmental Laws in all material respects, including, but not limited to, the demolition of any existing house or other buildings, in accordance with Texas Department of Health Regulations, and maintain all permits, licenses and approvals required under applicable Environmental Laws, where the failure to do so could have a Material Adverse Effect. Further, Borrower acknowledges that certain petroleum hydrocarbons have been released from Exxon and Shell Oil pipelines located on or in the vicinity of the Land, and in the event the subsurface soil affected by such releases on the Land are to be disturbed, Borrower will take such health and safety measures as necessary to protect any person coming into contact with such releases, and all impacted soil resulting from site excavations will be disposed of in accordance with applicable regulations.

(b) Promptly notify Bank, in writing, as soon as any Borrower becomes aware of any condition or circumstance which makes any of the environmental representations or warranties set forth in this Agreement or any other Loan Document incomplete, incorrect or inaccurate in any material respect as of any date; and promptly provide to Bank, immediately upon receipt thereof, copies of any material correspondence, notice, pleading, citation, indictment, complaint, order, decree, or other document from any source asserting or alleging a violation of any Environmental Laws by any Loan Party, or of any circumstance or condition which requires or may require, a financial contribution by any Loan Party, or a clean-up, removal, remedial action or other response by or on behalf of any Loan Party, under applicable Environmental Law(s), or which seeks damages or civil, criminal or punitive penalties from any Loan Party or any violation or alleged violation of Environmental Law(s).

(c) Borrower hereby agrees to indemnify, defend and hold Bank, and any of Bank’s past, present and future officers, directors, shareholders, employees, representatives and consultants, harmless from any and all claims, losses, damages, suits, penalties, costs, liabilities, obligations and expenses (including, without limitation, reasonable legal expenses and attorneys’ fees, whether inside or outside counsel is used) incurred or arising out of any claim, loss or damage of any property, injuries to or death of any persons, contamination of or adverse effects on the environment, or other violation of any applicable Environmental Law(s), in any case, caused by any Loan Party or in any way related to any property owned or operated by any Loan Party or due to any acts of any Loan Party or any of its officers, directors, shareholders, employees, consultants and/or representatives, **INCLUDING ANY CLAIMS, LOSSES, DAMAGES, SUITS, PENALTIES, COSTS, LIABILITIES, OBLIGATIONS OR EXPENSES, RESULTING FROM BANK’S OWN NEGLIGENCE; PROVIDED HOWEVER, THAT THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE, AND BORROWER SHALL NOT BE LIABLE FOR ANY SUCH CLAIMS, LOSSES, DAMAGES, SUITS, PENALTIES, COSTS, LIABILITIES, OBLIGATIONS OR EXPENSES, TO THE EXTENT (BUT ONLY TO THE EXTENT) THE SAME ARISE OR RESULT FROM ANY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF BANK OR ANY OF ITS AGENTS OR EMPLOYEES.**

4.12 Bank’s Expenses. Pay or reimburse to Bank on demand all costs and expenses of Bank, including, without limitation, reasonable attorneys’ fees and legal expenses, incurred in connection with the preparation, execution, delivery, administration and performance of the Loan Documents, the Mortgaged Property, and the transactions contemplated by this Agreement including, without limitation, title insurance and examination charges, survey costs, insurance premiums, filing and recording fees, attorneys’ fees and expenses, and other expenses payable to third parties incurred by Bank in connection with the consummation of the transactions contemplated by this Agreement.

4.13 Surveys. Furnish Bank from time to time at the request of Bank but no more often than once per year, at Borrowers’ expense recertified and updated Surveys of the Primary Collateral. All Surveys shall be in form and substance reasonably acceptable to Bank.

4.14 Estoppel Certificates. Deliver to Bank, within ten (10) days after request therefor, estoppel certificates or written statements, duly acknowledged, stating to Borrowers’ knowledge after diligent inquiry, the amount that has then been advanced to Borrowers under this Agreement, the amount due on the Note, and whether any offsets or defenses exist against the Note or any of the other Loan Documents.

4.15 Personalty and Fixtures. Deliver to Bank, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which any Borrower claims title to any items of personal property incorporated in any Improvements or subject to the lien of any of the Deeds of Trust or to the security interest of any of the Security Agreements.

4.16 Leases. Deliver to Bank executed copies of all Leases; and all said Leases will contain a written provision reasonably acceptable to Bank whereby all rights of the tenant in the Lease and the Mortgaged Property are subordinated to the liens and security interests granted in the Loan Documents. Furthermore, if requested by Bank, Borrowers shall cause to be executed and delivered to Bank a Subordination, Non-Disturbance and Attornment Agreement, in form and substance reasonably acceptable to Bank, relating to each Lease and fully executed by Bank, Borrowers and such tenant.

4.17 Approval to Lease Required. Borrowers will obtain the prior written consent of Bank as to the form and substance of each proposed Lease specifically including, but not limited to, any ground lease transaction, and of each prospective tenant prior to entering into any such Lease, which approval will not be unreasonably withheld, conditioned or delayed.

4.18 Brokers. Pay all fees, commissions and other compensation payable to all brokers, if any, involved in this transaction at or prior to the disbursement of the Initial Advance, except for any brokers expressly contracted with by Bank. Borrowers hereby agree to indemnify and hold harmless Bank from and against any loss, damage, expense or claims of brokers (except for brokers expressly contracted with by Bank) arising by reason of the execution hereof or the consummation of the transactions contemplated hereby, including but not limited to, any transactions involving or relating to any Lease.

4.19 Appraisals. Supply Bank, at Borrowers’ expense, with new or recertified Appraisals from time to time upon Bank’s request; provided, (i)

such Appraisals shall be updated at least one time every two (2) years and (ii) so long as no Default or Event of Default shall have occurred and be continuing, Borrowers shall not be obligated to pay for any such Appraisals more frequently than once during any calendar year; subject, however, to the updated information regarding reconciliation of value as may be required by Bank in connection with a Partial Release, as more fully set forth in Addendum 3. Without limiting the foregoing in any manner, Borrower may, from time to time and at its cost and expense, and without affecting Bank's right to require any updated Appraisal pursuant to this Section 4.19, obtain and deliver to Bank new Appraisals or updates of existing Appraisals, provided such Appraisals comply with the requirements of this Agreement, for the purposes of updating the Borrowing Base Limitation.

4.20 Financial Covenants. Maintain compliance with the following financial covenants on a consolidated basis:

- (a) Maintain a Tangible Net Worth at all times of not less than \$80,000,000.00.
- (b) Maintain a minimum Debt-to-Tangible Net Worth Ratio at all times of not more than 1.5 to 1.

The foregoing covenants shall be (i) computed on a consolidated basis, (ii) tested at the end of each calendar quarter, (iii) and certified to in the Compliance Certificate required to be delivered to Bank pursuant to Section 4.3(i) above.

4.21 FAAM Loan. Stratus previously obtained the FAAM Loan, which is an unsecured loan from one or more affiliates of First American Asset Management ("**FAAM**") in a principal amount not to exceed \$10,000,000.00. Borrowers hereby represent and warrant that the following terms, covenants and restrictions have been satisfied and complied with at all times to date and shall continue to be satisfied and complied with throughout the term of the FAAM Loan until the Loan has been repaid in full and all other obligations of Borrowers under the Loan Documents have been fully satisfied: (i) neither the stated principal amount of the FAAM Loan, nor the outstanding principal balance of the Holiday Loan, shall at any time exceed \$10,000,000; (ii) the proceeds of the FAAM Loan shall be used only for general corporate purposes of Stratus, including the use of such proceeds for the purpose of repurchasing the common stock of Stratus; (iii) the FAAM Loan is not and shall at no time be secured by any of the real property or other collateral securing the Loan or otherwise be secured by any Liens in contravention of any terms or provisions in this Agreement (including, without limitation, Section 5.5 hereof), or any of the other Loan Documents; (iv) Bank's rights to receive, use and apply any and all proceeds and other amounts as set forth in Sections 2.18 and 2.19 of Addendum 2 and elsewhere in this Agreement shall continue in full force and effect and shall not be affected in any manner by the FAAM Loan, and FAAM (and any subsequent holder of the FAAM Loan) shall have no rights to the receipt of any such proceeds, and Borrowers shall not utilize any of such proceeds for repayment of or application to any of the indebtedness evidenced by the FAAM Loan; (v) without the prior written approval of Bank, no proceeds of the Loan shall be used by Borrowers to repay any principal or other amounts then outstanding under the FAAM Loan, except that proceeds of the Loan may be used by Borrowers for the repayment of ordinary interest then due and payable under the FAAM Loan so long as no Event of Default or Default exists and is continuing under this Agreement or the other Loan Documents; and (vi) the promissory note, loan agreement and other loan documents (if any) executed in connection with the FAAM Loan shall not, without Bank's written consent, be amended or modified in any manner that (a) conflicts with any of the foregoing terms, covenants and restrictions, (b) increases the principal amount of the FAAM Loan to more than \$10,000,000.00, or (c) would cause a default or an event of default under this Agreement or any of the other Loan Documents. Borrowers shall promptly provide Bank with a copy of any notice of default received by Stratus or Borrowers from FAAM (or the then holder of the FAAM Loan) or delivered by Stratus or Borrowers to FAAM (or the then holder of the FAAM Loan), in connection with the FAAM Loan. Any failure of Borrowers or the FAAM Loan to comply with any of the foregoing conditions, covenants and restrictions set forth in items (i) through (vi) above shall be an Event of Default under this Agreement and the other Loan Documents. Any default or event of default under the FAAM Loan which continues beyond any applicable grace or cure period thereunder shall also constitute an Event of Default under the Loan Agreement (and the other Loan Documents).

SECTION NEGATIVE COVENANTS

5.

Each Borrower covenants and agrees that, so long as Bank is committed to make any Advance or issue any Letter of Credit under this Agreement and until all instruments and agreements evidencing any Loan which is payable on demand or which conditions Advances upon the Bank's discretion are fully discharged and terminated and, thereafter, so long as any Indebtedness remains outstanding, it will not, and it will not allow any Loan Party within its control to, without the prior written consent of the Bank:

5.1 Capital Structure, Business Objects or Purpose. Purchase, acquire or redeem any of its equity ownership interests, or enter into any reorganization or recapitalization or reclassify its equity ownership interests, or make any material change in its capital structure or general business objects or purpose. Notwithstanding the foregoing, Borrowers may repurchase up to \$10,000,000.00 of the outstanding common stock of Stratus (which amount is inclusive of common stock previously repurchased as of the date hereof, which amount is approximately \$3,550,000).

5.2 Mergers or Dispositions. Change its name, enter into any merger or consolidation, whether or not the surviving entity thereunder, or sell, lease, transfer, relocate or dispose of all, substantially all, or any material part of its assets (whether in a single transaction or in a series of transactions), except as expressly permitted under this Agreement or the other Loan Documents.

5.3 Guaranties. Guarantee, endorse, or otherwise become secondarily liable for or upon the obligations or Debt of others (whether directly or indirectly), except:

- (a) guaranties in favor of and satisfactory to Bank;
- (b) endorsements for deposit or collection in the ordinary course of business; and
- (c) guaranties of carve-outs of non-recourse liabilities in connection with permanent financing of projects owned by Subsidiaries of Borrowers (collectively, the "**Guaranties of Non-Recourse Carve-Out Liabilities**").

5.4 Debt. Become or remain obligated for any Debt, except:

- (a) Indebtedness and other Debt from time to time outstanding and owing to Bank;

(b) other than the FAAM Loan, unsecured trade, utility or non-extraordinary accounts payable arising in the ordinary course of business and other unsecured Debt of Borrowers or the Loan Parties on a Consolidated basis at any one time not to exceed \$500,000.00;

(c) except for the Guaranties of Non-Recourse Carve-Out Liabilities and any guaranties for the benefit of Bank with regard to other loans to Subsidiaries of Borrowers or any other Loan Party, contingent liabilities of Borrowers on a Consolidated basis at any one time not to exceed \$20,000,000.00;

(d) Debt of a Related Party but only to the extent of the lesser of seventy-five percent (75%) of the appraised value of the real estate project owned by such Related Party or eighty percent (80%) of the total costs associated with the real estate project owned by such Related Party;

(e) Debt subordinated to the prior payment in full of the Indebtedness upon terms and conditions approved in writing by Bank;

(f) Debt outstanding as of the date hereof that is shown on the Financial Statements previously delivered to Bank; and

(g) Debt of Loan Party to any other Loan Party.

5.5 Encumbrances. Create, incur, assume or suffer to exist any Lien upon, or create, suffer or permit to exist any Lien upon any of its property or assets, whether now owned or hereafter acquired, except for Permitted Encumbrances.

5.6 Acquisitions. Except as expressly permitted under this Agreement, purchase or otherwise acquire or become obligated for the purchase of all or substantially all of the assets or business interests of any Person or any shares of stock or other ownership interests of any Person or in any other manner effectuate or attempt to effectuate an expansion of present business by acquisition.

5.7 Dividends. Declare or pay dividends on, or make any other distribution (whether by reduction of capital or otherwise) in respect of any shares of its capital stock or other ownership interests, including but not limited to dividends payable by Stratus or any dividends payable solely in stock except (a) dividends payable by a Subsidiary of a Borrower to a Borrower or by the Subsidiary of another Loan Party to such other Loan Party; or (b) the redemption, repurchase or acquisition of any shares of its capital stock payable upon an employee's termination pursuant to its employee stock option, repurchase, or similar plan; provided, however, that after giving effect to such redemption, repurchase or acquisition, such Borrower or such other Loan Party, as applicable, shall be in full compliance with the terms of this Agreement.

5.8 Investments. Except as otherwise permitted in Section 2.17 of Addendum 2, make or allow to remain outstanding any investment (whether such investment shall be of the character of investment in shares of stock, evidences of indebtedness or other securities or otherwise) in, or any loans, advances or extensions of credit to, any Person, other than:

(a) Each Borrower's current ownership in its respective Subsidiaries and Related Parties; and

(b) Acquisition of a new Subsidiary in connection with the acquisition of additional land which otherwise qualifies for a Section 2.17 acquisition as provided in Section 2.17 of Addendum 2 hereof; and

(c) any investment in direct obligations of the United States of America or any agency thereof, or in certificates of deposit issued by Bank, maintained consistent with a Borrower's or such Subsidiary's business practices prior to the date hereof; provided, that no such investment shall mature more than ninety (90) days after the date when made or the issuance thereof.

5.9 Transactions with Affiliates. Enter into any transaction with any of their stockholders, officers, employees, partners or any of their Affiliates or Related Parties, except subject to the terms hereof, transactions in the ordinary course of business and on terms not less favorable than would be usual and customary in similar transactions between Persons dealing at arm's length, or transfer any assets to any Related Party which is not a Borrower hereunder without Bank's prior consent.

5.10 Defaults on Other Obligations. Fail to perform, observe or comply duly with any covenant, agreement or other obligation to be performed, observed or complied with by any Loan Party, subject to any grace or cure periods provided therein, which failure could have a Material Adverse Effect.

5.11 Prepayment of Debt. Use proceeds of the Loan to prepay (or take any actions which impose an obligation to prepay) any Debt, except the Indebtedness, taxes, trade debt of Borrowers incurred in the ordinary course of business and for the other purposes set forth in Section 2.4 of Addendum 2 hereof.

5.12 Pension Plans. Except in compliance with this Agreement, enter into, maintain, or make contribution to, directly or indirectly, any Pension Plan that is subject to ERISA.

5.13 Subordinate Indebtedness. Subordinate any indebtedness due to it from any Person to indebtedness of other creditors of such Person.

5.14 No Further Negative Pledges. Other than the FAAM Loan, enter into or become subject to any agreement (other than this Agreement or the Loan Documents) (a) prohibiting the guaranteeing by any Loan Party of any obligations, (b) prohibiting the creation or assumption of any Lien upon the properties or assets of any Loan Party, whether now owned or hereafter acquired or (c) requiring an obligation to become secured (or further secured) if another obligation is secured or further secured.

5.15 No License Restrictions. Permit any restriction in any license or other agreement that restricts any Borrower or any other Loan Party from granting a Lien to Bank upon any of any Borrower's or such other Loan Party's rights under such license or agreement.

5.16 No Transfers to Related Parties. Transfer or permit any transfer of any assets of any Borrower to any Related Party for non-project related purposes.

5.17 Change in Management. Not permit any change in the management of Borrowers, unless such change in management is the result of a replacement for normal attrition, retirement, death or incapacity and within a reasonable period following such change, Borrowers have provided for the replacement of such manager to Bank's reasonable satisfaction; provided, further, Borrowers shall promptly notify Bank in writing of the occurrence of any change in the management of any Borrower.

SECTIONEVENTS OF DEFAULT

6.

6.1 Events of Default. The occurrence or existence of any one or more of the following conditions or events shall constitute an "Event of Default" hereunder:

(a) Non-payment of any principal, interest or other sum due under the terms of this Agreement, the Note, or under any other Loan Document when due in accordance with the terms hereof or thereof, which non-payment continues for five (5) days beyond its due date.

(b) Default by any Borrower in the observance or performance of any of the other conditions, covenants or agreements of Borrowers set forth in this Agreement or under any other Loan Document, which default continues for thirty (30) days following the date on which written notice is delivered by Bank to Borrower with respect to such default or event of default; provided, however, that such thirty (30) day period will be extended for up to ninety (90) days in Bank's sole discretion so long as a Borrower commences to cure such default during such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(c) Any representation or warranty made by any Loan Party in any Loan Document shall be untrue or incorrect in any material respect; provided that it will not be an Event of Default hereunder if (i) Borrower believed that any such representation or warranty was true when made, (ii) such representation or warranty is susceptible of being cured and made true and correct and (iii) within thirty (30) days after receipt of written notice Borrower takes whatever action is required so that such representation or warranty is made true and correct within such thirty (30) day period.

(d) Any default by any Loan Party, in the payment of any Debt (other than Debt owing to Bank) in an individual amount of \$50,000.00 or greater, or in an aggregate amount exceeding \$100,000.00, or in the material observance or performance of any conditions, covenants or agreements related or given with respect thereto and, in each such case, continuation thereof beyond any applicable grace or cure period.

(e) Any default by Stratus or any Borrower under the FAAM Loan which continues beyond any applicable grace or cure period.

(f) The rendering of one or more judgments or decrees for the payment of money, against any Loan Party, and such judgment(s) or decree(s) has not been vacated, bonded or stayed, by appeal or otherwise, for a period of sixty (60) consecutive days after the date of final entry.

(g) The failure by any Loan Party, to meet the minimum funding requirements under ERISA with respect to any Pension Plan established or maintained by it; the occurrence of any "reportable event", as defined in ERISA, which could constitute grounds for termination by the PBGC of any Pension Plan or for the appointment by the appropriate United States District Court of a trustee to administer such Pension Plan, and such reportable event is not corrected and such determination is not revoked within sixty (60) days after notice thereof has been given to the plan administrator or any Loan Party, as the case may be; or the institution of any proceedings by the PBGC to terminate any such Pension Plan or to appoint a trustee by the appropriate United States District Court to administer any such Pension Plan.

(h) If any Loan Party, becomes insolvent or generally fails to pay, or admits in writing its inability to pay, its debts as they mature, or applies for, consents to, or acquiesces in the appointment of a trustee, receiver, liquidator, conservator or other custodian for any Loan Party, or a substantial part of its property, or makes a general assignment for the benefit of creditors; or in the absence of such application, consent or acquiescence, a trustee, receiver, liquidator, conservator or other custodian is appointed for any Loan Party, or for a substantial part of its property, and the same is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, or other proceedings under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against any Loan Party, and, if instituted against any Loan Party, the same is consented to or acquiesced in by any such Loan Party or otherwise is not dismissed for sixty (60) days; or any warrant of attachment is issued against any substantial part of the property of any Loan Party, which is not released within thirty (30) days of service thereof.

(i) If any Loan Document shall be terminated, revoked, or otherwise rendered void or unenforceable, in any case, without Bank's prior written consent and Borrower fails to re-execute same within five (5) days of written notice requesting same.

(j) Any Borrower shall dissolve, terminate or liquidate, or merge with or be consolidated into any other entity without Bank's prior written consent.

(k) Without the Bank's prior written consent, any Borrower creates, places, or permits to be created or placed, or through any act or failure to act, acquiesces in the placing of, or allows to remain, any Lien with respect to the Mortgaged Property, or any portion thereof, other than the Permitted Encumbrances and, in the case of non-consensual Liens, such Borrower fails to cure same or bond around such lien in accordance with applicable Governmental Requirements and otherwise in a manner acceptable to Bank within forty-five (45) days from the date incurred.

(l) Except as otherwise expressly permitted under the Loan Documents, any Borrower sells, conveys, transfers or assigns all or any portion of the Mortgaged Property other than to a Loan Party and the Mortgaged Property remains subject to the Lien in favor of the Bank.

(m) There is a transfer, sale, assignment or conveyance of any beneficial interest in any Borrower or any entity that directly or indirectly holds a beneficial interest in any Borrower, except for Permitted Dispositions.

(n) Any Borrower abandons all or any portion of the Mortgaged Property.

(o) The construction of a Calera Court House is, at any time, (i) discontinued for a period of twenty (20) or more consecutive days after commencement of construction thereof, or (ii) not completed within 30 days after the Completion Date applicable to such Calera Court House, or the Calera Court House Borrower is unable to satisfy any condition precedent to its right to receive Advances, after Acceptance, for the construction of a Calera Court House for a period in excess of thirty (30) days after Bank's refusal to make any further Advances. Notwithstanding the foregoing, so long as no other Event of Default exists and is continuing, no Event of Default under this subsection shall exist due to the Calera Court Borrower's failure to commence, continue or complete construction of a Calera Court House or satisfy any condition to Calera Court Borrower's right to receive Advances hereunder within the time periods provided for in this Agreement to the extent, and only to the extent, the failure to do so is due to an act of force majeure if (i) the Calera Court Borrower has given Bank written notice of the act of force majeure within fifteen (15) days after the event occurs and (ii) the Calera Court Borrower continues to use its commercially reasonable best efforts to recommence its performance whenever and to whatever extent possible without delay, including through the use of alternate sources, work around plans or other means. In no event, however, shall any one or more acts of force majeure (i) extend the Completion Date for a Calera Court House by more than a total of ninety (90) days or (ii) extend the Maturity Date or any date on which payment of any of the Indebtedness is due.

(p) Bank deems itself insecure, believing in good faith that the prospect of payment or performance of any of the Indebtedness is impaired.

6.2 Remedies Upon Event of Default. Upon the occurrence and at any time during the existence or continuance of any Event of Default, but without impairing or otherwise limiting the Bank's right to demand payment of all or any portion of the Indebtedness which is payable on demand, at Bank's option, Bank may give notice to Borrowers declaring all or any portion of the Indebtedness remaining unpaid and outstanding, whether under the Note or otherwise, to be due and payable in full without presentation, demand, protest, notice of dishonor, notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby expressly waived, whereupon all such Indebtedness shall immediately become due and payable. Furthermore, upon the occurrence of a Default or Event of Default and at any time during the existence or continuance of any Default or Event of Default, but without impairing or otherwise limiting the right of Bank, if reserved under any Loan Document, to make or withhold financial accommodations at its discretion, to the extent not yet disbursed, any commitment by Bank to make any further Advances to Borrowers or issue any further Letters of Credit for any Borrower's account under this Agreement shall automatically terminate; provided, should such Default or Event of Default be cured to Bank's satisfaction, Bank may, but shall be under no obligation to, reinstate any such commitment by written notice to Borrowers. Notwithstanding the foregoing, in the case of an Event of Default under Section 6.1(i), and notwithstanding the lack of any notice, demand or declaration by Bank, the entire Indebtedness remaining unpaid and outstanding shall become automatically due and payable in full, and any commitment by Bank to make any further Advances to Borrowers or issue any further Letters of Credit for any Borrower's account shall be automatically and immediately terminated, without any requirement of notice or demand by Bank upon Borrowers, each of which are hereby expressly waived by Borrowers. Bank may, without waiving any Default or Event of Default, advance Loan proceeds to correct Borrowers' violation giving rise to the Event of Default. Any Loan proceeds so advanced will either, at Bank's option, be evidenced by the Note or constitute Indebtedness of Borrowers to Bank payable on demand, bearing interest at the Default Rate from the date advanced by Bank. All such demand indebtedness will be a part of the Indebtedness and will be secured by the liens and security interests of the Loan Documents. Each Loan Party that is a partnership agrees that Bank is not required to comply with Section 3.05(d) of the Texas Revised Partnership Act and agrees that Bank may proceed directly against one or more general (but not limited) partners or their property without first seeking satisfaction from partnership property. The foregoing rights and remedies are in addition to any other rights, remedies and privileges Bank may otherwise have or which may be available to it, whether under this Agreement, any other Loan Document, by law, or otherwise.

6.3 Setoff. In addition to any other rights or remedies of Bank under any Loan Document, by law or otherwise, upon the occurrence and during the continuance or existence of any Event of Default, Bank may, at any time and from time to time, without notice to Borrowers (any requirements for such notice being expressly waived by Borrowers), setoff and apply against any or all of the Indebtedness (whether or not then due), any or all deposits (general or special, time or demand, provisional or final) at any time held by Borrowers and other indebtedness at any time owing by Bank to or for the credit or for the account of Borrowers, and any property of Borrowers, from time to time in possession or control of Bank, irrespective of whether or not Bank shall have made any demand hereunder or for payment of the Indebtedness and although such obligations may be contingent or unmatured, and regardless of whether any Mortgaged Property then held by Bank is adequate to cover the Indebtedness. The rights of Bank under this Section are in addition to any other rights and remedies (including, without limitation, other rights of setoff) which Bank may otherwise have. Borrowers hereby grant Bank a Lien on and security interest in all such deposits, indebtedness and other property as additional collateral for the payment and performance of the Indebtedness.

6.4 Waiver of Certain Laws. To the extent permitted by applicable law, Borrowers hereby agree to waive, and do hereby absolutely and irrevocably waive and relinquish, the benefit and advantage of any valuation, stay, appraisal, extension or redemption laws now existing or which may hereafter exist, which, but for this provision, might be applicable to any sale made under the judgment, order or decree of any court, on any claim for interest on the Note, or to any security interest or other Lien contemplated by or granted under or in connection with this Agreement or the Indebtedness.

6.5 Waiver of Defaults. No Default or Event of Default shall be waived by Bank except in a written instrument specifying the scope and terms of such waiver and signed by an authorized officer of Bank, and such waiver shall be effective only for the specific time(s) and purpose(s) given. No single or partial exercise of any right, power or privilege hereunder, nor any delay in the exercise thereof, shall preclude other or further exercise of Bank's rights. No waiver of any Default or Event of Default shall extend to any other or further Default or Event of Default. No forbearance on the part of Bank in enforcing any of Bank's rights or remedies under any Loan Document shall constitute a waiver of any of its rights or remedies. Borrowers expressly agree that this Section may not be waived or modified by Bank by course of performance, estoppel or otherwise.

6.6 Receiver. In any action or suit to foreclose upon any of the Mortgaged Property, Bank shall be entitled, without notice or consent, and completely without regard to the adequacy of any security for the Indebtedness, to the appointment of a receiver of the business and premises in question and of the rents and profits derived therefrom. This appointment shall be in addition to any other rights, relief or remedies afforded Bank. Such receiver, in addition to any other rights to which he shall be entitled, shall be authorized to sell, foreclose or complete foreclosure on Mortgaged Property for the benefit

of Bank, pursuant to provisions of applicable law.

6.7 Discretionary Credit and Credit Payable Upon Demand. To the extent that any of the Indebtedness shall, at anytime, be payable upon demand, nothing contained in this Agreement, or any other Loan Document, shall be construed to prevent Bank from making demand, without notice and with or without reason, for immediate payment of all or any part of such Indebtedness at any time or times, whether or not a Default or Event of Default has occurred or exists. In the event that such demand is made in accordance with the Loan Documents upon any portion of the Indebtedness and Borrower fails to meet any such demand within any applicable cure periods, the Bank, at its election, may terminate any commitment by Bank to make any further Advances to Borrowers or issue any further Letters of Credit for any Borrower's account under this Agreement or otherwise. Furthermore, to the extent any Loan Document authorizes the Bank, at its discretion, to make or to decline to make financial accommodations to the Borrowers, nothing contained in this Agreement or any other Loan Document shall be construed to limit or impair such discretion or to commit or otherwise obligate the Bank to make any such financial accommodation.

6.8 Application of Proceeds of Mortgaged Property. Notwithstanding anything to the contrary set forth in any Loan Document, during the existence of any Event of Default, the proceeds of any of the Mortgaged Property, together with any offsets, voluntary payments, and any other sums received or collected in respect of the Indebtedness, may be applied in such order and manner as determined by Bank in its sole and absolute discretion.

SECTION BANK'S DISCLAIMERS - BORROWERS' INDEMNITIES

7.

7.1 No Obligation by Bank. Bank has no liability or obligation whatsoever or howsoever in connection with any of the Mortgaged Property, and has no obligation except to disburse the proceeds of the Loan as herein agreed.

7.2 No Obligation by Bank to Operate. Any term or condition of any of the Loan Documents to the contrary notwithstanding, Bank shall not have, and by its execution and acceptance of this Agreement hereby expressly disclaims, any obligation or responsibility for the management, conduct or operation of the business and affairs of any Loan Party. Any term or condition of the Loan Documents which permits Bank to disburse funds, whether from the proceeds of the Loan or otherwise, or to take or refrain from taking any action with respect to any Loan Party, the Mortgaged Property or any other collateral for repayment of the Loan, shall be deemed to be solely to permit Bank to audit and review the management, operation and conduct of the business and affairs of any Loan Party, and to maintain and preserve the security given by Borrowers to Bank for the Loan, and may not be relied upon by any other person. Further, Bank shall not have, has not assumed and by its execution and acceptance of this Agreement hereby expressly disclaims any liability or responsibility for the payment or performance of any indebtedness or obligation of any Loan Party and no term or condition of the Loan Documents, shall be construed otherwise. Borrowers, jointly and severally, hereby indemnify and agree to hold Bank harmless from and against any cost, expense or liability incurred or suffered by Bank as a result of any assertion or claim of any obligation or responsibility of Bank for the management, operation and conduct of the business and affairs of any Borrower or any other Loan Party, or as a result of any assertion or claim of any liability or responsibility of Bank for the payment or performance of any Indebtedness or obligation of any Borrower or any other Loan Party.

7.3 Indemnity by Borrowers. Borrowers, jointly and severally, hereby indemnify Bank and each affiliate thereof and their respective officers, directors, employees, attorneys and agents from, and holds each of them harmless against, any and all losses, liabilities, claims, damages, costs, and expenses to which any of them may become subject, insofar as such losses, liabilities, claims, damages, costs, and expenses arise from or relate to any of the Loan Documents or any of the transactions contemplated thereby or from any investigation, litigation, or other proceeding, including, without limitation, any threatened investigation, litigation, or other proceeding relating to any of the foregoing, **INCLUDING WITHOUT LIMITATION, ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS, AND EXPENSES RESULTING FROM BANK'S OWN NEGLIGENCE, EXCEPT AND TO THE EXTENT, BUT ONLY TO THE EXTENT, CAUSED BY BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Without intending to limit the remedies available to Bank with respect to the enforcement of its indemnification rights as stated herein or as stated in any Loan Document, in the event any claim or demand is made or any other fact comes to the attention of Bank in connection with, relating or pertaining to, or arising out of the transactions contemplated by this Agreement, which Bank reasonably believes might involve or lead to some liability of Bank, Borrowers shall, immediately upon receipt of written notification of any such claim or demand, assume in full the personal responsibility for and the defense of any such claim or demand and pay in connection therewith any loss, damage, deficiency, liability or obligation, including, without limitation, legal fees and court costs incurred in connection therewith. In the event of court action in connection with any such claim or demand, Borrowers shall assume in full the responsibility for the defense of any such action and shall immediately satisfy and discharge any final decree or judgment rendered therein. Bank may, in its sole but reasonable discretion, make any payments sustained or incurred by reason of any of the foregoing; and Borrowers shall immediately upon receipt of notice repay to Bank, in cash, the amount of such payment, with interest thereon at the Maximum Lawful Rate from the date of such payment. Bank shall have the right to join Borrowers, or any of them, as a party defendant in any legal action brought against Bank, and Borrowers hereby consent to the entry of an order making Borrowers, or any of them, a party defendant to any such action.

7.4 No Agency. Nothing herein shall be construed as making or constituting Bank as the agent of any Loan Party in making payments pursuant to any construction contracts or subcontracts entered into by any Loan Party for construction of the Improvements or otherwise. The purpose of all requirements of Bank hereunder is solely to allow Bank to check and require documentation (including, but not limited to, lien waivers) sufficient to protect Bank and the Loan contemplated hereby.

7.5 Assignment of Reimbursables and Assignment of Partnership Interests. As additional security for the Loan, Borrowers or certain Loan Parties have transferred and assigned to Bank all of Borrowers' right, title and interest in and to certain reimbursements and credits due Borrowers from various municipal utility districts and cities, certain management and other fees, and certain partnership interests, all as more fully set forth in the Assignment of Reimbursables and Other Fees and in the Assignment of Partnership Interests now or hereafter executed by certain of the Borrowers (collectively, the "**Assignments**"). Any default which remains uncured beyond an grace or cure period under the Assignments shall also constitute an Event of Default hereunder. Said Assignments shall inure to the benefit of Bank and its successors and assigns, any purchaser upon foreclosure of any of the Deeds of Trust, any receiver in possession of the Mortgaged Property and any corporation affiliated with Bank which assumes Bank's rights and obligations under this Agreement.

SECTION MISCELLANEOUS

8.

8.1 Taxes and Fees. Unless otherwise prohibited by applicable law, should any tax (other than a tax based upon the net income of Bank) or recording or filing fee become payable in respect of any Loan Document, any of the Mortgaged Property, any of the Indebtedness or any amendment, modification or supplement hereof or thereof, Borrowers agree to pay such taxes (or reimburse Bank therefor upon demand for reimbursement), together with any interest or penalties thereon, and agrees to hold Bank harmless with respect thereto.

8.2 Governing Law. Each Loan Document shall be deemed to have been delivered in the State of Texas, and shall be governed by and construed and enforced in accordance with the laws of the State of Texas, except to the extent that the Uniform Commercial Code, other personal property law or real property law of another jurisdiction where Mortgaged Property is located is applicable, and except to the extent expressed to the contrary in any Loan Document. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

8.3 Audits of Mortgaged Property; Fees. Bank shall have the right from time to time to audit the Mortgaged Property, provided that such audits will be conducted no more than one (1) time in any calendar year unless an Event of Default has occurred. Borrowers agree to reimburse Bank, on demand, for customary and reasonable fees and costs incurred by Bank for such audits and financial analysis and examination of Borrowers or any other Loan Party performed from time to time.

8.4 Costs and Expenses. Borrowers shall pay Bank, on demand, all costs and expenses, including, without limitation, reasonable attorneys' fees and legal expenses (whether inside or outside counsel is used), incurred by Bank in perfecting, revising, protecting or enforcing any of its rights or remedies against any Loan Party or any Mortgaged Property, or otherwise incurred by Bank in connection with any Default or Event of Default or the enforcement of the Loan Documents or the Indebtedness. Following Bank's demand upon Borrowers for the payment of any such costs and expenses, and until the same are paid in full, the unpaid amount of such costs and expenses shall constitute Indebtedness and shall bear interest at the Default Rate.

8.5 Notices. All notices and other communications provided for in any Loan Document (unless otherwise expressly stipulated therein) or contemplated thereby, given thereunder or required by law to be given, shall be in writing (unless expressly provided to the contrary). If personally delivered, such notices shall be effective when delivered, and in the case of mailing or delivery by overnight courier, such notices shall be effective when placed in an envelope and deposited at a post office or official depository under the exclusive care and custody of the United States Postal Service or delivered to an overnight courier, postage prepaid, in each case addressed to the parties as set forth on the signature page of this Agreement, or to such other address as a party shall have designated to the other in writing in accordance with this Section. In the case of mailing, the mailing shall be by certified or first class mail. Except as specifically set forth to the contrary herein, in a Deed of Trust or in any other Loan Document, the giving of at least five (5) days' notice before Bank shall take any action described in any notice shall conclusively be deemed reasonable for all purposes; provided, that this shall not be deemed to require Bank to give such five (5) days' notice, or any notice, if not specifically required to do so in this Agreement.

8.6 Further Action. Borrowers, from time to time, upon written request of Bank, will promptly make, execute, acknowledge and deliver, or cause to be made, executed, acknowledged and delivered, all such further and additional instruments, and promptly take all such further action as may be reasonably required to carry out the intent and purpose of the Loan Documents, and to provide for the Loan thereunder and payment of the Note, according to the intent and purpose therein expressed.

8.7 Successors and Assigns; Participation. This Agreement shall be binding upon and shall inure to the benefit of Borrowers and Bank and their respective successors and assigns. The foregoing shall not authorize any assignment or transfer by any Borrower of any of its respective rights, duties or obligations hereunder, such assignments or transfers being expressly prohibited. Bank, however, may freely assign, whether by assignment, participation or otherwise, its rights and obligations hereunder, and is hereby authorized to disclose to any such assignee or participant (or proposed assignee or participant) any financial or other information in its knowledge or possession regarding any Loan Party or the Indebtedness.

8.8 Indulgence. No delay or failure of Bank in exercising any right, power or privilege hereunder or under any of the Loan Documents shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof, nor the exercise of any other right, power or privilege available to Bank. The rights and remedies of Bank hereunder are cumulative and are not exclusive of any rights or remedies of Bank.

8.9 Amendment and Waiver. No amendment or waiver of any provision of any Loan Document, or consent to any departure by any Loan Party therefrom, shall in any event be effective unless the same shall be in writing and signed by Bank, and then such waiver or consent shall be effective only in the specific instance(s) and for the specific time(s) and purpose(s) for which it is given.

8.10 Severability. In case any one or more of the obligations of any Loan Party under any Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining obligations of such Loan Party shall not in any way be affected or impaired thereby, and such invalidity, illegality or unenforceability in one jurisdiction shall not affect the validity, legality or enforceability of the obligations of such Loan Party under any Loan Document in any other jurisdiction.

8.11 Headings and Construction of Terms. The headings of the various subsections hereof are for convenience of reference only and shall in no way modify or affect any of the terms or provisions hereof. Where the context herein requires, the singular number shall include the plural, and any gender shall include any other gender.

8.12 Independence of Covenants. Each covenant hereunder shall be given independent effect so that if a particular action or condition is not permitted by any such covenant, the fact that it would be permitted by an exception to, or would be otherwise within the limitations of, another covenant shall not avoid the occurrence of any Default or Event of Default.

8.13 Reliance on and Survival of Various Provisions. All terms, covenants, agreements, indemnities, representations and warranties of any Loan Party made in any Loan Document, or in any certificate, report, financial statement or other document furnished by or on behalf of any Loan Party in connection with any Loan Document, shall be deemed to have been relied upon by Bank, notwithstanding any investigation heretofore or hereafter made by Bank or on Bank's behalf, and those covenants and agreements of Borrowers set forth in Sections 4.7, 4.11, 4.18, 7.2 and 7.3 hereof (together with any other

indemnities of Borrowers contained elsewhere in any Loan Document) shall survive the termination of this Agreement and the repayment in full of the Indebtedness.

8.14 Effective Upon Execution. This Agreement shall become effective upon the execution hereof by Bank and Borrowers, and shall remain effective until the Indebtedness under this Agreement and the Note and the related Loan Documents shall have been repaid and discharged in full and no commitment to extend any credit hereunder (whether optional or obligatory) remains outstanding.

8.15 No Third Party Beneficiaries. The benefits of this Agreement shall not inure to any third party. This Agreement shall not be construed to make or render Bank liable to any materialmen, subcontractors, contractors, laborers or others for goods and materials supplied or work and labor furnished in connection with any of the Mortgaged Property or for debts or claims accruing to any such persons or entities against any Borrower. Bank shall not be liable for the manner in which any Advances under this Agreement may be applied by Borrowers. Notwithstanding anything contained in the Loan Documents, or any conduct or course of conduct by the parties hereto, before or after signing the Loan Documents, this Agreement shall not be construed as creating any rights, claims or causes of action against Bank, or any of its officers, directors, agents or employees, in favor of any contractor, subcontractor, supplier of labor or materials, or any of their respective creditors, or any other person or entity other than Borrowers. Without limiting the generality of the foregoing, Advances made to any Person pursuant to any requests for Advances, whether or not such request is required to be approved by Borrowers, shall not be deemed a recognition by Bank of a third-party beneficiary status of any such person or entity.

8.16 Complete Agreement: Conflicts. The Loan Documents contain the entire agreement of the parties thereto, and none of the parties shall be bound by anything not expressed in writing. In the event that and to the extent that any of the terms, conditions or provisions of any of the other Loan Documents are inconsistent with or in conflict with any of the terms, conditions or provisions of this Agreement, the applicable terms, conditions and provisions of this Agreement shall govern and control.

8.17 Exhibits and Addenda and Schedules. The following Addenda and Exhibits and Schedules are attached to this Agreement and are incorporated into this Agreement by this reference and made a part hereof for all purposes:

Addenda:

Addendum 1 - Defined Terms Addendum
Addendum 2 - Loan Terms, Conditions and Procedures Addendum
Addendum 3 - Release Provisions
Addendum 3-1 - Schedule of Appraised Value

Exhibits:

Exhibit A - Primary Collateral
Exhibit B - Other Collateral
Exhibit C - Form of Borrowing Base Certificate
Exhibit D - MUD Reimbursables
Exhibit E - Request for Advance
Exhibit F - Form of Compliance Certificate

Schedules:

Schedule 3.5 - Subsidiaries

Schedule 3.10 - Material Litigation

Schedule 3.14 - Employee Benefit Plans

Schedule 3.16 - Environmental Disclosures

Schedule 3.19 - Equity Ownership

8.18 ORAL AGREEMENTS INEFFECTIVE. THIS AGREEMENT AND THE OTHER "LOAN AGREEMENTS" (AS DEFINED IN SECTION 26.02(A)(2) OF THE TEXAS BUSINESS & COMMERCE CODE, AS AMENDED) REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES, AND THIS AGREEMENT AND THE OTHER WRITTEN LOAN AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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Signature Page Follows

WITNESS the due execution hereof as of the day and year first above written.

BANK:

COMERICA BANK

By: /s/ Kevin Crayton
Name: Kevin Crayton
Title: Vice President
Bank's Address:
1601 Elm Street, 2nd Floor
Dallas, Texas 75201
Mail Code 6504
Dallas, Texas 75262-0282
Attn: Shery Layne
Telefax No.: (214) 969-6682

Borrowers' Address:
98 San Jacinto Blvd., Suite 220
Austin, Texas 78701
Attn: William H. Armstrong, III
Telefax No.: (512) 478-6340

BORROWERS:

STRATUS PROPERTIES INC.,
a Delaware corporation

By: /s/ John E. Baker
John E. Baker, Senior Vice President

STRATUS PROPERTIES OPERATING CO., L.P., a Delaware limited
partnership

By: STRS L.L.C., a Delaware limited liability company, General Partner

By Stratus Properties Inc., a Delaware corporation, Sole
Member

By: /s/ John E. Baker
John E. Baker,
Senior Vice President

CIRCLE C LAND, L.P.,
a Texas limited partnership

By: Circle C GP, L.L.C., a Delaware limited liability company, General
Partner

By Stratus Properties Inc., a Delaware corporation, Sole
Member

By: /s/ John E. Baker
John E. Baker,
Senior Vice President

AUSTIN 290 PROPERTIES, INC.,
a Texas corporation

By: /s/ John E. Baker
John E. Baker, Senior Vice President

The undersigned, Calera Court, L.P., hereby executes the Agreement to evidence its agreement to be bound by the provisions of Article 4 of Addendum 2 attached to this Agreement, and its obligation and liability for that portion of the Indebtedness under the Calera Court Construction Loan.

CALERA COURT, L.P. a Texas limited partnership

By: Calera Court Management, L.L.C., a Texas limited liability company, its general partner

By: Stratus Properties Operating Co., L.P., a Delaware limited partnership, its Manager

By: STRS L.L.C., a Delaware limited liability company, its general partner

By: Stratus Properties Inc., a Delaware corporation, its Manager

By: /s/ John E. Baker
John E. Baker,
Senior Vice President

ADDENDUM 1

DEFINED TERMS ADDENDUM

SECTION DEFINITIONS

1.

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following respective meanings:

"**Acceptance**" means Bank's agreement, to be provided or denied in Bank's sole discretion as provided herein, to fund construction of a proposed Calera Court House pursuant to an Approved Budget.

"**Acceptance Termination Date**" shall mean the date which is twelve (12) months prior to the Maturity Date, as such date may be extended from time to time.

"**Accounts**," "**Chattel Paper**," "**Documents**," "**Fixtures**," "**General Intangibles**," "**Goods**," "**Instruments**" and "**Inventory**" shall have the respective meanings assigned to them in the UCC on the date of this Agreement.

"**Advance**" shall mean a disbursement by Bank, whether by journal entry, deposit to Borrower's account, check to third party or otherwise of any of the proceeds of the Loan or any insurance proceeds.

"**Affiliate**" shall mean, when used with respect to any Person, any other Person which, directly or indirectly, controls or is controlled by or is under common control with such Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), with respect to any Person, shall mean possession, directly or indirectly, of the power to generally direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliate Receivables**" shall mean, as of any time of determination, any amounts in respect of loans or advances owing to Borrower or another Loan Party from any of its Subsidiaries or Affiliates at such time.

"**Agreement**" shall mean this Loan Agreement; including the Defined Terms Addendum, the Loan Terms, Conditions and Procedures Addendum, and the Partial Release Addendum, together with all exhibits and schedules, as it may be amended from time to time.

"**Allocations**" means the amounts allocated for each stage of construction of a Calera Court House, as set forth in the Approved Budget for such Calera Court House for which Advances of Loan proceeds will be made.

"**Appraisals**" shall mean appraisals prepared and obtained at Borrowers' expense covering the Primary Collateral in form and content and conducted and prepared by one or more appraisers reasonably acceptable to Bank. Each Appraisal shall comply with all appraisal requirements of Bank and any Governmental Authority having jurisdiction over Bank.

"**Approved Budget**" means the budget for a Calera Court House, once such budget has been agreed to and accepted in writing by Bank; which Approved Budget shall be in form and substance acceptable to Bank in Bank's reasonable discretion.

"**Approved Sales Contract**" means a bona fide, legally binding, enforceable contract for the sale of a Calera Court House, between the Calera Court Borrower, as seller, and a third party unrelated to the Calera Court Borrower, as buyer, with respect to which (i) the form and substance of such contract of sale shall have been previously approved in writing by Bank, (ii) a non-refundable earnest money deposit in an amount not less than \$5,000.00 has been delivered to either an independent escrow agent or to the Calera Court Borrower to be deposited into a segregated account used solely for earnest money deposits under sales contracts, and (iii) unless such contract contemplates a cash only purchase, such buyer has (A) submitted a fully completed mortgage loan application to a qualified single-family mortgage lender for the financing of the acquisition of such Calera Court House, (B) such single-family mortgage lender has given its written pre-approval of such mortgage loan application, and (C) such buyer has, to date, fully satisfied any and all other conditions of the Calera Court Borrower as specified in such contract of sale. Notwithstanding the foregoing, if such pending sale is not an all cash acquisition, then if within forty-five (45) days after the date of such contract of sale, the buyer has not received a final, binding mortgage loan commitment from a qualified single-family mortgage lender for the financing of the acquisition of such Calera Court House, then such contract of sale shall thereafter not be deemed to constitute an Approved Sales Contract until such commitment has been secured.

"**Approved Work**" means only labor and materials furnished in connection with construction of any Calera Court House in accordance with the corresponding Approved Budget, subject however to change orders made in compliance with this Agreement.

"**Assignment of Reimbursables and Other Fees**" shall mean the Assignment of Reimbursables and Other Fees of even date herewith executed by Borrowers and assigning to Bank all reimbursements, credits, receivables and proceeds due to any Borrower including, but not limited to, the MUD Reimbursables, the Credit Banks, all utility reimbursements, fees for property management, commission fees and other fee income as more specifically set forth therein.

"**Assignment of Partnership Interest**" shall mean, collectively, all Assignments of Partnership Interests now or hereafter executed by a Loan Party in favor of Bank, assigning to Bank their respective partnership interests in the joint ventures or partnerships more fully described therein.

"**Bankruptcy Code**" shall mean Title 11 of the United States Code, as amended, or any successor act or code.

"**Borrowing Base Limitation**" shall mean the sum of:

(a) forty-five percent (45%) of the fair market value of the Primary Collateral which is unimproved real property (except for any portions which are covered by other subsections in the definition of Borrowing Base Limitation set forth below), as indicated by Appraisals delivered to and accepted by Bank pursuant to Section 4.19 hereof;

(b) seventy-five percent (75%) of the fair market value of the Developed Lots, as indicated by Appraisals delivered to and accepted by Bank pursuant to Section 4.19 hereof;

(c) with respect to portions of the Land which are currently being developed into single-family residential lots (but which are not yet fully Developed Lots), the lesser of (x) seventy-five percent (75%) of the fair market value of such Land (as if improved and developed), as indicated by Appraisals delivered to and accepted by Bank pursuant to Section 4.19 hereof or (y) an amount equal to the sum of (1) the discounted fair market value of the Land plus (2) the hard and soft cost of all improvements made to the Land as of the date of determination of the Borrowing Base Limitation;

(d) seventy-five percent (75%) of the Credit Bank Value;

(e) fifty percent (50%) of the MUD Reimbursables Value;

(f) eighty percent (80%) of the appraised value of Calera Court Pre-Sold Houses; and

(g) seventy-five percent (75%) of the appraised value of the Calera Court Spec Houses and Calera Court Model Houses; provided, however, (i) the value of a Calera Court Spec House included in the Borrowing Base Limitation shall decrease by ten percent (10%) after the first anniversary of the Acceptance of such Calera Court Spec House, and the value of a Calera Court Spec House included in the Borrowing Base Limitation after the expiration of the final Curtailment Period for such Calera Court Spec House shall be reduced to zero; and (ii) the value of a Calera Court Model House shall decrease by ten percent (10%) on each anniversary of the Acceptance of such Calera Court Model House commencing on the second (2nd) anniversary date hereof, and the value of a Calera Court Model House included in the Borrowing Base Limitation after the expiration of the final Curtailment Period for such Calera Court Model House shall be reduced to zero. Notwithstanding the foregoing, in the event that a Calera Court Spec House or Calera Court Model House does not qualify for an extension of a Curtailment Period, then the value of such Calera Court Spec House or Calera Court Model House included in the Borrowing Base Limitation shall be zero.

"**Business Day**" shall mean any day, other than a Saturday, Sunday or holiday, on which the Bank is open to carry on all or substantially all of its normal commercial lending business in Dallas, Texas.

"**Calera Court Borrower**" means Calera Court, L.P.

"**Calera Court Construction Loan**" means that portion of the Loan allocated for the construction of single family residences on the Calera Court Lots as provided in this Agreement; provided, the amount outstanding under the Calera Court Construction Loan, plus any unfunded commitment thereunder pursuant to Approved Budgets, shall not exceed \$3,000,000 in any event.

"**Calera Court House**" means a Developed Lot and an Improvement constructed thereon consisting of a single-family residence pursuant to the Calera Court Construction Loan which has not been sold. A Calera Court House is sometimes referred to as a "**House**" under Article 4 of Addendum 2 of this Agreement.

"**Calera Court Lots**" means that certain property described on Exhibit A as the Calera Court Lots and which is owned by the Calera Court Borrower, and which property is legally described as Units 1 through 17, together with the undivided interest in and the General and Limited Common Elements appurtenant thereto, of Calera Court Condominiums, a condominium project in Travis County, Texas, according to the Declaration of Condominium of record under Document No. 2003111246 of the Official Public Records of Travis County, Texas, except for Unit 16 which has been previously developed and sold by the Calera Court Borrower.

"**Calera Court Model Houses**" means a Calera Court House that is to be, has been, or is in the process of being, constructed thereon and which at the time of any Advance covering such Calera Court House is not the subject of an Approved Sales Contract and is intended by the Calera Court Borrower to be furnished and used by the Calera Court Borrower for on-site office and/or marketing purposes. A Calera Court Model House shall not also be deemed to be a Calera Court Spec House. A Calera Court Model House will become and constitute a Calera Court Pre-Sold House when, and for so long as, such Calera Court Model House becomes subject to an Approved Sales Contract. A Calera Court Model House is referred to as a "**Model House**" under Article 4 of Addendum 2 of this Agreement.

"**Calera Court Pre-Sold House**" means a Calera Court House which is has been or is in the process of being, constructed thereon, and which is the subject of an Approved Sales Contract. A Calera Court Pre-Sold House is referred to as a "**Pre-Sold House**" under Article 4 of Addendum 2 of this Agreement.

"**Calera Court Spec Houses**" means a Calera Court House which has been or is in the process of being, constructed thereon, and which at the time of Acceptance is not the subject of an Approved Sales Contract and is not Calera Court Model House. A Calera Court Model House shall not be deemed to be a Calera Court Spec House. A Calera Court Spec House will become and constitute a Calera Court Pre-Sold House when, and for so long as, such Calera Court Spec House becomes subject to an Approved Sales Contract. A Calera Court Spec House is referred to as a "**Spec House**" under Article 4 of Addendum 2 of this Agreement.

"**Calera Court Sublimit**" means \$3,000,000.00.

"**Commencement Date**" means, with respect to each Calera Court House, the date on which Approved Work relating to such Calera Court House is commenced.

"**Commitment Fee**" shall mean the sum of \$24,500 to be paid by Borrowers to Bank pursuant to the applicable provisions of this Agreement.

"Completion Date" means, with respect to each Calera Court House, the date that is nine (9) months after the Commencement Date applicable thereto (subject to extension due to force majeure), but in no event beyond the Maturity Date.

"Compliance Certificate" shall mean a certificate to be furnished by Borrowers to Bank, in the form of Exhibit F, certified by the chief financial officer of Borrowers (or in such officer's absence, another responsible officer of Borrowers) pursuant to Section 4.3 of this Agreement, certifying that, as of the date thereof, no Default or Event of Default shall have occurred and be continuing, or if any Default or Event of Default shall have occurred and be continuing, specifying in detail the nature and period of existence thereof and any action taken or proposed to be taken by the Borrowers with respect thereto, and also certifying as to whether Borrowers are in compliance with the financial covenants contained in Section 4.20 of this Agreement.

"Consolidated" or **"consolidated"** shall mean, when used with reference to any financial term in this Agreement, the aggregate for two or more persons of the amounts signified by such term for all such persons determined on a consolidated basis in accordance with GAAP. Unless otherwise specified herein, references to "consolidated" financial statements or data of the Borrowers includes consolidation with their respective Subsidiaries in accordance with GAAP.

"Construction Costs" means, with respect to each Calera Court House, all costs of labor and material, reasonable architectural, engineering, interior and landscape design, legal, consulting and other related fees, taxes on land and improvements, and bond and insurance costs and commitment fees, interest and other financing charges, all as set forth in an Approved Budget.

"Contested Item" shall mean any Lien asserted against all or any portion of the Mortgaged Property if, and so long as (i) Borrowers have notified Bank of same within fifteen (15) days of obtaining knowledge thereof, (ii) Borrowers shall diligently and in good faith contest the same by appropriate legal proceedings which shall operate to prevent the enforcement of collection of the same and the sale of the Mortgaged Property or any part thereof, to satisfy the same, (iii) pending resolution of such Contested Item, Borrowers shall have furnished to Bank a cash deposit or an indemnity bond reasonably satisfactory to Bank with a surety reasonably satisfactory to Bank in the amount of such imposition or lien claim, plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, to ensure payment of the matters under contest and to prevent any sale or forfeiture of the Mortgaged Property or any part thereof, (iv) Borrowers shall promptly upon final determination thereof pay the amount of any such imposition or lien claim so determined, together with all costs, interest and penalties which may be payable in connection therewith, (v) the failure to pay such imposition or lien claim does not constitute a default under any other deed of trust, mortgage or security interest covering or affecting any part of the Mortgaged Property, and (vi) notwithstanding the foregoing, Borrowers shall immediately upon request of Bank pay any such imposition or lien claim notwithstanding such contest if, in the reasonable opinion of Bank, the Mortgaged Property shall be in jeopardy or in danger of being forfeited or foreclosed. Bank may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the reasonable judgment of Bank, the entitlement of such claimant is established.

"Credit Banks" means the credits to which Borrower is entitled to receive from the City of Austin under Article 12 of the Development Agreement, in the original aggregate face amount of \$15,000,000.

"Credit Bank Value" means the present discounted value of the Credit Banks, using a discount factor of six percent (6%). As of June 30, 2005, it is estimated that the Credit Bank Value is approximately \$6,257,218.

"Curtailment Period" means a period of 12 months from Acceptance of a Calera Court Spec House and a period of 12 months from Acceptance of a Calera Court Model House; provided, that, with respect to a Calera Court House which is still a part of the Mortgaged Property upon the expiration of the original Curtailment Period, and further provided that (i) no Event of Default is then existing, (ii) Lender has not sent written notice to Borrower of a Default which has not been cured as of such date, and (iii) the Curtailment Period (after giving effect to such extension) will not expire after the Maturity Date (as may have been extended by Bank as provided in Section 1.5 of Addendum 2 hereof), then the Curtailment Period shall be automatically extended as follows: (a) the Curtailment Period with respect to any Calera Court Spec House shall be extended one time for a period of twelve (12) months; and (b) the Curtailment Period with respect to any Calera Court Model House shall be extended up to four (4) times time for a period of twelve (12) months each.

"Debt" shall mean, as of any applicable date of determination thereof, all items of indebtedness, obligation or liability of a Person, whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, joint or several, that should be classified as liabilities in accordance with GAAP. In the case of Borrowers, the term "Debt" shall include, without limitation, the Indebtedness.

"Debt-to-Tangible Net Worth Ratio" shall mean, with respect to any Person, and as of any applicable date of determination thereof, the ratio of (a) the total Debt of such Person to (b) the Tangible Net Worth of such Person."

"Deeds of Trust" shall mean, collectively, all Deeds of Trust now or hereafter executed for the benefit of Bank pursuant to which the Land (and any Improvements located thereon) is mortgaged to a trustee for the benefit of Bank to secure the Loan.

"Default" shall mean, any condition or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

"Default Rate" shall mean, at any time of determination thereof with respect to the applicable portion of the Indebtedness, the Maximum Lawful Rate or if no Maximum Lawful Rate is in effect, the sum of the Base Rate (as defined in the Note) plus six percent (6%).

"Development Agreement" means that certain Development Agreement dated effective as of August 15, 2002 between the City of Austin and Circle C Land Corp., as may be amended from time to time.

"Developed Lots" means that portion of the Land which has been developed into single family residential lots with all necessary streets, utilities and other infrastructure improvements and which are ready for resale to builders.

"Disbursement Date" shall mean the date upon which Bank makes an Advance of Loan proceeds under this Agreement.

“**Distribution**” shall mean any dividend or other distribution (whether by reduction of capital or otherwise) with respect to any shares of capital stock (or other ownership interests), except for dividends from a Subsidiary to its parent.

“**Environmental Law(s)**” shall mean all laws, codes, ordinances, rules, regulations, orders, decrees and directives issued by any federal, state, local, foreign or other governmental or quasi governmental authority or body (or any agency, instrumentality or political subdivision thereof) pertaining to Hazardous Materials or otherwise intended to regulate or improve health, safety or the environment, including, without limitation, any hazardous materials or wastes, toxic substances, flammable, explosive or radioactive materials, asbestos, and/or other similar materials; any so-called “superfund” or “superlien” law, pertaining to Hazardous Materials on or about any of the Mortgaged Property, or any other property at any time owned, leased or otherwise used by any Loan Party, or any portion thereof, including, without limitation, those relating to soil, surface, subsurface ground water conditions and the condition of the ambient air; and any other federal, state, foreign or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, radioactive, flammable or dangerous waste, substance or material, as now or at anytime hereafter in effect.

“**ERISA**” shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor act or code.

“**Event of Default**” shall mean any of those conditions or events listed in Section 6.1 of this Agreement.

“**Extension Fee**” shall have the meaning ascribed to such term in Section 1.6(d) of Addendum 2 hereof.

“**FAAM Loan**” shall mean the unsecured term debt of Stratus to First American Asset Management in an amount not to exceed \$10,000,000.00.

“**Financing Statements**” shall mean the financing statement or financing statements (on Standard Form UCC-I or otherwise) executed and delivered by Borrowers in connection with the Loan Documents.

“**Financial Statements**” shall mean all balance sheets, income statements, statements of profit and loss, statements of changes in stockholder equity, statements of cash flow and contingency obligations and other financial data, statements and reports (whether of any Borrower, any of their respective Subsidiaries, or any other Loan Party or otherwise) which are required to, have been, or may from time to time hereafter, be furnished to Bank, for the purposes of, or in connection with, this Agreement, the transactions contemplated hereby or any of the Indebtedness.

“**GAAP**” shall mean generally accepted accounting principles consistently applied.

“**Good Faith**” or “**good faith**” shall have the meaning ascribed to the term “good faith” in Article 1.201 (20) of the UCC on the date of this Agreement.

“**Governmental Authority**” shall mean the United States, each state, each county, each city, and each other political subdivision in which all or any portion of the Mortgaged Property is located, and each other political subdivision, agency, or instrumentality exercising jurisdiction over Bank, any Loan Party or any Mortgaged Property.

“**Governmental Requirements**” shall mean all laws, ordinances, rules, and regulations of any Governmental Authority applicable to any Loan Party, any of the Indebtedness or any Mortgaged Property.

“**Hazardous Material**” shall mean and include any hazardous, toxic or dangerous waste, substance or material defined as such in, or for purposes of, any Environmental Law(s).

“**Improvements**” shall mean any buildings, structures or other permanent improvements to or located on any of the Land.

“**Indebtedness**” shall mean all loans, advances, indebtedness, obligations and liabilities of any Loan Party to Bank under any Loan Document, together with all other indebtedness, obligations and liabilities whatsoever of any Borrower to Bank, whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, voluntary or involuntary, known or unknown, or originally payable to Bank or to a third party and subsequently acquired by Bank including, without limitation, any late charges, loan fees or charges, overdraft indebtedness, costs incurred by Bank in establishing, determining, continuing or defending the validity or priority of any Lien or in pursuing any of its rights or remedies under any Loan Document or in connection with any proceeding involving Bank as a result of any financial accommodation to any Borrower; debts, obligations and liabilities for which any Borrower would otherwise be liable to the Bank were it not for the invalidity or enforceability of them by reason of any bankruptcy, insolvency or other law or for any other reason, and reasonable costs and expenses of attorneys and paralegals, whether any suit or other action is instituted, and to court costs if suit or action is instituted, and whether any such fees, costs or expenses are incurred at the trial court level or on appeal, in bankruptcy, in administrative proceedings, in probate proceedings or otherwise; provided that the term Indebtedness shall not include any consumer loan to the extent treatment of such loan as part of the Indebtedness would violate any Governmental Requirement.

“**Initial Advance**” shall mean the Advance to be made at the time Borrowers satisfy the conditions set forth in Section 2.13 of Addendum 2.

“**Inspecting Person**” means a person designated by Bank from time to time who may inspect the Calera Court Houses from time to time for the sole benefit of Bank.

“**Land**” shall mean the tracts of real property owned by any Loan Party, whether designated as Primary Collateral, Other Collateral or a Related Party Asset.

“**LC Collateral**” has the meaning ascribed to such term in Section 3.6(a) of Addendum 2 hereof.

“**Leases**” shall mean all written leases or rental agreements, if any, by which any Borrower, as landlord, grants to a tenant a leasehold interest in all

or any portion of the Land or Improvements.

"Letter of Credit" shall mean a letter of credit issued by the Bank for the account of and/or upon the application of any Loan Party in accordance with this Agreement, as such Letter of Credit may be amended, supplemented, extended or confirmed from time to time.

"Letter of Credit Liabilities" shall mean, at any time and in respect of all Letters of Credit, the sum of (a) the aggregate amount available to be drawn under all such Letters of Credit plus (b) the aggregate unpaid amount of all Matured L/C Obligations then due and payable in respect of previous drawings under such Letters of Credit.

"Lien" shall mean any valid and enforceable interest in any property, whether real, personal or mixed, securing an indebtedness, obligation or liability owed to or claimed by any Person other than the owner of such property, whether such indebtedness is based on the common law or any statute or contract and including, but not limited to, a security interest, pledge, mortgage, assignment, conditional sale, trust receipt, lease, consignment or bailment for security purposes.

"Loan" shall mean the Loan made, or to be made, by Bank to or for the credit of Borrowers in one or more Advances not to exceed at any one time the Maximum Loan Amount, pursuant to the Loan Terms, Conditions and Procedures Addendum.

"Loan Documents" shall mean collectively, this Agreement, the Note, the Deeds of Trust, the Security Agreements, the Financing Statements, any reimbursement agreement or other documentation executed in connection with any Letter of Credit, and any other documents, instruments or agreements evidencing, governing, securing, guaranteeing or otherwise relating to or executed pursuant to or in connection with any of the Indebtedness or any Loan Document (whether executed and delivered prior to, concurrently with or subsequent to this Agreement), as such documents may have been or may hereafter be amended from time to time.

"Loan Party" shall mean each Borrower, each of their respective Subsidiaries (whether or not a party to any Loan Document) and each other Person who or which shall be liable for the payment or performance of all or any portion of the Indebtedness or who or which shall own any property that is subject to (or purported to be subject to) a Lien which secures all or any portion of the Indebtedness.

"Material Adverse Effect" shall mean any act, event, condition or circumstance which could be expected to materially and adversely affect the business, operations, condition (financial or otherwise), performance or assets of any Loan Party, the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party or by which it is bound or the enforceability of any Loan Document.

"Material Litigation" shall mean any existing or threatened action, suit or litigation reported or required by applicable law to be reported by Stratus in any filing with the Securities and Exchange Commission and any other action, suit, litigation or proceeding, at law or in equity, or before any arbitrator or by or before any Governmental Authority, pending, or, to the best knowledge of any Borrower, threatened against or affecting any Loan Party, which has a reasonable prospect of adverse determination and, if adversely determined, could reasonably be expected to materially impair the right of the Loan Party to carry on its business substantially as now conducted or could have a Material Adverse Effect.

"Matured L/C Obligations" shall mean, at any time and in respect of all Letters of Credit, all amounts paid by Bank on drafts or demands for payment drawn or made under as purported to be under any Letter of Credit, and all other amounts due and owing to Bank under any application by any Loan Party for any Letter of Credit to be issued by Bank (a **"LC Application"**), to the extent the same have not been repaid to Bank (with the proceeds of an Advance or otherwise).

"Maturity Date" shall mean May 30, 2007, or such earlier date on which the entire unpaid principal amount of the Loan becomes due and payable whether by the lapse of time, acceleration or otherwise; provided, however, if any such date is not a Business Day, then the Maturity Date shall be the next succeeding Business Day.

"Maximum Lawful Rate" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Bank in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Bank to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all **Charges** (defined as all fees, charges and/or any other things of value, if any, contracted for, charged, received, taken or reserved by Bank in connection with the transactions relating to the Note and the other Loan Documents, which are treated as interest under applicable law) made in connection with the transaction evidenced by the Note and the other Loan Documents. To the extent that Bank is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Lawful Rate payable on the Indebtedness, Bank will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303. To the extent United States federal law permits Bank to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Bank will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law, Bank may, at its option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law.

"Maximum Loan Amount" shall mean the lesser of (a) \$45,000,000 or (b) the Borrowing Base Limitation.

"Mortgaged Property" shall mean the Land, Improvements, MUD Reimbursables, Credit Banks, Stratus' ownership interests, direct or indirect, in all Related Parties, and all other property, assets and rights in which a Lien or other encumbrance in favor of or for the benefit of Bank is or has been granted or arises or has arisen, or may hereafter be granted or arise, under or in connection with any Loan Document, or otherwise, including all other property, assets and rights in which any Borrower obtains an ownership interest, directly or indirectly, with proceeds of the Loan.

"MUD Reimbursables" shall mean those reimbursements due to any one or more of the Borrowers from the Municipal Utility Districts, including, but not limited to, those payments due to one or more of the Borrowers from the City of Austin, as more fully identified in Exhibit D attached hereto.

"MUD Reimbursables Value" means the present discounted value of the MUD Reimbursables owned by Borrower, using a discount factor of six percent (6%). As of June 30, 2005, it is estimated that the MUD Reimbursables Value is approximately \$21,351,333.

"**Net Proceeds**" means the gross sales proceeds received from the sale of an asset of any Borrower or any Related Party which is collateral for the Loan, less only reasonable closing costs, surveying costs, title insurance premiums, reasonable attorneys' fees and a broker's commission not to exceed six percent (6.0%), with aggregate deductions not to exceed eight percent (8%) of the gross sales price of such asset.

"**Note**" shall mean the Revolving Promissory Note of even date herewith in the original principal amount of \$45,000,000.00 made by Borrowers payable to the order of the Bank, as the same may be renewed, extended, modified, increased or restated from time to time.

"**Other Collateral**" shall mean the tracts of Land listed on Exhibit B, attached hereto, and no other part or portion of the Mortgaged Property.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation, or any Person succeeding to the present powers and functions of the Pension Benefit Guaranty Corporation.

"**Pension Plan(s)**" shall mean any and all employee benefit pension plans of Borrower and/or any of its Subsidiaries in effect from time to time, as such term is defined in ERISA.

"**Permitted Disposition**" shall mean (i) a transfer of a beneficial interest in any Borrower or any entity holding a direct or indirect interest in any Borrower by any person or entity holding such an interest to any other person or entity holding such an interest as of the date of this Agreement (the "**Interest Holders**"); (ii) any transfer of a legal or beneficial interest in any publicly-traded stock of Stratus; or (iii) a transfer of a legal or beneficial interest in any Borrower or any entity holding a direct or indirect interest in any Borrower for bona fide estate planning purposes to: (A) members of such transferor's immediate family or (B) a trust, the holders of the beneficial interests of which are a current Interest Holder or a member of the Interest Holder's immediate family; provided, however, that a Permitted Disposition shall not include any transfer or series of transfers which (1) after taking into account any prior Permitted Disposition shall result in (x) the proposed transferee owning (directly or indirectly) more than 49% of the interests in any Borrower or any entity holding a direct or indirect interest in any Borrower unless such transferee owned more than 49% of such interests as of the date of this Agreement, or (y) a transfer of more than 49% of the interests in any Borrower or any entity holding a direct or indirect interest in any Borrower; (2) shall result in a change of control of any Borrower or the day to day operations of the Mortgaged Property; (3) notice of which has not been given by Borrower to Bank, together with copies of all instruments effecting such transfer later than seven (7) Business Days prior to the effective date of such transfer (except notice shall not be required with respect to any stock of any Borrower publicly traded on a national stock exchange); or (4) occurs at any time when an Event of Default has occurred and remains uncured (except with respect to any stock of any Borrower publicly traded on a national stock exchange). For the purposes of Permitted Dispositions, a change of control of any Borrower or any entity holding a direct or indirect interest in any Borrower shall be deemed to have occurred if there is any change in the identity of the individual or group of individuals who have the right, by virtue of the articles of incorporation, articles of organization, the by-laws or an agreement, with or without taking any formative action, to cause such Borrower or such entity to take some action or to block such Borrower or such entity from taking some action which, in either case, such Borrower or such entity could take or could refrain from taking were it not for the rights of such stockholders, partners or members of such Borrower or such entity, as the case may be.

"**Permitted Encumbrances**" shall mean Liens in favor of the Bank, all matters shown on Schedule B of the Title Policy, Liens for taxes not yet due and payable, Liens not delinquent arising in the ordinary course of business and created by statute in connection with worker's compensation, unemployment insurance, social security and similar statutory obligations, and Contested Items.

"**Person**" or "**person**" shall mean any individual, corporation, partnership, joint venture, limited liability company, association, trust, unincorporated association, joint stock company, government, municipality, political subdivision or agency, or other entity.

"**Plans**" means the plans and specifications for the construction of each House, prepared by Borrower or a design professional and approved by Bank as required herein, by all applicable Governmental Authorities, and by any party to a purchase or construction contract with a right of approval, and all amendments and modifications thereof approved in writing by the same.

"**Primary Collateral**" shall mean the tracts of Land listed on Exhibit A, attached hereto, and no other part or portion of the Mortgaged Property; provided, however, the Primary Collateral may be expanded by adding additional collateral to Exhibit A and obtaining an Appraisal, an environmental audit, Title Policy and other documents that may be required by Bank with respect to such additional collateral.

"**Related Party**" shall mean any corporation, partnership, limited liability company or any other legal entity in which Stratus owns or holds, directly or indirectly, any legal or beneficial ownership interest.

"**Related Party Assets**" shall mean the assets owned by the Borrower which may be transferred to the Related Parties from time to time.

"**Release Provisions**" shall mean the provisions set forth on Addendum 3 attached hereto.

"**Request for Advance**" shall mean an oral or written request or authorization for an Advance of Loan proceeds which, if made in writing, shall be in the form annexed hereto as Exhibit E, or in such other form as is acceptable to Bank.

"**Sales Contracts**" means all contracts relating to the sale of Calera Court Houses, including all Approved Sales Contracts.

"**Section 2.17 Assets**" shall have the meaning given to the term in Section 2.17 of Addendum 2.

"**Security Agreement**" means, collectively, all security agreements executed by Borrowers in favor of Bank pursuant to which Borrowers grant a security interest in certain personal property of Borrowers to Bank.

"**Special Account**" means the account styled "Stratus Properties Inc. Controlled Disbursement Account", Account No. 1880671001, or any successor account.

“Subsidiary” shall mean as to any particular parent entity, any corporation, partnership, limited liability company or other entity (whether now existing or hereafter organized or acquired) in which more than fifty percent (50%) of the outstanding equity ownership interests having voting rights as of any applicable date of determination, shall be owned directly, or indirectly through one or more Subsidiaries, by such parent entity.

“Surveys” shall mean a survey of each tract of the Primary Collateral in form and content reasonably satisfactory and acceptable to the Bank and sufficient to allow the Title Company to endorse the standard survey exception in the Title Policy to “shortages in area” only.

“Tangible Net Worth” shall mean, with respect to any Person and as of any applicable date of determination, (a) the net book value of all assets of such Person (excluding Affiliate Receivables, patent rights, trademarks, trade names, franchises, copyrights, licenses, goodwill, and all other intangible assets of such Person), after all appropriate deductions in accordance with GAAP (including, without limitation, reserves for doubtful receivables, obsolescence, depreciation and amortization), less (b) all Debt of such Person at such time.

“Telephone Notice Authorization” shall mean an agreement in form satisfactory to Bank authorizing telephonic and facsimile notices of borrowing and establishing a codeword system of identification in connection therewith.

“Title Company” shall mean the Title Company (and its issuing agent, inapplicable) issuing the Title Policy, which shall be acceptable to Bank in its sole and absolute discretion.

“Title Policy” shall mean the mortgagee policy of title insurance issued by the Title Company, on a coinsurance or reinsurance basis (with direct access endorsement or rights) if and as required by Bank, in the aggregate maximum amount of \$45,000,000.00 insuring that the Deeds of Trust covering the Primary Collateral constitute valid liens covering the Primary Collateral subject only to those exceptions which Bank may approve and containing such endorsements as Bank may require.

“UCC” shall mean the Uniform Commercial Code as adopted and in force in the State in which the Land is located, as amended.

ADDENDUM 2

LOAN TERMS, CONDITIONS AND PROCEDURES ADDENDUM

SECTION THE LOAN

1.

1.1 Agreements to Lend. Bank hereby agrees to lend to Borrowers up to but not in excess of the Maximum Loan Amount, and Borrowers hereby agree to borrow such sums from Bank, all upon and subject to the terms and provisions of this Agreement, such sums to be evidenced by the Note; provided, however, in no event shall the aggregate outstanding principal balance of the Loan and any Letters of Credit exceed the Maximum Loan Amount. Subject to the terms and provisions of this Agreement and the other Loan Documents, principal repaid on the Loan may be reborrowed by Borrowers. Borrowers' liability for repayment of the interest on account of the Loan shall be limited to and calculated with respect to Loan proceeds actually disbursed to Borrowers pursuant to the terms of this Agreement and the Note and only from the date or dates of such disbursements. Bank may, in Bank's discretion, disburse Loan proceeds by journal entry to pay interest and financing costs and disburse Loan proceeds directly to third parties to pay costs or expenses required to be paid by Borrowers pursuant to this Agreement. Loan proceeds disbursed by Bank by journal entry to pay interest or financing costs, and Loan proceeds disbursed directly by Bank to pay costs or expenses required to be paid by Borrowers pursuant to this Agreement, shall constitute Advances to Borrowers.

1.2 Advances. The proceeds of the Loan shall be disbursed to Borrowers in one or more Advances provided all applicable conditions to Advances for the Loan set forth in this Agreement have been satisfied. Without limiting the foregoing, any Advance requested by Borrower under the Loans shall be subject to Borrower's satisfaction of the terms and conditions set forth in this Addendum 2 (including, if applicable, Section 2.17 (Additional Land Acquisitions)) and in particular shall comply with the use of proceeds restrictions set forth in Section 2.4 below. The Initial Advance shall be used to repay all indebtedness outstanding under the Original Credit Agreement on the date of this Agreement.

1.3 Limitation on Advances. Under no circumstances shall Bank be required to disburse any proceeds of the Note that would cause the outstanding balance thereof plus the Letter of Credit Liabilities at any one time to exceed the Maximum Loan Amount or disburse any proceeds of the Loan that would cause the aggregate outstanding balance of the Loan plus the Letter of Credit Liabilities at any one time to exceed the Maximum Loan Amount.

1.4 Regulatory Restrictions. Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, in no event shall Bank be required to disburse, nor shall Borrowers be entitled to demand that Bank disburse, all or any portion of the Loan if the amounts of the Loan would, in Bank's sole and absolute discretion, cause Bank to exceed the lending limit to a single borrower under any applicable state or federal law, regulation or ruling. If Bank determines, in its sole and absolute discretion, at any time (including after any portion or all of the Loan has been disbursed) that the transactions evidenced by this Agreement and the other Loan Documents violates such lending limit restriction, then Bank shall have the right to immediately declare the Note to be due and payable and shall thereafter have no further obligations to disburse any further proceeds of the Loan. In such event, Borrowers shall be required to immediately pay all outstanding Indebtedness and shall have no further rights and privileges under this Agreement and the other Loan Documents.

1.5 Repayment of and Interest on Loan. The Indebtedness from time to time outstanding under and evidenced by the Note shall bear interest at the applicable rate per annum set forth in the Note until the occurrence of an Event of Default and thereafter at the Default Rate and shall otherwise be repaid in accordance with the terms of the respective Note. All unpaid principal, accrued and unpaid interest and other amounts owing under the Note shall be due and payable on the Maturity Date. The Bank shall review the Loan each year as of the date which is twelve (12) months prior to the then Maturity Date (the "Review Date"), as the Maturity Date may be extended from time to time. In connection with such review, Bank will notify Borrower on or about the Review Date of whether the Bank will agree to extend the Maturity Date. The determination of whether to grant a particular 12 month extension option of the Maturity Date hereunder shall be in Bank's sole discretion. In the event that Bank elects to so grant an option to Borrower to extend the Maturity Date and Borrower exercises such option, then at Bank's option, Borrowers shall (i) execute an extension agreement in form and substance reasonably acceptable to Bank evidencing such extension, and (ii) provide an endorsement to the Title Policy in connection with such extension.

1.6 Fees.

(a) Commitment Fee. Borrowers shall pay the Commitment Fee to Bank upon the execution of this Agreement and the closing of the Loan as consideration for the increase in the amount of the Loan from the amount previously committed by Bank in the Original Credit Agreement.

(b) Unused Commitment Fee. Borrowers shall pay to Bank an unused commitment fee in an amount equal to the product of (a) one-eighth of one percent (.125%) per annum multiplied by (b) the difference between (i) the Maximum Loan Amount and (ii) the aggregate outstanding principal balance of the Loan. Such fee shall be computed on a daily basis and shall be payable quarterly in arrears as of the end of each of Borrower's fiscal quarters. Bank shall invoice Borrower for such fees, which invoice shall be due and payable within fifteen (15) days after receipt.

(c) Administration Fee. Borrowers shall pay an annual upfront administration fee to Bank in the amount of \$15,000, which fee shall be due and payable on the date of this Agreement and on each anniversary date hereof; provided that the administration fee due and payable on the date hereof shall be prorated based on the number of months remaining until the Review Date (i.e., the administration fee due on the date hereof shall be \$10,000).

(d) Extension Fee. In the event that Borrower exercises an extension option granted by Bank to extend the Maturity Date (it being acknowledged that Bank has no obligation to grant an extension option), Borrowers shall pay an extension fee (an "Extension Fee") in amount equal to one-fourth of one percent (.25%) of the Maximum Loan Amount on a per annum basis for such extension.

SECTION ADVANCES, PAYMENTS, RECOVERIES AND COLLECTIONS

2.

2.1 Advance Procedure. Except as hereinafter provided, Borrowers may request an Advance by submitting to Bank a Request for Advance by an authorized representative of Borrowers, subject to the following:

(a) each such Request for Advance shall include, without limitation, a report setting forth the then current Borrowing Base Limitation substantially in the format attached hereto as Exhibit C, the proposed amount of such Advance and the proposed Disbursement Date, which date must be a Business Day;

(b) a Request for Advance, once communicated to Bank, shall not be revocable by Borrowers;

(c) each Request for Advance, once communicated to Bank, shall constitute a representation, warranty and certification by Borrowers as of the date thereof that:

(i) both before and after the making of such Advance, all of the Loan Documents are and shall be valid, binding and enforceable against each Loan Party, as applicable;

(ii) all terms and conditions precedent to the making of such Advance have been satisfied, and shall remain satisfied through the date of such Advance;

(iii) the making of such Advance will not cause the aggregate principal amount outstanding on the Note plus the Letter of Credit Liabilities to exceed the Maximum Loan Amount;

(iv) no Default or Event of Default shall have occurred or be in existence, and none will exist or arise upon the making of such Advance;

(v) the representations and warranties contained in this Agreement, and the other Loan Documents are true and correct in all material respects and shall be true and correct in all material respects as of the making of such Advance; and

(vi) the Advance will not violate the terms or conditions of any contract, indenture, agreement or other borrowing of any Loan Party.

Bank may elect (but without any obligation to do so) to make an Advance upon the telephonic or facsimile request of Borrowers, provided that Borrowers have first executed and delivered to Bank a Telephone Notice Authorization. If any such Advance based upon a telephonic or facsimile request is made by Borrowers, Bank may require Borrowers to confirm said telephonic or facsimile request in writing by delivering to Bank, on or before 11:00 a.m. (Dallas, Texas time) on the next Business Day following the Disbursement Date of such Advance, a duly executed written Request for Advance, and all other provisions of this Section 2.1 shall be applicable with respect to such Advance. In addition, Borrowers may authorize the Bank to automatically make Advances pursuant to such other written agreements as may be entered into by Bank and Borrowers. Except as set forth in this Agreement, all Advances are to be made by direct deposit into the Special Account.

2.2 Voluntary Prepayment. Borrowers may prepay all or part of the outstanding balance under the Note (subject to the provisions of the Note regarding a prepayment prior to the expiration of the applicable Interest Period for a LIBOR Rate Tranche) at any time, without premium, penalty or prejudice to the right of Borrowers to reborrow sums of the Loan under the terms of this Agreement, subject to the terms and conditions of the Loan Documents.

2.3 Maximum Loan Amount and Reduction of Indebtedness. Notwithstanding anything contained in this Agreement to the contrary, the principal amount of the Loan at any time outstanding plus the Letter of Credit Liabilities shall not exceed the Maximum Loan Amount. If said limitation is exceeded at anytime, Borrowers shall immediately, without demand by Bank, pay to Bank an amount not less than such excess, or, if Bank, in its sole discretion, shall so agree, Borrowers shall provide Bank cash collateral in an amount not less than such excess, and Borrowers hereby pledge and grant to Bank a security interest in such cash collateral so provided to Bank.

2.4 Use of Proceeds of Loan. The proceeds of the Loan shall be used to fund equity contributions for development ventures of Borrower, for pre-development and development costs for the Land, such as earnest money deposits, and property improvements in connection with the Land and other working capital needs of Borrowers, including corporate and project general, administrative and operating costs, stock repurchase costs (not to exceed \$6,500,000 in the aggregate during the term of the Loan), pursuit costs, entitlement costs, taxes, business endeavors associated with the development of commercial and residential real properties, and for land acquisitions in accordance with the terms of Section 2.17 of this Addendum.

2.5 Non-Application of Chapter 346 of Texas Finance Code. The provisions of Chapter 346 of the Texas Finance Code are specifically declared by the parties not to be applicable to any of the Loan Documents or the transactions contemplated thereby.

2.6 Place of Advances. All Advances are to be made at the office of Bank, or at such other place as Bank may designate.

2.7 Bank's Books and Records. The amount and date of each Advance hereunder, the amount from time to time outstanding under the Note, the interest rate in respect of the Loan, and the amount and date of any repayment hereunder or under the Note, shall be noted on Bank's books and records, which shall be conclusive evidence thereof, absent manifest error; provided, however, any failure by Bank to make any such notation, or any error in any such notation, shall not relieve Borrowers of their obligations to pay to Bank all amounts owing to Bank under or pursuant to the Loan Documents, in each case, when due in accordance with the terms hereof or thereof.

2.8 Payments on Non-Business Day. In the event that any payment of any principal, interest, fees or any other amounts payable by Borrowers under or pursuant to any Loan Document shall become due on any day which is not a Business Day, such due date shall be extended to the next succeeding

Business Day, and, to the extent applicable, interest shall continue to accrue and be payable at the interest rate set forth in the applicable Note for and during any such extension.

2.9 Payment Procedures. Unless otherwise expressly provided in a Loan Document, all sums payable by Borrowers to Bank under or pursuant to any Loan Document, whether principal, interest, or otherwise, shall be paid, when due, directly to Bank at the office of Bank identified on the signature page of this Agreement, or at such other office of Bank as Bank may designate in writing to Borrowers from time to time, in immediately available United States funds, and without setoff, deduction or counterclaim. Bank may, in its discretion, charge any and all deposit or other accounts (including, without limitation, any account evidenced by a certificate of deposit or time deposit) of any Borrower maintained with Bank for all or any part of any Indebtedness which is not paid when due and payable; provided, however, that such authorization shall not affect any Borrower's obligations to pay all Indebtedness, when due, whether or not any such account balances maintained by such Borrower with Bank are insufficient to pay any amounts then due.

2.10 Maximum Interest Rate. It is expressly stipulated and agreed to be the intent of Borrower and Bank at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Indebtedness (or applicable United States federal law to the extent that it permits Bank to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Borrower and Bank related to any of the Indebtedness, (ii) contracted for, charged or received by reason of Bank's exercise of the option to accelerate the maturity of the Note and/or any other portion of the Indebtedness, or (iii) Borrower will have paid or Bank will have received by reason of any voluntary prepayment by Borrower of the Note and/or any of the other Indebtedness, then it is Borrower's and Bank's express intent that all amounts charged in excess of the Maximum Lawful Rate shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Bank shall be credited on the principal balance of the Note and/or any of the other Indebtedness evidenced by the Loan Documents (or, if the Note and all other Indebtedness evidenced by the Loan Documents have been or would thereby be paid in full, refunded to Borrower), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Borrower and Bank agree that Bank shall, with reasonable promptness after Bank discovers or is advised by Borrower that interest was received in an amount in excess of the Maximum Lawful Rate, either refund such excess interest to Borrower and/or credit such excess interest against any other Indebtedness then owing by Borrower to Bank. Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against Bank, Borrower will provide written notice to Bank, advising Bank in reasonable detail of the nature and amount of the violation, and Bank shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against the Note and/or other Indebtedness then owing by Borrower to Bank. All sums contracted for, charged or received by Bank for the use, forbearance or detention of any of the Indebtedness, including any portion of the debt evidenced by the Note shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note and/or other Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or other Indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Note and/or the other Indebtedness for so long as any Indebtedness is outstanding.

In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or any of the other Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Document it is not the intention of Bank to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

2.11 Receipt of Payments by Bank. Any payment by Borrowers of any of the Indebtedness made by mail will be deemed tendered and received by Bank only upon actual receipt thereof by Bank at the address designated for such payment, whether or not Bank has authorized payment by mail or in any other manner, and such payment shall not be deemed to have been made in a timely manner unless actually received by Bank on or before the date due for such payment, time being of the essence. Borrowers expressly assume all risks of loss or liability resulting from non-delivery or delay of delivery of any item of payment transmitted by mail or in any other manner. Acceptance by Bank of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and any failure to pay the entire amount then due shall constitute and continue to be an Event of Default hereunder. Bank shall be entitled to exercise any and all rights and remedies conferred upon and otherwise available to Bank under any Loan Document upon the occurrence and during the continuance of any such Event of Default. Borrower further agrees that after the occurrence and during the continuance of any Default Bank shall have the continuing exclusive right to apply and to reapply any and all payments received by Bank at any time or times, whether as voluntary payments, proceeds from any Mortgaged Property, offsets, or otherwise, against the Indebtedness in such order and in such manner as Bank may, in its sole discretion, deem advisable, notwithstanding any entry by Bank upon any of its books and records. Borrowers hereby expressly agree that, to the extent that Bank receives any payment or benefit of or otherwise upon any of the Indebtedness, and such payment or benefit, or any part thereof, is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to a trustee, receiver, or any other Person under any bankruptcy act, state or federal law, common law, equitable cause or otherwise, then to the extent of such payment or benefit, the Indebtedness, or part thereof, intended to be satisfied shall be revived and continued in full force and effect as if such payment or benefit had not been made or received by Bank, and, further, any such repayment by Bank shall be added to and be deemed to be additional Indebtedness.

2.12 Security. Payment and performance of the Indebtedness shall be secured by Liens on the assets, other collateral and properties of Borrowers and of such other Loan Parties as Bank may require from time to time, except that any projects owned by Subsidiaries of Borrowers which are financed with project-related debt (and not financed with proceeds of the Loan) shall not be security for the Loan, provided that with respect to any of the Mortgaged Property which is collateral for the Loan, the required Partial Release Price is paid to Bank pursuant to Addendum 3 hereof to obtain a release of such Mortgaged Property in connection with the commencement of any such project.

2.13 Conditions Precedent to the Initial Advance. The obligation of the Bank to make the Initial Advance on the Loan pursuant to this Agreement shall be subject to the satisfaction of all of conditions precedent set forth in this Section. In the event that any condition precedent is not so satisfied but Bank elects to make the Initial Advance on the Loan notwithstanding the same, such election shall not constitute a waiver of such condition and the condition shall be satisfied prior to any subsequent Advance.

(a) All of the Loan Documents shall be in full force and effect and binding and enforceable obligations of Borrowers and, to the extent that it is a party thereto or otherwise bound thereby, of each other Person who may be a party thereto or bound thereby.

(b) All actions, proceedings, instruments and documents required to carry out the borrowings and transactions contemplated by this Agreement or any other Loan Document or incidental thereto, and all other related legal matters, shall have been satisfactory to and approved by legal counsel for Bank, and said counsel shall have been furnished with such certified copies of actions and proceedings and such other instruments and documents as they shall have requested.

(c) Each Loan Party shall have performed and complied with all agreements and conditions contained in the Loan Documents applicable to it and which are then in effect.

(d) Borrowers shall have delivered; or caused to have been delivered, to Bank or done or caused to have been done, to Bank's satisfaction each and every of the following items:

(1) This Agreement (together with all addenda, schedules, exhibits, certificates, opinions, financial statements and other documents to be delivered pursuant hereto), the Note, the Deeds of Trust and all other Loan Documents duly executed, acknowledged (if required) and delivered by Borrowers and any Person who is a party thereto.

(2) (i) Copies of resolutions of the board of directors, partners or members or managers, as applicable, of each Loan Party evidencing approval of the borrowing hereunder and the transactions contemplated by the Loan Documents, and authorizing the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party or by which it is otherwise bound, which resolutions shall have been certified by a duly authorized officer, partner or other representative, as applicable, of each Loan Party as of the date of this Agreement as being complete, accurate and in full force and effect; (ii) incumbency certifications of a duly authorized officer, partner or other representative, as applicable, of each Loan Party, in each case, identifying those individuals who are authorized to execute the Loan Documents for and on behalf of such Person(s), respectively, and to otherwise act for and on behalf of such Person(s); (iii) certified copies of each of such Person(s)' articles of incorporation and bylaws, partnership agreement, certificate of limited partnership, articles of organization, regulations or operating agreement, as applicable, and all amendments thereto; and (iv) certificates of existence, good standing and authority to do business, as applicable, certified substantially contemporaneously with the date of this Agreement, from the state or other jurisdiction of each of such Person(s)' organization and from every other state or jurisdiction in which such Person is required, under applicable law, to be qualified to do business.

(3) Proof that appropriate security agreements, financing statements, mortgages, deeds of trust, collateral and such additional documents or certificates as may be required by Bank and/or contemplated under the terms of any and every Loan Document, and such other documents or agreements of security and appropriate assurances of validity, perfection and priority of Lien as Bank may request shall have been executed and delivered by the appropriate Persons and recorded or filed in such jurisdictions and such other steps shall have been taken as necessary to perfect, subject only to Permitted Encumbrances, the Liens granted thereby.

(4) An opinion of Borrowers' legal counsels, dated as of the date of this Agreement, as to enforceability and authority issues and covering such other matters as are required by Bank and which are otherwise reasonably satisfactory in form and substance to Bank.

(5) A UCC, tax lien and judgment lien record search, disclosing no notice of any Liens or encumbrances filed against any of the Mortgaged Property, other than the Permitted Encumbrances.

(6) Evidence of insurance coverage as required by this Agreement and the Deeds of Trust.

(7) The Title Policy (or the Title Company's unconditional commitment to issue the Title Policy upon recordation of the Deeds of Trust).

(8) An environmental audit report covering the Primary Collateral, in form and content and conducted and prepared by an environmental consultant reasonably acceptable to Bank. Borrowers agree that Bank may disclose the contents of such environmental audit report to Governmental Authorities and Borrowers shall deliver to Bank the written consent to such disclosure from the respective environmental consultant.

(9) Evidence that none of the Primary Collateral is located within any designated flood plain or special flood hazard area (as may be shown on the surveys delivered to Bank or other evidence acceptable to Bank) or, in lieu thereof at Bank's request, evidence that Borrowers have applied for and received flood insurance covering the insurable Improvements in the maximum coverage available to Bank.

(10) To the extent portions of the Primary Collateral have been platted, full-size, single sheet copies of all recorded subdivision or plat maps of the Primary Collateral approved (to the extent required by Governmental Requirements) by all Governmental Authorities, if applicable, and legible copies of all instruments representing exceptions to the state of title to the Primary Collateral.

(11) Current Financial Statements of Borrowers.

(12) If requested by Bank, a soils and geological report covering the Primary Collateral issued by a laboratory approved by Bank, which report shall be reasonably satisfactory in form and substance to Bank, and shall include a summary of soils test borings.

(e) Bank shall have received payment of the Commitment Fee.

(f) Bank shall have received such other instruments, documents and evidence (not inconsistent with the terms hereof) as Bank may reasonably request in connection with the making of the Loan hereunder, and all such instruments, documents and evidence shall be satisfactory in form and substance to Bank.

(g) Upon making the Initial Advance on the Loan, the sum of the amount outstanding on the Loan and all Letter of Credit Liabilities shall not exceed the Maximum Loan Amount.

2.14 Conditions to Subsequent Advances and Letters of Credit. Bank has no obligation to make any Advance on the Loan or to issue any Letter of Credit subsequent to the Initial Advance unless the following conditions precedent are satisfied on or before the Disbursement Date for such Advance:

(a) At Bank's request, Borrower shall furnish to Bank an endorsement to the Title Policy (or if an endorsement is not available, a letter from the Title Company) showing "nothing further" of record affecting the Primary Collateral from the date of recording of the Deeds of Trust, except such matters as Bank specifically approves.

(b) All Loan Documents shall be in full force and effect and binding and enforceable obligations of each Loan Party.

(c) Each of the representations and warranties of each Loan Party under any Loan Document shall be true and correct in all material respects.

(d) No Default or Event of Default shall have occurred and be continuing; there shall exist no Material Adverse Effect; and no provision of law, any order of any Governmental Authority, or any regulation, rule or interpretation thereof, shall have had any Material Adverse Effect on the validity or enforceability of any Loan Document.

(e) To the extent that any of the proceeds of the Advance are used to acquire assets, Borrowers shall grant a first Lien on such assets, except for office equipment such as computers and phone systems.

(f) Upon making the Advance on the Loan then requested, the amount outstanding on the Loan in the aggregate shall not exceed the Maximum Loan Amount.

2.15 Advance Not A Waiver. No Advance of the proceeds of the Loan shall constitute a waiver of any of the conditions of Bank's obligation to make further Advances, nor, in the event Borrowers are unable to satisfy any such condition, shall any such Advance have the effect of precluding Bank from thereafter declaring such inability to be an Event of Default.

2.16 Advance Not An Approval. Bank shall have no obligation to make any Advance or part thereof during the existence of any Default or Event of Default, but shall have the right and option so to do; provided that if Bank elects to make any such Advance, no such Advance shall be deemed to be either a waiver of the right to demand payment of the Loan, or any part thereof, or an obligation to make any other Advance.

2.17 Additional Land Acquisitions. Subject to the satisfaction of all conditions precedent to Advances of the Loan, Bank hereby agrees to make one or more Advances of the Loan, which Advances shall reduce the amount available to Borrower under the Loan in question, in an amount not to exceed, without prior Bank approval, (i) \$3,000,000.00 at any one time, or (ii) \$10,000,000.00 in the aggregate (together with all other outstanding Advances for land acquisitions), for the purpose of the acquisition of fee title to real property, provided that Borrower (i) provides Bank with information about such real property as Bank may reasonably request, (ii) executes and delivers to Bank for each acquisition a deed of trust covering the real property acquired, substantially in the form of the Deeds of Trust, granting to Bank a deed of trust first lien on such real property, which deed of trust will be cross-defaulted and cross-collateralized with the Deeds of Trust and other Loan Documents, (iii) causes the Title Company to provide Bank with a Title Policy insuring such deed of trust as a first lien on such real property and containing only such exceptions to title acceptable to Bank, and in an amount and otherwise on terms and conditions reasonably satisfactory to Bank, and (iv) executes and delivers to Bank its proposed disposition plan of such real property which must be reasonably satisfactory to Bank. Any and all real estate assets acquired in whole or part with Advances made under this Section are sometimes referred to as "**Section 2.17 Assets**". Notwithstanding anything in this Agreement to the contrary, such Section 2.17 Assets shall, for purposes of this Agreement, be deemed to be included as "**Other Collateral**"; provided, however, that such Section 2.17 Assets may be designated as part of the "**Primary Collateral**" by obtaining an Appraisal, an environmental audit, Title Policy and other documents that may be reasonably required by Bank to classify such Section 2.17 Assets as "Primary Collateral". Advances under the Loan for other than the acquisitions of Section 2.17 Assets are not subject to the terms and provisions of this Section 2.17.

2.18 Mandatory Prepayments. Borrower shall immediately pay to Bank for application to the Loan in accordance with the terms of this Agreement and in accordance with the Release Provisions set forth in Addendum 3, unless otherwise agreed by Bank in writing, the following sums: (i) one-hundred percent (100%) of the Net Proceeds received by or on behalf of any Borrower from the sale of all or any portion of the Mortgaged Property (except to the extent expressly set forth in Addendum 3 attached hereto) or upon the taking by condemnation of all or any portion of the Mortgaged Property (except to the extent expressly set forth in Addendum 3 attached hereto), (ii) one-hundred percent (100%) of the Net Proceeds of MUD Reimbursables, (iii) one-hundred percent (100%) of the Net Proceeds received upon the sale of any Section 2.17 Asset, (iv) one-hundred percent (100%) of the Net Proceeds received from any sale or transfer of any of the Credit Banks (but not any of the Credit Banks which are drawn on by Borrower to develop the Land) and (v) one-hundred percent (100%) of the distributions received by any Borrower from any partnership or joint venture which is a Related Party or Subsidiary of any such Borrower, upon the sale by such Related Party or Subsidiary of any real property interest ("**Partnership Distributions**").

2.19 Application of Payments. So long as no Event of Default exists, all payments received from Borrower (including, without limitation, the application of Net Proceeds received from MUD Reimbursables, proceeds received from the sale or transfer of Credit Banks, the application of Net Proceeds from the sale of Section 2.17 Assets, the application of Net Proceeds from the sale of Primary Collateral or Other Collateral or Partnership Distributions, the application of Net Proceeds from the conveyance of Primary Collateral or Other Collateral to a Related Party, and release price proceeds from any other source) shall be applied as follows:

(a) First, such proceeds shall be applied to pay interest current on the Note;

(b) Second, such proceeds shall be applied to pay any other sums (other than principal) then due and payable under the Loan;

(c) Third, such proceeds shall be applied to pay the outstanding principal balance then due under the Note; and

(d) Fourth, any remaining proceeds after application as above set forth shall be distributed to Borrower at its discretion.

SECTION LETTERS OF CREDIT

3.

3.1 Letters of Credit. Subject to the terms and conditions of this Agreement and the other Loan Documents, Borrower may, prior to the Maturity Date, request Bank to issue one or more Letters of Credit under and as part of the Loan, provided that the conditions to the issuance of Letters of Credit herein are satisfied. In no event shall the Letter of Credit Liabilities ever exceed \$10,000,000.00; and the sum of (i) the outstanding principal balance of the Loan plus (ii) the Letter of Credit Liabilities shall not ever exceed the Maximum Loan Amount. Letters of Credit may be issued for business purposes reasonably approved by Bank. As of the date hereof, a Letter of Credit in the face amount of \$3,500,000 issued for the account of Stratus 7000 West Joint Venture (a Subsidiary of Stratus) and a letter of credit in the face amount of \$1,645,000 issued for the account of Meridian Developer, L.P. (a Subsidiary of Stratus) have been issued under and are outstanding pursuant to this Agreement.

3.2 Conditions to Letters of Credit. The issuance of each Letter of Credit shall be subject to the following conditions:

- (a) such Letter of Credit and any amounts to be disbursed or advanced under such Letter of Credit shall be used only for the same purposes as allowed for Advances under the Loan, as set forth in Section 2.4 of Addendum 2 of the Loan Agreement;
- (b) after taking into account any such Letter of Credit, the sum of (i) the then existing Letter of Credit Liabilities, plus (ii) the then outstanding principal balance of the Loan, does not (and shall at no time) exceed the Maximum Loan Amount. Accordingly, the amount of all Letter of Credit Liabilities, if any, shall reduce the amount of Advances available to Borrower under the Loan;
- (c) the expiration date of such Letter of Credit is not more than six (6) months after the maturity date of the Note;
- (d) such Letter of Credit shall be classified as a "Standby" Letter of Credit in accordance with applicable laws and regulations applicable to Bank and in accordance with the Bank's customary practices at such times for reporting to regulatory authorities;
- (e) the issuance of such Letter of Credit will be in compliance with all applicable Governmental Requirements and all other applicable restrictions, policies, and guidelines and will not subject Bank to any cost which is not reimbursable by Borrower under the Loan Documents;
- (f) the form and terms of such Letter of Credit must be acceptable to Bank in its sole discretion;
- (g) all other conditions in this Agreement to the issuance of such Letter of Credit shall have been satisfied;
- (h) immediately before and after the issuance of such Letter of Credit, no Event of Default or Default shall have occurred and be continuing; and
- (i) the representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct on and as of the date of issuance of such Letter of Credit.

Bank will honor any such request by Borrower for the issuance of a Letter of Credit if the foregoing conditions (a) through (i) (collectively, the "LC Conditions") have been met as of the date of issuance of such Letter of Credit. Bank may choose to honor any such request for any other Letter of Credit but has no obligation to do so and may refuse to issue any other requested Letter of Credit for any reason which Bank in its sole discretion deems relevant.

3.3 Requesting Letters of Credit. Borrower must make written application for any Letter of Credit at least five (5) Business Days before the date on which Borrower desires for Bank to issue such Letter of Credit. By making any such written application, Borrower shall be deemed to have represented and warranted that the LC Conditions will be met as of the date of issuance of such Letter of Credit. Two (2) Business Days after the LC Conditions have been met (or if Bank otherwise desires to issue such Letter of Credit), Bank will issue such Letter of Credit at Bank's office in Dallas, Texas. If any provisions of any LC Application conflict with any provisions of this Agreement, the provisions of this Agreement shall govern and control.

3.4 Reimbursement and Participations.

(a) Reimbursement by Borrower. Each Matured L/C Obligation shall constitute an Advance under the Loan. To the extent the same has not been repaid to Bank (with the proceeds of an Advance under the Loan or otherwise), Borrower promises to pay to Bank, or to Bank's order, on demand, (i) the full amount of each Matured L/C Obligation, whether such obligation accrues before or after the Maturity Date, together with (ii) interest thereon at a rate per annum equal to the "Applicable Base Rate" for the "Base Rate Tranche" (as such terms are defined in the Note) until repaid in full; provided that after the Maturity Date or following a Default or an Event of Default under this Agreement or the other Loan Documents, such interest shall accrue at the Default Rate.

(b) Letter of Credit Advances. If the beneficiary of any Letter of Credit makes a draft or other demand for payment thereunder, then Borrower may, during the interval between the making thereof and the honoring thereof by Bank, request Bank to make an Advance under the Loan to Borrower in the amount of such draft or demand, which Advance shall be made concurrently with Bank's payment of such draft or demand and shall be immediately used by Bank to repay the amount of the resulting Matured L/C Obligation. Such a request by Borrower shall be made in compliance with all of the provisions hereof.

(c) Letter of Credit Fees. In consideration of Bank's issuance of any Letter of Credit, Borrower agrees to pay to Bank a letter

of credit fee at a rate equal to two percent (2.0%) per annum. Each such fee will be, calculated based on the term and face amount of such Letter of Credit and the above applicable rate and will be payable upon issuance. In no event shall the issuance fee be less than \$500.00 for any Letter of Credit.

3.5 No Duty to Inquire.

(a) Drafts and Demands. Bank is authorized and instructed to accept and pay drafts and demands for payment under any Letter of Credit without requiring, and without responsibility for, any determination as to the existence of any event giving rise to said draft, either at the time of acceptance of payment or thereafter. Bank is under no duty to determine the proper identity of anyone presenting such a draft or making such a demand (whether by tested telex or otherwise) as the officer, representative or agent of any beneficiary under any Letter of Credit, and payment by Bank to any such beneficiary when requested by any such purported officer, representative or agent is hereby authorized and approved. Borrower agrees to hold Bank harmless and indemnified against any liability or claim in connection with or arising out of the subject matter of this section, **WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT OWED, IN WHOLE OR IN PART, UNDER ANY CLAIM OR THEORY OF STRICT LIABILITY, OR ARE CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY BANK**, provided only that Bank shall not be entitled to indemnification for that portion, if any, of any liability or claim which is approximately caused by its own individual gross negligence or willful misconduct, as determined in a final judgment.

(b) Extension of Letter of Credit Maturity. If the maturity of any Letter of Credit is extended by its terms or by applicable law or governmental action, if any extension of the maturity or time for presentation of drafts or any other modification of the terms of any Letter of Credit is made at the request of Borrower, or if the amount of any Letter of Credit is increased at the request of Borrower, this Agreement shall be binding upon Borrower with respect to such Letter of Credit as so extended, increased or otherwise modified, with respect to drafts and property covered thereby, and with respect to any action taken by Bank, or Bank's correspondents in accordance with such extension, increase or other modification.

(c) Transferees of Letters of Credit. If any Letter of Credit provides that it is transferable, Bank shall have no duty to determine the proper identity of anyone appearing as transferee of such Letter of Credit, nor shall Bank be charged with responsibility of any nature or character for the validity or correctness of any transfer or successive transfers, and payment by Bank to any purported transferee or transferees as determined by Bank is hereby authorized and approved, and Borrower further agrees to hold Bank harmless and indemnified against any liability or claim in connection with or arising out of the foregoing, **WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT OWED, IN WHOLE OR IN PART, UNDER ANY CLAIM OR THEORY OF STRICT LIABILITY, OR ARE CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY BANK**, provided only that Bank shall not be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct, as determined in a final judgment.

3.6 LC Collateral.

(a) Acceleration of Letter of Credit Liabilities. On the Maturity Date, or if the Loan becomes immediately due and payable pursuant to the Loan Documents, then, unless Bank otherwise specifically elects to the contrary, all Letter of Credit Liabilities shall become immediately due and payable without regard to whether or not actual drawings or payments on the Letters of Credit have occurred, and Borrower shall be obligated to return all original Letters of Credit to Bank and pay to Bank immediately an amount equal to the aggregate Letter of Credit Liabilities which are then outstanding (taking into account the actual return to Bank of any original outstanding Letters of Credit). All amounts so paid shall first be applied to Matured L/C Obligations and the remainder will be held by Bank as security for the remaining Letter of Credit Liabilities (all such amounts held as security for Letter of Credit Liabilities being herein collectively called "**LC Collateral**") until such Letter of Credit Liabilities become Matured L/C Obligations, at which time such LC Collateral shall be applied to such Matured L/C Obligations, and any remaining amounts after the repayment of all Matured L/C Obligations and Indebtedness shall be returned to Borrowers.

(b) Investment of LC Collateral. Pending application thereof, all LC Collateral shall be invested by Bank in such investments as Bank may elect. All interest on such investments shall be reinvested or applied to Matured L/C Obligations. When all indebtedness evidenced by the Note and all Letter of Credit Liabilities have been satisfied in full, all Letters of Credit have expired or been terminated, and all of Borrower's reimbursement obligations in connection therewith have been satisfied in full, Bank shall release any remaining LC Collateral. Borrower hereby assigns and grants to Bank a continuing security interest in all LC Collateral, all investments purchased with such LC Collateral, and all proceeds thereof to secure its Matured L/C Obligations and its obligations under this Agreement, the Note and the other Loan Documents. Borrower further agrees that Bank shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Texas with respect to such security interest and that an Event of Default under this Agreement shall constitute a default for purposes of such security interest.

(c) Payment of LC Collateral. When Borrower is required to provide LC Collateral for any reason and fails to do so on the day when required, Bank may without notice to Borrower provide such LC Collateral (whether by transfers from other accounts maintained with Bank or otherwise) using any available funds of Borrower.

SECTION CALERA COURT CONSTRUCTION LOAN

4.

4.1 Agreement to Lend. Subject to the terms, provisions and conditions of this Agreement, Bank hereby agrees to make to the Borrower, and Borrower hereby agrees to accept from Bank, Advances of proceeds of the Loan as provided in this Agreement for the construction of Houses; provided, however, that the aggregate amount of all Advances made and/or committed to be made hereunder, but exclusive of amounts repaid, shall not exceed the Calera Court Sublimit. Amounts repaid under the Calera Court Construction Loan may be reborrowed, subject to the terms and conditions hereof. The nature of the Calera Court Construction Loan is a guidance line of credit. Nothing to the contrary contained herein or in any of the Loan Documents shall obligate or be construed to obligate Bank to make, or shall entitle or be construed to entitle the Borrower to receive, any Advance hereunder as to any specified House

or Houses until Acceptance thereof by Bank. Borrower acknowledge and agree that Bank, in its sole and absolute discretion, with or without reason or justification, will make the decision as to whether any specified House or Houses will receive Acceptance by Bank. Borrower has no right and hereby waives, relinquishes and releases any right which it might now or hereafter have, to demand Bank to make any Advance hereunder as to any specified House or Houses until Acceptance thereof by Bank. Bank may, in Bank's discretion, disburse Loan proceeds by journal entry to pay interest and financing costs and disburse Loan proceeds directly to third parties to pay costs or expenses required to be paid by Borrower pursuant to Section 4 of this Agreement, and any such disbursements shall constitute Advances to Borrower. As used in this Section 4, the term "**Borrower**" means the Calera Court Borrower; provided, however, (i) the Calera Court Borrower shall only be liable for the obligations under the Calera Court Construction Loan and shall have no personal liability for any of the Indebtedness or other obligations arising under the Loan which are not directly related to the Calera Court Construction Loan or the Calera Court Lots and (ii) each of the Borrowers under this Agreement shall be jointly and severally liable for all Advances made to the Calera Court Borrower.

4.2 Acceptance. Borrower may from time to time propose that Bank accept a House for funding in accordance with an Approved Budget for same. "Acceptance" shall be deemed to have occurred and Bank shall be deemed to have committed to make Advances with respect to any such House at such time as Borrower has executed and/or delivered to Bank all of the items required by Section 4.7 hereof and otherwise satisfied all of the other conditions set forth in Section 4.8 hereof. Bank shall, within 15 days after receipt of the above written notice, provide Borrower written notice of Bank's acceptance or rejection of any such proposed House together with an Approved Budget for same. Borrower shall not be entitled to propose that any Houses receive Acceptance either (i) after the Acceptance Termination Date, or (ii) to the extent the total Maximum Aggregate Advances Per House for all Houses already equals the Calera Court Sublimit.

4.3 Maximum Commitment for Houses. Under no circumstances shall Borrower be entitled to an aggregate amount of Advances outstanding at any time for the Calera Court Construction Loan as a whole in excess of the Calera Court Sublimit, and in no event shall the sum of (x) the aggregate amount of Advances outstanding at any time for the Calera Court Construction Loan plus (y) the unfunded amount committed for any House which has been accepted by Bank pursuant to an Approved Budget, ever exceed the Calera Court Sublimit. In addition, the Loan proceeds allocable for any House which is accepted by Bank as set forth in the Approved Budget for such House shall be reserved and shall not be available for disbursement for any purposes under the Loan other than for the construction of such House. It is recognized and agreed that all Requests for Advances shall indicate and be based on the actual percentage of completion of the Approved Work for each House as calculated using the Approved Budget for same and shall otherwise be on a form and with detail as may be required by Bank in Bank's reasonable discretion. Any percentage of completion of Approved Work for any House indicated by Borrower on any report or notice delivered to Bank shall be subject to verification by Bank. To the extent, for whatever reason, the outstanding balance of the Calera Court Construction Loan should ever exceed the aggregate amount of then applicable actual percentage of completion of the Approved Work for each and all Houses as calculated using the Approved Budget for each, Borrower shall immediately upon demand by Bank make any principal reductions necessary such that the then outstanding balance of the Calera Court Construction Loan shall not exceed then applicable aggregate amount. The aggregate maximum amount of any and all Advances for each House (the "Maximum Aggregate Advances Per House") shall not exceed the lesser of (a) Borrower's total cost of construction and completion of such House as provided in the Approved Budget for such House, or (b) as applicable (i) for any Model House, 75% of the Appraised Value of such Model House, (ii) for any Spec House, the lesser of 75% of the Appraised Value of such Spec House or \$550,000, or (iii) for any House that is Pre-Sold House, 80% of the Appraised Value of such House.

4.4 Allocations. The purposes for which proceeds of the Calera Court Construction Loan are allocated and the respective amounts of such Allocations are set forth in each Approved Budget. The Allocations for any House shall be disbursed only for the purposes set forth in the Approved Budget for such House. Bank shall not be obligated to make an Advance for an Allocation set forth in an Approved Budget to the extent that the amount of the Advance for such Allocation would, when added to all prior Advances for such Allocation, exceed the total of such Allocation as set forth in the Approved Budget. Bank reserves the right, at its option after the request by Borrower for same, to disburse Loan proceeds allocated to any of the Allocations, or any percentage allocated to each stage of disbursement as set forth in an Approved Budget, for such other purposes or in such different percentages as Bank may, in its sole discretion, deem necessary or advisable. Borrower shall not be entitled to require that Bank reallocate funds among the Allocations or percentage among the various stages of disbursement set forth in an Approved Budget.

4.5 Contingency Allocations. Any amount allocated in an Approved Budget for "contingencies" or other non-specific purposes may, in Bank's discretion, be disbursed by Bank to pay contingent costs and expenses of construction costs, maintaining, and promoting the Mortgaged Property and such other costs or expenses as Bank shall approve. Under no circumstances shall the Borrower have the right to require Bank to disburse any amounts so allocated and Bank may impose such requirements and conditions as it deems prudent and necessary should it elect to disburse all or any portion of the amounts so allocated.

4.6 Limitation on Spec Houses and Model Houses. Bank shall have no obligation to effectuate Acceptance of any new proposed Spec House or Model House if the effect of such Acceptance would be to cause (i) the number of all Spec Houses under the Calera Court Construction Loan to exceed at any one time four (4) Spec Houses or (ii) the number of all Model Houses under the Calera Court Construction Loan to exceed at any one time two (2) Model Houses. If, at any time or for whatever reason, the number of all Spec Houses or Model Houses under the Calera Court Construction Loan should exceed the foregoing limits, then, Borrower shall be required to effectuate a mandatory partial release as to the sufficient number of Spec Houses or Model Houses such that the foregoing limits would not thereafter be exceeded. Such mandatory release would be effectuated in accordance with the provisions of Addendum 3 hereof.

4.7 Conditions to Acceptance of Houses and Advances With Respect Thereto. Acceptance by Bank of any House pursuant to Section 4.2 hereof and the making of an Advance with respect thereto shall be subject to the prior or simultaneous satisfaction of each of the conditions set forth in this Section. In the event that any condition precedent is not so satisfied but Bank deems Acceptance to have occurred as to a particular House notwithstanding the same, such election shall not constitute a waiver of such condition and the condition shall be satisfied prior to any subsequent Advance or Acceptance, as the case may be.

(a) All of the Loan Documents shall be in full force and effect and binding and enforceable obligations of Borrower and, to the extent that it is a party thereto or otherwise bound thereby, of each other Person who may be a party thereto or bound thereby, and there shall exist no Event of Default or Default.

(b) Each Loan Party shall have performed and complied with all agreements and conditions contained in the Loan Documents applicable to it and which are then in effect.

(c) Borrower shall have delivered, or caused to have been delivered, to Bank or done or caused to have been done, to Bank's satisfaction each and every of the items required for the Initial Advance under Section 2.13 of Addendum 2 of this Agreement, and all conditions to Advances set forth in Sections 2.13 and 2.14 of this Addendum 2 shall have been satisfied as of the date of the Advance. In addition, Borrower shall have delivered to Bank the following with regard to the Acceptance of the House in question:

- (i) Evidence of insurance coverage as required by this Agreement and the Deed of Trust.
- (ii) At Bank's request, an Interim Binder for Construction Loan covering such proposed House.
- (iii) When available, an original or a copy of each proposed construction contract covering any proposed House.
- (iv) A copy of the Plans covering all proposed Houses.
- (v) Evidence that all applicable zoning ordinances and restrictive covenants affecting that portion of the Land upon which the House is to be constructed permit the use for which the Improvements are intended and have been or will be complied with.
- (vi) Evidence that all streets furnishing access to that portion of the Land upon which the House is to be constructed have been dedicated to public use and installed and accepted by applicable Governmental Authorities; and, except as permitted by Bank, evidence that all streets furnishing access to any House for which a request for Advance has been made, have been or will be timely constructed in accordance with all applicable laws and development requirements.
- (vii) Evidence satisfactory to Bank showing the availability of all necessary utilities at the boundary lines of that portion of the Land upon which the House is to be constructed and, except as permitted by Bank, at the boundary lines of each Lot with respect to which a request for Advance has been made, including sanitary and storm sewer facilities, potable water, telephone, electricity and gas services.
- (viii) Building permit(s) and all other permits required with respect to the construction of the Houses and evidence that the proposed use of that portion of the Land and Houses and construction of the Improvements thereon complies with all Governmental Requirements, including applicable zoning ordinances and restrictive covenants.
- (ix) An Approved Budget for each House.
- (x) As to each separate floor plan for proposed Houses, an Appraisal.
- (xi) If requested by Bank, a waiver of lien or lien subordination agreement(s) executed by each contractor, laborer and supplier furnishing labor or materials for the construction of Houses, in a form acceptable to Bank, for work performed or materials supplied prior to the date of each Advance.
- (xii) Except in the case of Spec Houses and Model Houses, a fully executed copy of the Approved Sales Contract for each House together with such supplementary documentation as Bank may reasonably require (e.g., such buyer's written evidence of creditworthiness, etc.).
- (xiii) Evidence that each Lot for which an Advance for a House thereon is requested has been cleared, filled and graded, as necessary, and is in all respects ready for construction of the House thereon.
- (xiv) As a condition to the final Advance with respect to any House, evidence satisfactory to Bank that all streets furnishing access to such House have been completed (and dedicated, if not private streets), and that all necessary utilities for the use of such Houses have been brought to the House, are completed and connected.
- (xv) Such other instruments, evidence or certificates as Bank may reasonably request.

4.8 Conditions to All Advances. In addition to any other terms and conditions set forth in this Agreement, the obligation of Bank to make any Advance under this Agreement shall be further subject to the satisfaction of each of the following conditions precedent on or before the Disbursement Date for such Advance:

- (a) All conditions to Advances set forth in Sections 2.13 and 2.14 of this Addendum 2 shall have been satisfied as of the date of the Advance.
- (b) Receipt by Bank of a monthly endorsement to the Title Policy (or if an endorsement is not available, a letter from the Title Company) showing "nothing further" of record affecting that portion of the Land upon which Houses are being constructed from the date of recording of the Deed of Trust, except such matters as Bank specifically approves.
- (c) Receipt by Bank of waivers signed and acknowledged (notarized) by each Contractor that has done work included within any prior Request for Advance that the respective Contractor has been paid in full (except for required retainage) for, and waiving any mechanic's and materialmen's lien rights with respect to, all work done at least 45 days prior to the current Request for Advance.
- (d) The Houses shall not have been materially damaged by fire or other casualty.

(e) None of that portion of the Land upon which Houses are being constructed shall be subject to condemnation proceedings or negotiations for sale in lieu thereof.

(f) Borrower shall have recorded the executed Affidavits of Commencement to the extent required hereunder.

(g) Bank shall have obtained from the Inspecting Person an inspection report relating to the House or Houses for which a Request for Advance has been made, which report shall be satisfactory to Bank in its sole discretion.

4.9 Limitation on Advances; Borrower's Deposit. If at any time Bank shall in its sole discretion deem that the undisbursed proceeds of the Loan are insufficient to meet the costs of completing construction of the Approved Work, plus the costs of insurance, ad valorem taxes and other normal costs incidental to the Approved Work or ownership of the Houses which are a part of the Mortgaged Property, Bank may refuse to make any additional Advances to Borrower under this Section 4 until Borrower shall have deposited with Bank sufficient additional funds ("**Borrower's Deposit**") to cover the deficiency which Bank deems to exist. Such Borrower's Deposit will be disbursed by Bank to Borrower pursuant to the terms and conditions hereof as if they constituted a portion of the Loan being made hereunder. Borrower agrees upon fifteen (15) days written demand by Bank to deposit with Bank such Borrower's Deposit. Bank shall pay interest on the Borrower's Deposit at a rate typically paid by Bank on similar deposits.

4.10 Withholding on Advances. Bank may withhold from an Advance under this Section 4 or, on account of subsequently discovered evidence, withhold from a later Advance under this Section 4, or require Borrower to repay to Bank the whole or any part of any earlier Advance, to such extent as may be necessary to protect Bank from loss on account of (i) defective work with regard to a House not remedied or requirements of Section 4 not performed, (ii) liens filed or reasonable evidence indicating probable filing of liens against the portion of the Mortgaged Property upon which Houses are being constructed, or (iii) failure of Contractor to make payments to subcontractors for material or labor. When the foregoing applicable grounds are satisfied and removed, such withheld amount shall be promptly released.

4.11 Representations, Warranties and Covenants of Borrower. Borrower agrees that all of the representations, warranties and covenants set forth in Article 3, Article 4 and Article 5 of this Agreement are applicable to Borrower except to the extent otherwise expressly provided or the context requires that Borrower is not a party to such representation, warranty or covenant.

4.12 Insurance. Borrower shall continue to provide insurance in accordance with the requirements of this Agreement and as required under that certain Loan Agreement (Revolving Credit) dated as of September ____, 2003 by and between Borrower and Bank, as amended from time to time, the provisions of which are incorporated herein by reference.

4.13 Construction of Houses.

(a) Completion. As to each House, cause the construction thereof (i) to be performed in a good and workmanlike manner, within the perimeter boundaries of the Lot and within all applicable building and setback lines in accordance with all Governmental Requirements and the Plans, (ii) to be prosecuted with diligence and continuity and (iii) to be completed in all material respects in accordance with the Plans on or before the applicable Completion Date, free and clear of Liens or claims for Liens for material supplied and for labor or services performed in connection with the construction of such House, other than Permitted Encumbrances.

(b) Surveys. Borrower will obtain, at Bank's request and at Borrower's expense, (i) immediately after the installation of the forms for the pouring of the foundations or slabs for each House, (ii) immediately upon completion of all foundations or slabs, and before any above ground construction, and (iii) upon completion of construction of each House, a survey prepared by a registered engineer or surveyor acceptable to Bank, showing that the locations of such forms, foundation or slabs and Houses, as applicable, are entirely within the property lines of the applicable Lot, do not encroach upon any easement, setback line or restrictions, are placed in accordance with the Plans, all Governmental Requirements and all restrictive covenants affecting the Lot and/or Houses, and showing no state of facts objectionable to Bank. Borrower shall maintain such surveys and, if requested by Bank, within five (5) days after the request therefor, shall deliver copies of same to Bank. If such surveys are so requested, Bank shall have no obligation to make any Advance hereunder at any time after the completion of foundations or slabs until receipt by Bank of such foundation survey. All surveys provided to Bank must be in form and substance reasonably acceptable to Bank.

(c) Inspecting Person. Pay the fees and expenses of, and cooperate, with the Inspecting Person and cause each contractor, architect, engineer and other professional consultants engaged by Borrower in connection with the design and construction of the Houses, to cooperate with the Inspecting Person in connection with the performance of the Inspecting Person's duties. Without limiting the generality of the foregoing, Borrower shall furnish or cause to be furnished such items as working details, the Plans and details thereof, samples of materials, licenses, permits, certificates of public authorities, zoning ordinances, building codes and copies of the contracts between such person and Borrower (if applicable). Borrower will permit Bank, the Inspecting Person and their representative to enter upon the Land and wherever else any of the Houses are located for the purposes of inspecting same. Borrower acknowledges that the duties of the Inspecting Person run solely to Bank and that the Inspecting Person shall have no obligations or responsibilities whatsoever to Borrower, any contractor, design professional or any other Person, or to any of their agents, employees, contractors or subcontractors.

(d) Affidavit of Commencement. Within ten (10) days after the applicable Commencement Date as to any House, and not before construction of such House has actually begun, file or cause to be filed in the appropriate records of the county in which the Lot is situated, an Affidavit of Commencement duly executed by Borrower and the contractor performing the work on such Lot.

(e) Affidavit of Completion. Within ten (10) days after construction of the House on any Lot has been completed, file or cause to be filed in the appropriate records in the county in which the Lot is situated an Affidavit of Completion.

(f) Delivery of Contracts. Upon Bank's request, deliver to Bank a copy of each contract related to the Houses promptly after the execution of same by all parties thereto. Within twenty (20) days after a request by Bank, Borrower shall prepare and deliver to Bank a complete listing of all contracts, showing date, term, parties, subject matter, concessions, whether any defaults exist, and other information specified by Bank,

with respect to each of such contracts.

(g) Correcting Defects. Correct: (a) any structural defect in any of the Houses; (b) any material departure from the Plans not approved in writing by Bank (other than work performed in accordance with any change orders permitted hereunder or any change orders otherwise approved by Bank); (c) any encroachment by any part of any of the Houses or any other structures or improvements over or on any set-back line, easement, adjoining property or other restricted area; and (d) any encroachment of any adjoining structure upon any of the Land which any survey or inspection reflects. The advance of Loan proceeds will not waive Bank's right to require compliance with this Section.

(h) Safe Storage. Safely store all equipment, supplies and materials not affixed to or incorporated into the Houses on the Calera Court Lots or in a warehouse acceptable to Bank, in each case under adequate safeguard to minimize the possibility of loss, theft, damage or commingling with other property. Upon Bank's request, Borrower will furnish an inventory of all such equipment, supplies and materials stored off the Calera Court Lots, specifying their location.

(i) No Changes. Not amend, alter or change in any material respect (pursuant to change order, amendment or otherwise) the Plans unless the same shall have been approved in advance in writing by Bank, by all applicable Governmental Authorities, by any party to a sales or construction contract (including an Approved Sales Contract) with a right of approval, and by each surety under payment or performance bonds, if any, covering any construction contract or any other contract for construction of all or a portion of the Houses. Notwithstanding anything in this Agreement to the contrary, Borrower shall be allowed to make changes in the Plans upon and subject to the following conditions and requirements (and such an approved change order executed in compliance herewith will increase the amount of the Approved Budget for a House as applicable so long as same does not cause the Calera Court Sublimit to be exceeded):

(i) Any single change shall not increase the Construction Costs for a House by more than \$15,000.00.

(ii) All changes, including the currently requested change and all prior changes, shall not increase the Construction Costs for a House in the aggregate, by more than \$50,000.00.

(iii) Such change, by itself and when considered with all prior changes, shall not, in Bank's reasonable discretion, cause or be likely to cause the Completion of the House to occur after the Completion Date.

(iv) Any such change, or all changes in the aggregate, shall not adversely affect, in Bank's reasonable discretion, the structural integrity, utility or appearance of the Houses.

(v) Borrower shall have deposited into the Borrower's Deposit, sufficient funds to cover all costs associated with the requested change and all increases in the Construction Costs of the Houses anticipated by such changes, as determined by Bank in its reasonable discretion.

(vi) Borrower shall have submitted to Bank, the Inspecting Person, and the applicable Contractor the requested change, together with changes in the Plans necessary to accomplish such change, a certificate of the applicable Design Professional in regard to same, and a change order to the construction contract reflecting such change; and Bank shall have received the approval of such change by the Inspecting Person and the approved and signed change order from the applicable Contractor reflecting the increase in Construction Costs of the Houses.

4.14 Completion of the Improvements after Event of Default. Bank shall have the right, upon the occurrence of and during the continuance of an Event of Default, in addition to any rights or remedies available to it under all other Loan Documents, to enter into possession of that portion of the Mortgaged Property upon which Houses are being constructed and perform any and all work and labor necessary to complete the Houses in accordance with the Plans. All amounts so expended by Bank shall be deemed to have been disbursed to Borrower as Loan proceeds and secured by the Deeds of Trust. For this purpose, effective automatically upon and at all times during the continuance of an Event of Default, Borrower hereby constitutes and appoints (which appointment is coupled with an interest and is therefore irrevocable) Bank as Borrower's true and lawful attorney-in-fact, with full power of substitution to complete the Houses in the name of Borrower, and hereby empowers Bank, acting as Borrower's attorney-in-fact, as follows: to use any funds of Borrower, including any balance which may be held in escrow, any Borrower's Deposit and any funds which may remain unadvanced hereunder, for the purpose of completing the Houses in the manner called for by the Plans; to make such additions and changes and corrections in the Plans which shall be necessary or desirable to complete the Houses in the manner contemplated by the Plans; to continue all or any existing construction contracts or subcontracts; to employ such contractors, subcontractors, agents, design professionals and inspectors as shall be required for said purposes; to pay, settle or compromise all existing bills and claims which are or may be liens, or may be necessary or desirable for the completion of the work or the clearing of title; to execute all the applications and certificates in the name of Borrower which may be required by any construction contract; and to do any and every act with respect to the construction of the Houses which Borrower could do in Borrower's own behalf. Bank, acting as Borrower's attorney-in-fact, shall also have power in such an event to prosecute and defend all actions or proceedings in connection with the Mortgaged Property and to take such action and require such performance as is deemed necessary.

4.15 Assignment of Sales Contracts. Borrower, as additional security for the payment and performance of the covenants, agreements and obligations of Borrower to Bank arising under this Agreement and under all of the Loan Documents, hereby grants a security interest in, and sells, transfers, assigns and sets over, to Bank, its successors and assigns, all of Borrower's title and interest in and to, and Borrower's rights, benefits and privileges under, any and all Sales Contracts whether now existing or hereafter entered into, and all proceeds therefrom. In furtherance of the foregoing, Borrower hereby agrees that this assignment of Sales Contracts is made upon the following terms and conditions:

(a) Borrower shall pay and perform all of Borrower's covenants, agreements and obligations under the Sales Contracts and shall promptly notify Bank in writing, as part of the monthly reports to be delivered to Bank pursuant to the terms and conditions of this Agreement, of any termination of any Sales Contract. Borrower hereby covenants and agrees not to (i) materially modify, amend or change any Sales Contract after full execution thereof (except with regard to change orders and extras), (ii) terminate or otherwise cancel any fully executed Sales Contract except in the event of a default thereunder by the purchaser or the purchaser's failure to satisfy any contingency thereunder, (iii) take any action or

exercise any right or option which would permit a purchaser to terminate or otherwise cancel a Sales Contract, unless said purchaser is in default thereunder, or (iv) further assign or create any further encumbrance or hypothecation of Borrower's interest in any of the Sales Contracts, without the prior written consent of Bank, unless required by any Governmental Authority, in which case Borrower shall give Bank prior written notice thereof.

(b) Upon the occurrence of an Event of Default, Bank may elect, in its sole discretion, to exercise, in the name of Borrower, all of Borrower's rights, benefits and privileges under each of the Sales Contracts, including all rights in and to all deposits and other amounts collected or otherwise received from purchasers under the Sales Contracts; in connection with such exercise of rights, benefits and privileges, Bank shall have full power and authority to do all acts as may be necessary, as determined in Bank's sole discretion, to close any transaction contemplated under any Sales Contract, including to receive any and all amounts paid or to be paid by a purchaser in connection therewith. Bank shall not be required to give any notice of such election to Borrower. Borrower hereby covenants and agrees to pay to Bank promptly upon demand any and all reasonable costs and expenses, including reasonable attorneys' fees and expenses incurred by Bank in connection with such an election by Bank to exercise its rights under this Section. Furthermore, promptly upon demand by Bank, Borrower shall take such actions and execute such documents as may be necessary to facilitate Bank's exercise of its rights hereunder, including (i) delivering to Bank all then existing Sales Contracts, (ii) delivering, jointly with Bank, notices to purchasers of the assignment of their respective Sales Contracts, (iii) conveying fee simple title to the purchaser of any of the Houses by a proper, recordable warranty deed in connection with the closing of a transaction under any of the Sales Contracts, and (iv) instructing any necessary party, such as a title company handling a closing, to pay to Bank the proceeds of sale which would otherwise have been paid or payable to Borrower.

(c) Borrower shall indemnify, defend and hold Bank and its affiliates harmless from and against any and all losses, liabilities, obligations, penalties, claims, fines, lost profits, demands, litigation, defenses, costs, judgments, suits, proceedings, damages, disbursements or expenses of any kind or nature whatsoever (including attorneys' fees and expenses), consequential or otherwise, which may at any time be either directly or indirectly imposed upon, incurred by or asserted or awarded against Bank or any of Bank's affiliates in connection with, arising from or relating to any action or actions taken by Bank pursuant to this section prior to a foreclosure by Bank of the Mortgaged Property or other taking of title by Bank in lieu of foreclosure of the Mortgaged Property, **INCLUDING ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS, AND EXPENSES RESULTING FROM BANK'S OWN NEGLIGENCE, EXCEPT AND TO THE EXTENT BUT ONLY TO THE EXTENT CAUSED BY BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Borrower's duty and obligation to defend, indemnify and hold harmless Bank shall survive the payment of the Indebtedness and the release, partial release or foreclosure (or action in lieu of foreclosure) of the Liens of the Deeds of Trust, and the exercise by Bank of any and all remedies set forth herein or in the other Loan Documents.

(d) So long as no Event of Default has occurred, Borrower may continue to receive and exercise all of its rights, benefits and privileges under the Sales Contracts, except as herein restricted or provided otherwise.

(e) Neither the assignment contained in this Section, nor any action or actions on the part of Bank, shall constitute an assumption of any of the covenants, agreements or obligations of Borrower by Bank under the Sales Contracts and Borrower shall continue to be liable for all such covenants, agreements or obligations. Borrower shall indemnify, defend and hold Bank and its affiliates harmless from and against any and all losses, liabilities, obligations, penalties, claims, fines, lost profits, demands, litigation, defenses, costs, judgments, suits, proceedings, damages, disbursements or expenses of any kind or nature whatsoever (including attorneys' fees and expenses), consequential or otherwise, which may at any time be either directly or indirectly imposed upon, incurred by or asserted or awarded against Bank or any of Bank's affiliates in connection with, arising from or relating to any failure of Borrower to perform and observe any of such obligations, **INCLUDING ANY CLAIMS, LOSSES, COSTS, DAMAGES, LIABILITIES, OBLIGATIONS, AND EXPENSES RESULTING FROM BANK'S OWN NEGLIGENCE, EXCEPT AND TO THE EXTENT, BUT ONLY TO THE EXTENT, CAUSED BY BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Borrower's duty and obligation to defend, indemnify and hold harmless Bank shall survive the payment of the Indebtedness and the release, partial release or foreclosure (or action in lieu of foreclosure) of the Liens of the Deeds of Trust, and the exercise by Bank of any and all remedies set forth herein or in the other Loan Documents.

(f) Bank shall have the right, at any time (but shall have no obligation), to take in its name or in the name of Borrower or otherwise, such action as Bank may at any time or from time to time reasonably determine to be necessary to protect the rights of Bank as the assignee of Borrower hereunder. Bank shall incur no liability on account of any action taken by it or on its behalf in good faith pursuant to the foregoing sentence or otherwise hereunder, whether or not the same shall prove to be improper, inadequate or invalid, in whole or in part.

(g) Upon the full and complete payment and performance of all of the covenants, agreements and obligations of Borrower to Bank arising under this Agreement and the other Loan Documents, the assignment contained in this Section shall become null and void.

4.16 Assignment of Construction Contract. Borrower, as additional security for the payment and performance of the covenants, agreements and obligations of Borrower to Bank arising under this Agreement and under all of the Loan Documents, hereby grants a security interest in, and sells, transfers, assigns and sets over, to Bank, its successors and assigns, all of Borrower's title and interest in and to, and Borrower's rights, benefits and privileges under, each Construction Contract upon the following terms and conditions:

(a) Borrower represents and warrants that the copy of each Construction Contract the Borrower has furnished or will furnish to Bank is or will be (as applicable) a true and complete copy thereof, including all amendments thereto, if any, and that Borrower's interest therein is not subject to any claim, setoff or encumbrance.

(b) Neither this assignment nor any action by Bank shall constitute an assumption by Bank of any obligations under any Construction Contract, and Borrower shall continue to be liable for all obligations of Borrower thereunder, Borrower hereby agreeing to perform all of its obligations under each Construction Contract. Borrower agrees to indemnify and hold Bank harmless against and from any loss, cost, liability or expense (including attorneys' fees) resulting from any failure of Borrower to so perform.

(c) Bank shall have the right at any time (but shall have no obligation) to take in its name or in the name of Borrower such action as Bank may at any time determine to be reasonably necessary or advisable to cure any default by Borrower under any Construction Contract or to protect the rights of Borrower or Bank thereunder. Bank shall incur no liability if any action so taken by it or in its behalf shall prove to be

inadequate or invalid, and Borrower agrees to indemnify and hold Bank harmless against and from any loss, cost, liability or expense (including reasonable attorneys' fees) incurred in connection with any such action.

(d) Effective automatically upon and at all times during the continuance of an Event of Default, Borrower hereby irrevocably constitutes and appoints Bank as Borrower's attorney-in-fact, in Borrower's or Bank's name, to enforce all rights of Borrower under each Construction Contract. Such appointment is coupled with an interest and is therefore irrevocable.

(e) Prior to the occurrence of an Event of Default, Borrower shall have the right to exercise its rights as owner under each Construction Contract, provided that Borrower shall not cancel or amend any Construction Contract or do or suffer to be done any act which would impair the security constituted by this assignment without the prior written consent of Bank.

(f) This assignment shall inure to the benefit of Bank and its successors and assigns, any purchaser upon foreclosure of the Deed of Trust, any receiver in possession of the Mortgaged Property and any entity affiliated with Bank which assumes Bank's rights and obligations under this Agreement.

4.17 Assignment of Plans. Borrower, as additional security for the payment and performance of the covenants, agreements and obligations of Borrower to Bank arising under this Agreement and under all of the Loan Documents, hereby grants a security interest in, and sells, transfers, assigns and sets over, to Bank, its successors and assigns, all of Borrower's title and interest in and to, and Borrower's rights, benefits and privileges under, the Plans and hereby represents and warrants to and agrees with Bank as follows:

(a) Each schedule of the Plans delivered or to be delivered to Bank is and shall be a complete and accurate description of the Plans.

(b) The Plans are and shall be complete and adequate for the construction of the Houses and there have been no modifications thereof except as described in such schedule. Subject to Section 4.13(i) of this Addendum 2, the Plans shall not be modified without the prior written consent of Bank.

(c) Bank may use the Plans for any purpose relating to the Houses, including inspections of construction and the completion of the Houses.

(d) Bank's acceptance of this assignment shall not constitute approval of the Plans by Bank. Bank has no liability or obligation in connection with the Plans and no responsibility for the adequacy thereof or for the construction of the Houses contemplated by the Plans. Bank has no duty to inspect the Houses, and if Bank should inspect the Houses, Bank shall have no liability or obligation to Borrower or any other party arising out of such inspection. No such inspection nor any failure by Bank to make objections after any such inspection shall constitute a representation by Bank that the Houses are in accordance with the Plans or any other requirement or constitute a waiver of Bank's right thereafter to insist that the Houses be constructed in accordance with the Plans or any other requirement.

(e) This assignment shall inure to the benefit of Bank and its successors and assigns, any purchaser upon foreclosure of the Deed of Trust, any receiver in possession of the Mortgaged Property and any entity affiliated with Bank which assumes Bank's rights and obligations under this Agreement.

ADDENDUM 3

RELEASE PROVISIONS

(Terms used with initial capital letters in this Addendum 3 that are not specifically defined in this Agreement shall have the meanings ascribed to them in the Deeds of Trust.)

1. Release Prices.

(a) Primary Collateral. The Partial Release Price for Primary Collateral shall be as follows: The payment to Bank of a Partial Release Price equal to one hundred percent (100%) of the Net Proceeds, which Net Proceeds shall in no event be less than (i) eighty-five percent (85%) of the discounted appraised value (hereinafter referred to as "Appraised Value") of that portion of the Primary Collateral other than Developed Lots which is being released and (ii) with respect to that portion of the Primary Collateral consisting of Developed Lots, one hundred percent (100%) of the discounted Appraised Value of that portion of the Primary Collateral for each Developed Lot being released. See Addendum 3-1 attached hereto for the schedule of Appraised Value.

(b) Other Collateral. The Partial Release Price for Other Collateral shall be as follows: The payment to Bank of a Partial Release Price equal to one hundred percent (100%) of the Net Proceeds, which Net Proceeds shall in no event be less than eighty-five percent (85%) of the assigned value (hereinafter referred to as "Assigned Value") established by Bank and Borrower for each of the Tracts of Other Collateral, which value shall (i) be established based on values for similar properties which have been appraised as part of the Primary Collateral, and (ii) be determined on a per square foot basis. See Addendum 3-2 attached hereto for the schedule of Assigned Value.

(c) MUD Reimbursables, Credit Banks, Etc. The Partial Release Price for MUD Reimbursables, Credit Banks, notes receivable, accounts receivable and Partnership Distributions (as defined in Section 2.18 of Addendum 2 hereof) shall be equal to one hundred percent (100%) of the Net Proceeds.

(d) Related Party Sales. The foregoing notwithstanding, the Partial Release Price for Primary Collateral or Other Collateral for sale to a Related Party shall be as follows: The payment of a Partial Release Price equal to one hundred percent (100%) of all cash proceeds received by Borrower, which cash proceeds shall in no event be less than the greater of (i) fifty percent (50%) of the Appraised Value for Primary Collateral or fifty percent (50%) of the Assigned Value for Other Collateral, as applicable, of the Primary Collateral or Other Collateral being released; or (ii) fifty percent (50%) of the gross sales price paid by the Related Party. The gross sales price (i.e., cash proceeds and all other considerations) for the sale to the Related Party will not be less than eighty-five percent (85%) of the applicable Appraised Value or Assigned Value.

(f) Bank Financed Projects. The foregoing notwithstanding, no release price will be required for the release of either Primary Collateral or Other Collateral from the lien of the Deeds of Trust in the event such Primary Collateral or Other Collateral is the subject of additional project financing by Bank pursuant to a separate loan between any Loan Party and Bank, and only so long as (i) in connection with such loan, Bank has a priority lien and security interest in such Primary Collateral or Other Collateral securing repayment of such loan (subject only to Liens in favor of Bank), (ii) such Loan Party owns 100% of the Primary Collateral or Other Collateral which is the subject of such separate loan, and any and all equity in the project is funded solely by Borrower without any third-parties having any ownership or equity interest therein, (iii) such loan is cross-defaulted and cross collateralized with the Loan to the extent required by Bank; and (iv) any ownership interest of Borrower in a Related Party into which Primary Collateral or Other Collateral has been transferred will, if required by Bank, be assigned to Bank as security for the Indebtedness, and Borrower agrees to execute and deliver to Bank an Assignment of Partnership Interest in such form and content as Bank may require. If the Land sought to be released as provided above is Primary Collateral, then such Primary Collateral shall be removed from the borrowing base (i.e., such Primary Collateral shall be removed from the Borrowing Base Limitation calculations for purposes of determining the Maximum Loan Amount allowed hereunder). Except as modified hereby, all of the release provisions (including, without limitation, the provisions requiring payment of a release price) as set forth in the Loan Agreement will continue to apply with respect to any release of Primary Collateral or Other Collateral.

(e) Calera Court Lots. As each Calera Court Lot is transferred into the Calera Court Construction Loan, an amount equal to \$58,597 for such Calera Court Lot shall be deemed outstanding under the Calera Court Construction Loan for purposes of calculating the amount advanced against the Calera Court Sublimit.

2. Release Conditions. Notwithstanding anything contained herein to the contrary, the location and configuration of the tract or tracts, requested to be released (herein called "Tract" or "Tracts") shall be reasonably satisfactory to Bank and no Partial Release shall result in any remaining Tract being without access to a public street (which may be via a private drive or private street providing perpetual means of access). Any and all Partial Releases shall be in accordance with the following procedures:

(a) Borrowers' request for a Partial Release shall be given to Bank and accompanied by (i) the legal description of the Tract or Tracts to be released, together with a draft closing statement prepared for the proposed sale; (ii) information necessary to process the request for Partial Release, including whether the property to be released is Primary Collateral or Other Collateral and whether it is being sold to a Related Party; (iii) any appraisal reconciliation of value information as may be required by Bank, together with a reimbursement of the cost of same, which cost shall not exceed \$750.00; and (iv) the name and address of the title company, if any, to whose attention the Partial Release Instrument (as hereinafter defined) should be directed, numbers that should be referenced (order number, loan number, etc.) and the date when such Partial Release is to be made. Borrowers shall also specify the name and address of the prospective purchaser and the intended use of the or Tract to be released and shall supply such other documents and information concerning such Partial Release as Bank may reasonably request.

(b) Within five (5) days after receipt of such request, and in accordance with and pursuant to the terms and conditions of this Addendum 3 and the other applicable provisions of this Agreement, Bank shall execute an instrument effecting such Partial Release ("Partial Release Instrument") and deliver same to the title company so specified; provided that all costs and expenses of Bank associated with such Partial Release (including, but not limited to, reasonable legal fees) shall be paid by Borrowers. Borrowers shall also obtain all title insurance endorsements

reasonably required by Bank in connection with such Partial Release.

(c) The execution and delivery of such Partial Release Instrument shall not affect any of Borrowers' obligations under the Loan Documents, except that the payment of the Partial Release Price must be actually received by Bank. Regardless of the time such Partial Release is executed, delivered and recorded, the payment made by Borrowers to Bank in respect to such Partial Release shall be credited against the Indebtedness in accordance with the terms of this Agreement only upon receipt by Bank of the Partial Release Price. The Partial Release Instrument shall be delivered, in escrow, by Bank to the title company so designated, to be held, released, delivered and recorded in accordance with Bank's escrow instructions, which shall require payment, in cash, of the Partial Release Price to Bank prior to delivery and recordation of the Partial Release Instrument.

Addendum 3-1 (b) Revised December 31, 2004
Primary Collateral - Barton Creek
Schedule of Release Prices
Stratus Properties Inc.

Report for month
 ending:
Inputs

Tract Description ¹		Release Price Requirements ²				Actual					Rel. Pty	
Ref #	Land Use	Projected	Gross Area	Appraised Value ⁴	Min. Net Proceeds Req'd (50% for rel. pty.; 85% all others)	Released	Release Price Achieved		Net	% of	Date Transaction?	
Type	Unit Density	(Acres)	Unit Price ³	Extended Amount ²			Unit Price	Extended Amount	at Closing			Proceeds Value
BCN1	Retail - Sm	14,000 SF	2.6683	\$ 87,600	\$ 233,700	85%	\$ 199,000	0.0000	\$ -	\$ -	0.0%	
BCN1	Single Family	1 lot	1.3836	\$ 13,600	\$ 18,800	85%	\$ 16,000	0.0000	\$ -	\$ -	0.0%	
BCN16, Sect. E	Ind. Living	1 ea	27.8000	\$ 81,800	\$ 2,274,000	85%	\$ 1,933,000	0.0000	\$ -	\$ -	0.0%	
BCN16, Sect. E	Retail - Sm	27,800 SF	4.0360	\$ 86,000	\$ 347,100	85%	\$ 295,000	0.0000	\$ -	\$ -	0.0%	
BCN13, Sect. ABC	Ind. Living	1 ea	10.2000	\$ 81,800	\$ 834,400	85%	\$ 709,000	0.0000	\$ -	\$ -	0.0%	
BCN14, Sect. ABC ⁴	Single Family	47 lots	120.2450	\$ 72,772	\$ 3,420,300	85%	\$ 2,907,000	18.0000	\$ 196,120	\$ 3,530,200	92.6%	Note 5 29-Sep-04 No
Pod #9, Sect. ABC	Single Family	1 lot	82.8600	\$ -	\$ -	85%	\$ -	82.8600	\$ 21,120	\$ 1,750,000	#DIV/0!	04 No
BCN17, Sect. E	Retail - Sm	27,800 SF	4.0960	\$ 87,600	\$ 358,800	85%	\$ 305,000	0.0000	\$ -	\$ -	0.0%	
BCS1, Sect. H - Calera Drive	Single Family	53 lots	70.0000	\$ 13,600	\$ 952,000	85%	\$ 809,000	0.0000	\$ -	\$ -	0.0%	
BCS1, Sect. H	Single Family	74 lots	124.9190	\$ 13,600	\$ 1,698,900							
BCS2, Sect. I	Single Family	125 lots	288.2000	\$ 13,600	\$ 3,919,500	85%	\$ 3,332,000	0.0000	\$ -	\$ -	0.0%	
BCS2, Sect. I	Single Family	40 lots	79.4240	\$ 13,600	\$ 1,080,200	85%	\$ 918,000	0.0000	\$ -	\$ -	0.0%	
BCS4, Sect. K	Single Family	54 lots	113.7450	\$ 13,600	\$ 1,546,900	85%	\$ 1,315,000	0.0000	\$ -	\$ -	0.0%	
BCS5, Sect. L	Single Family	222 lots	164.1300	\$ 13,600	\$ 2,232,200	85%	\$ 1,897,000	0.0000	\$ -	\$ -	0.0%	
BCS7, Sect. N	Retail - Lg	1,500,000 SF	317.3350	\$ 12,900	\$ 4,093,600	85%	\$ 3,480,000	0.0000	\$ -	\$ -	0.0%	
BCS7, Sect. N	Multi-Family	1,860 units	300.0000	\$ 28,300	\$ 8,490,000	85%	\$ 7,217,000	0.0000	\$ -	\$ -	0.0%	
BCS8, Sect. O	Single Family	237 lots	217.2250	\$ 13,600	\$ 2,954,300	85%	\$ 2,511,000	0.0000	\$ -	\$ -	0.0%	
Byram & Travis Cook Outparcels	Outparcels	3 ea	30.7850	\$ 58,900	\$ 1,813,200	85%	\$ 1,541,000	0.0000	\$ -	\$ -	0.0%	
BCS, N/A	Roadways	N/A	6.4400	\$ -	\$ -	85%	\$ -	0.0000	\$ -	\$ -	N/A	
Subtotal:			1965.4919		Subtotal: \$ 36,267,900							
					Less improvements BCN14-Wimb Ph 2: (1,785,000)							
			(82.8600)									
Total:			1882.6319		Total: \$ 34,482,900		\$ 29,384,000		100.8600	\$ 5,280,204	\$ 813,375	

1. Source: p. 71, December 31, 2004 appraisal by Dugger, Canaday, Grafe, Inc. (\$34.5M value)

2. Dollar amount rounded to the nearest \$500.

3. Source: Summary Land Use Table on this sheet & Separate Release Price Derivation Worksheet.

4. BCN14, Sect ABC, Wimberly Phase 2 appraised value is \$13,600/acre plus \$1,785,000 for improvements.

5. Lots sold as follows:

December-04	6
February-05	1
April-05	5
May-05	2
July-05	3
August-05	1
18	

Summary by Land Use Type		
Land Use Type	Gross Area (Acres)	Value/Acre ²
Multi-Family	300.0000	\$ 28,300
Independent Living	38.0000	\$ 81,800
Retail - Sm	10.8000	\$ 387,600
Retail - Lg	317.3350	\$ 12,900
Single Family	1,179.2716	\$ 13,600
Outparcels	30.7850	\$ 58,900
Roadways	6.4400	\$ -
Total/Average¹:	1,882.6319	\$ 18,300

¹ Average Value/Acre includes Open/Other acreage.

EXHIBIT A

Primary Collateral - Legal Description



EXHIBIT B

Other Collateral - Legal Description

None.

EXHIBIT C
Form of Borrowing Base Certificate

Stratus Properties, Inc.
Borrowing Base Summary
As of 6/30/05

Date:

Borrowing Base Assets	Appraised Value	Advance Rate	Availability
Unimproved Land	\$ 57,800,000	45%	\$ 26,010,000
Discounted Value of MUD Receivables	\$ 21,119,000	45%	\$ 9,503,550
Discounted Value of Credit Bank Receivables	\$ 6,521,000	45%	\$ 2,934,450
Land Under Development	\$ -	75%	\$ -
Finished Lots	\$ 18,066,000	75%	\$ 13,549,500
TOTAL	\$ 103,506,000		\$ 51,997,500

Borrowing Base Detail

	Value	Date added to Borr. Base	Land Acreage / # of Lots	Project Details
Unimproved Land Assets:				
Circle C	\$ 12,800,000	Jan of 2005	463.84	Planned XX lot development.
Barton Creek	\$ 32,600,000	Jan of 2005	1,851.85	Planned XX lot development.
Lantana	\$ 12,400,000	Jan of 2005	315.50	Planned XX lot development.
Subtotal	\$ 57,800,000		2,631.19	
MUD & Credit Bank A/R:	\$ 27,640,000	Jan of 2005	N/A	Discounted at 6% over 6 years.
Land Under Development:	\$ -	N/A	N/A	N/A
Finished Lots:				
Mirador	\$ 3,776,000	Jan of 2005	13	A 29 lot development. Absorption = x
Calera Court	\$ 784,000	Jan of 2005	9	A 17 lot development. Absorption = x
Escala	\$ 1,878,000	Jan of 2005	6	A 54 lot development. Absorption = x
Wimberly Phase II	\$ 3,138,000	Jan of 2005	31	A 31 lot development. Absorption = x
Calera Drive	\$ 8,490,000	Jan of 2005	53	A 53 lot development. Absorption = x
Subtotal	\$ 18,066,000		112	

EXHIBIT D

MUD Reimbursables

1. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 3 and FM Properties Operating Co., executed to be effective as of November 30, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 3 and FM Properties Operating Co., executed to be effective as of August 16, 1999.
 2. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 4 and FM Properties Operating Co., executed to be effective as of November 20, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 4 and FM Properties Operating Co., executed to be effective as of August 16, 1999.
 3. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 5 and FM Properties Operating Co., executed to be effective as of November 27, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 5 and FM Properties Operating Co., executed to be effective as of August 19, 1999.
 4. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 6 and FM Properties Operating Co., executed to be effective as of November 28, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 6 and FM Properties Operating Co., executed to be effective as of August 17, 1999.
 5. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 7 and FM Properties Operating Co., executed to be effective as of November 30, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 7 and FM Properties Operating Co., executed to be effective as of August 25, 1999.
 6. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 8 and FM Properties Operating Co., executed to be effective as of November 28, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 8 and FM Properties Operating Co., executed to be effective as of August 31, 1999.
 7. That certain Utility Construction Agreement Between Travis County Municipal Utility District No. 9 and FM Properties Operating Co., executed to be effective as of November 29, 1995, as amended by that certain First Amendment to Utility Construction Agreement Between Travis County Municipal Utility District No. 9 and FM Properties Operating Co., executed to be effective as of August 25, 1999.
-

EXHIBIT E

Request for Advance

The undersigned hereby requests COMERICA BANK ("**Bank**") to make an Advance under the Loan to the undersigned on _____, in the amount of _____ Dollars (\$_____) under the Loan Agreement dated as of September 30, 2005, by and between the undersigned and Bank (the "**Credit Agreement**").

The undersigned represent, warrant and certify that no Default or Event of Default has occurred and is continuing under the Loan Agreement, and none will exist upon the making of the Advance requested hereunder. The undersigned further certify that upon making the Advance in the amount of the sum requested hereunder, the aggregate principal amount outstanding under the Note will not exceed the Maximum Loan Amount.

The undersigned hereby authorize Bank to disburse the proceeds of the Advance being requested by this Request for Advance by crediting the Special Account of the undersigned with Bank separately designated by the undersigned or as the undersigned and Bank may otherwise agree.

Capitalized terms used but not otherwise defined herein shall have the respective meanings given to them in the Loan Agreement.

Dated this ___ day of _____, _____.

STRATUS PROPERTIES INC.,
a Delaware corporation

By:
John E. Baker, Senior Vice President

STRATUS PROPERTIES OPERATING CO., L.P., a Delaware limited partnership

By: STRS L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, its General Partner

By:
John E. Baker,
Senior Vice President

CIRCLE C LAND, L.P.,
a Texas limited partnership

By: Circle C GP, L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By:
John E. Baker,
Senior Vice President

AUSTIN 290 PROPERTIES, INC.,
a Texas corporation

By:
John E. Baker, Senior Vice President

CALERA COURT, L.P. a Texas limited partnership

By: Calera Court Management, L.L.C., a Texas limited liability company, its general partner

By: Stratus Properties Operating Co., L.P., a Delaware limited partnership, its Manager

By: STRS L.L.C., a Delaware limited liability company, its general partner

By: Stratus Properties Inc., a Delaware corporation, its Manager

By:

John E. Baker,
Senior Vice President

EXHIBIT F

Form of Compliance Certificate

This Compliance Certificate is executed and delivered to Comerica Bank ("**Bank**") by Stratus Properties Inc., Stratus Properties Operating Co, L.P., Circle C Land, L.P., and Austin 290 Properties, Inc. ("**Borrower**"), this _____ day of _____, _____. All capitalized terms used but not defined herein, shall have the meanings given to such terms in that certain Loan Agreement, dated as of September 30, 2005, between Bank and Borrower (as renewed, extended, modified and restated from time to time, the "**Loan Agreement**"). The undersigned hereby certifies to Bank as follows:

(1) The undersigned are authorized to make and deliver this Certificate.

(2) The undersigned have reviewed the provisions of the Loan Agreement and confirms that, as of the date hereof:

(a) the representations and warranties contained in Section 3 of the Loan Agreement are true and correct in all material respects on and as of the date hereof with the same force and effect as though made on and as of the date hereof;

(b) no Default or Event of Default has occurred and is continuing or is imminent, and to Borrower's best knowledge after diligent inquiry, Borrower has complied with all of the terms, covenants and conditions set forth in the Loan Agreement.

(c) The Tangible Net Worth of Borrower on a consolidated basis as of the calendar quarter ended _____ is _____.

(d) The Debt-to-Tangible Net Worth Ratio of Borrower on a consolidated basis as of the calendar quarter ended _____ is _____.

STRATUS PROPERTIES INC.,
a Delaware corporation

By:
John E. Baker, Senior Vice President

STRATUS PROPERTIES OPERATING CO., L.P., a Delaware limited partnership

By: STRS L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, its General Partner

By:
John E. Baker,
Senior Vice President

CIRCLE C LAND, L.P.,
a Texas limited partnership

By: Circle C GP, L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By:
John E. Baker,
Senior Vice President

AUSTIN 290 PROPERTIES, INC.,
a Texas corporation

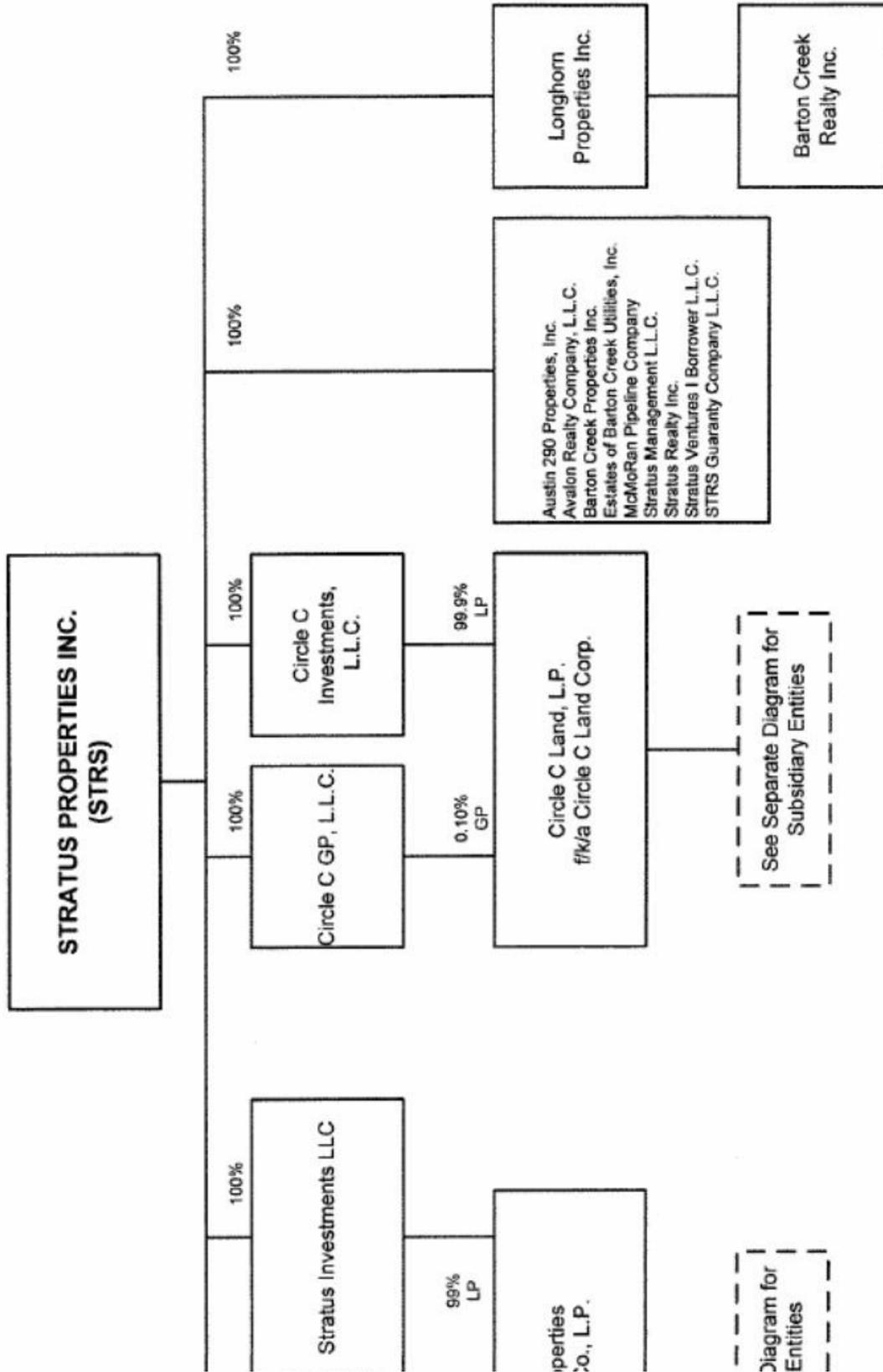
By:
John E. Baker, Senior Vice President

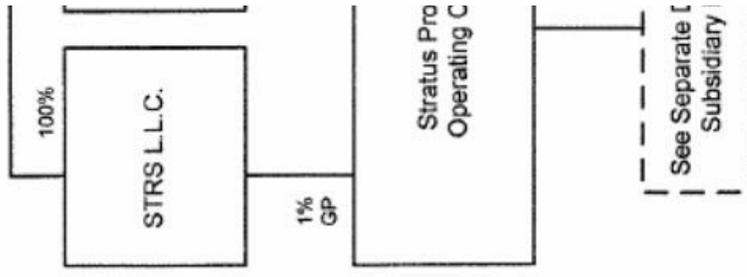
SCHEDULE 3.5

Subsidiaries

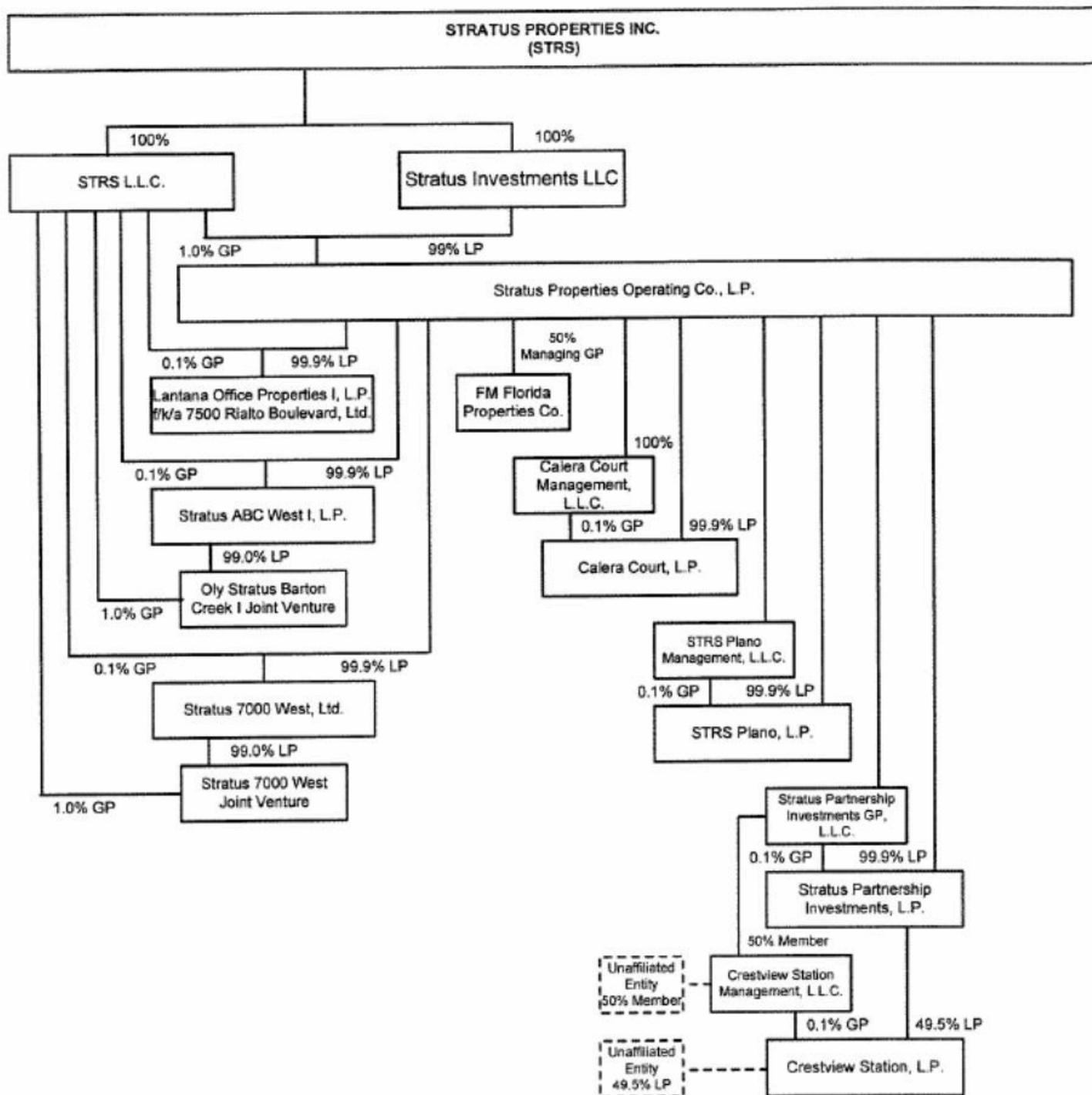
See attached.

STRATUS PROPERTIES INC.
OWNERSHIP DIAGRAM

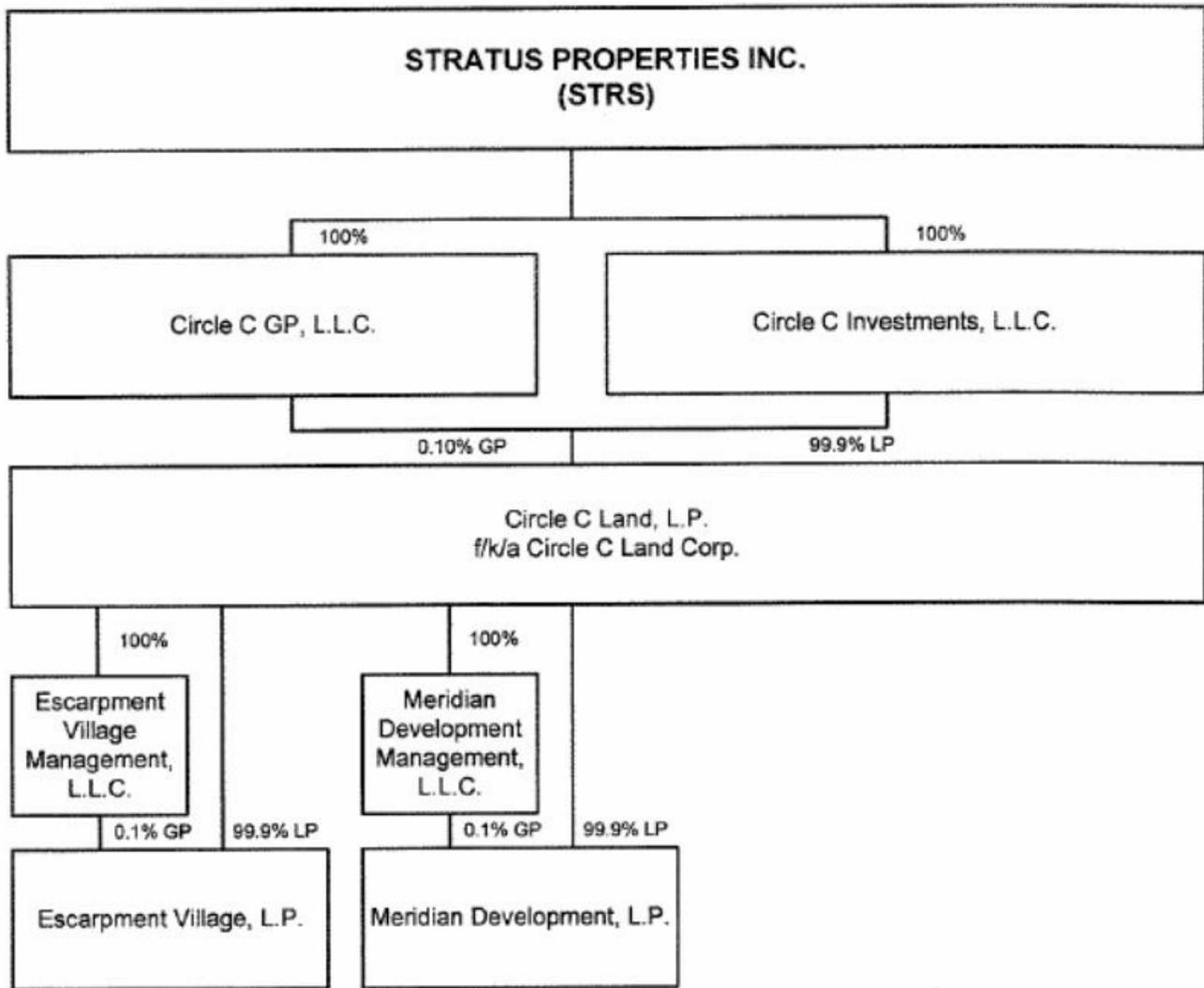




STRS AND SPOC OWNERSHIP DIAGRAM



CIRCLE C OWNERSHIP DIAGRAM



SCHEDULE 3.10

Material Litigation

None.

SCHEDULE 3.14

Employee Benefit Plans

None.

SCHEDULE 3.16
Environmental Disclosures

None.

SCHEDULE 3.19
Equity Ownership

Schedule 3.19
Part 1

Equity Ownership of Stratus Properties Inc.

Outstanding Shares of Common Stock as of 8/30/05: 7,205,690

Par Value: \$.01

Beneficial Owners and Percentages of Ownership:

William H. Armstrong III, 5.4%

Ingalls & Snyder LLC, 18.8%

Carl E. Berg, 19.5%

High Rise Capital Advisors, L.L.C., 5.8%

Part 2

Ownership of Circle C Land, L.P.

Circle C GP, L.L.C. owns 0.1% and is the general partner.

Circle C Investments, L.L.C. owns 99.9% and is the limited partner.

Stratus Properties Inc. owns 100% of Circle C GP, L.L.C. and Circle C Investments, L.L.C.

Part 3

Ownership of Stratus Properties Operating Co., L.P.

STRS L.L.C. owns 1% and is the general partner.

Stratus Investments LLC owns 99% and is the limited partner.

Stratus Properties Inc. owns 100% of STRS L.L.C. and Stratus Investments LLC.

Part 4

Equity Ownership of Austin 290 Properties, Inc.

Outstanding Shares of Common Stock: 1,000

Par Value: \$1.00

Stratus Properties Inc. owns all 1000 shares, having 100% ownership.

Part 5

Outstanding Options, Warrants, Rights to Purchase, Subscription or Acquisition Agreements

Circle C Land, L.P.: None

Stratus Properties Operating Co., L.P.: None

Austin 290 Properties, Inc.: None

Stratus Properties Inc.:

Stock Options:	Options Outstanding as of September 27, 2005:	894,131
	Average Option Price as of September 27, 2005:	\$8.870262

REVOLVING PROMISSORY NOTE

\$45,000,000.00 U.S.

September 30, 2005

I. COVENANT TO PAY.

1.1 **Promise to Pay.** FOR VALUE RECEIVED, **STRATUS PROPERTIES INC.**, a Delaware corporation, **STRATUS PROPERTIES OPERATING CO., L.P.**, a Delaware limited partnership, **CIRCLE C LAND, L.P.**, a Texas limited partnership, and **AUSTIN 290 PROPERTIES, INC.**, a Texas corporation (collectively herein called "**Maker**"), whether one or more), jointly and severally promise to pay to the order of **COMERICA BANK** [herein, together with all subsequent holders of this Revolving Promissory Note ("**Note**"), called "**Payee**"], on or before the Maturity Date (as herein defined), as hereinafter provided, the principal sum of FORTY-FIVE MILLION AND NO/100 DOLLARS (\$45,000,000.00), or such lesser amount as shall equal the aggregate unpaid principal amount of the indebtedness evidenced hereby and any additional Advances made by Payee to Maker hereunder or under the Loan Agreement referred to below, and to pay interest on the amounts so advanced hereunder, at the office of Payee identified below, in like money and funds, for the period commencing on the date of each such Advance until paid, at the rates per annum and on the dates provided hereinafter.

1.2 **Schedule for Payments.** Maker hereby authorizes Payee to endorse on the Schedule annexed to this Note the amount of each Advance made to Maker by Payee and all payments of principal received by Payee in respect of such Advances, which endorsements shall, in the absence of manifest error, be conclusive as to the outstanding principal amount of this Note; provided, however, that the failure to make such notation with respect to any such Advance or payment shall not limit or otherwise affect the obligations of Maker under the Loan Agreement or this Note.

II. INTEREST RATE COMPUTATION.

2.1 **Interest Rate.** Pursuant to the terms of this Note, the indebtedness evidenced hereby may collectively consist of either zero (0) or one (1) Base Rate Tranches and any of zero (0), one (1), two (2), three (3), four (4) or five (5) LIBOR Rate Tranches. Under no circumstances shall any Tranche at any point in time accrue interest at a rate in excess of the Maximum Lawful Rate.

2.2 **Default Rate.** Upon the occurrence and during the continuation of a default in the payment of any principal or interest obligations hereunder or, otherwise, upon the occurrence and during the continuation of any Event of Default (as defined herein), at the option of Payee, the principal balance of this Note then outstanding shall bear interest for the period beginning with the date of occurrence of such default at the Default Rate (as defined herein) until such default or Event of Default has been cured.

2.3 **Definitions.** As used in this Note and the Loan Documents, the following terms shall have the respective meanings indicated below:

"Adjusted LIBOR Rate" shall mean, on the applicable Effective Date of a LIBOR Rate Tranche, the rate per annum (rounded upwards, if necessary, to the nearest 1/16 of 1%) determined by Payee to be equal to the quotient of (a) the LIBOR Rate for such LIBOR Rate Tranche divided by (b) one minus the Reserve Requirement on the applicable Effective Date.

"Advances" shall mean advances made by Payee to Maker pursuant to the terms of this Note.

"Applicable Base Rate" shall mean the lesser of (a) the Base Rate from time to time in effect plus one-half of one percent (.5%) per annum, or (b) the Maximum Lawful Rate, but in no event shall the Applicable Base Rate ever be less than the Floor Rate. Fluctuations in the Applicable Base Rate shall become effective immediately, without necessity for any notice whatsoever.

"Applicable LIBOR Rate" shall mean the lesser of (a) the rate of interest equal to the Adjusted LIBOR Rate in effect for the subject Interest Period plus two and one-half of one percent (2.5%) or (b) the Maximum Lawful Rate, but in no event shall the Applicable LIBOR Rate ever be less than the Floor Rate.

"Base Rate" means the rate of interest per annum established from time to time by Payee and designated as its base or prime rate, which may not necessarily be the lowest interest rate charged by such institution.

"Base Rate Tranche" shall mean that portion of the indebtedness evidenced hereby which, at a particular point in time, bears interest at the Applicable Base Rate.

"Business Day" shall mean any day on which commercial banks are not authorized or required to close in Dallas, Dallas County, Texas, provided that in connection with any LIBOR Rate Tranche, the term Business Day shall exclude any day on which commercial banks are not open for dealings in United States Dollar deposits in London, England.

"Charges" shall mean all fees and charges, if any, contracted for, charged, received, taken or reserved by Payee in connection with the transactions relating to this Note and the indebtedness evidenced hereby or by the Loan Documents which are treated as interest under applicable law.

"Default Rate" shall mean the Maximum Lawful Rate or, if no Maximum Lawful Rate exists, the sum of the Base Rate in effect from day to day plus six percent (6%).

"Effective Date" shall mean the first day of the Interest Period applicable to a LIBOR Rate Tranche.

"Event of Default" shall have the same meaning as that indicated for such term in the Loan Agreement.

“**Floor Rate**” shall mean five percent (5.0%) per annum.

“**Interest Period**” shall mean the period of time commencing on the Effective Date of any LIBOR Rate Tranche and ending on the numerically corresponding day in the first, second, third, sixth or twelfth calendar month thereafter (as designated by written notice by Maker to Payee given consistent with the requirements of [Section 2.6](#) or [Section 2.7](#) of this Note). With respect to any Interest Period which commences on the last Business Day of a particular calendar month (or on any day for which there is no numerically corresponding day in the appropriate subsequent calendar month), such Interest Period shall end on the last Business Day of the appropriate subsequent calendar month. Any Interest Period which would otherwise extend beyond the Maturity Date shall expire as of the Maturity Date.

“**LIBOR Rate**” shall mean the rate per annum (rounded upwards, if necessary, to the nearest 1/16 of 1%) quoted by Payee’s LIBOR Lending Office or other reference bank selected by Payee at approximately 11:00 a.m. London time (or as soon thereafter as practical), two (2) Business Days prior to the Interest Period for the offering by the LIBOR Lending Office or such reference bank to leading banks in the London interbank market of United States Dollar deposits in immediately available funds having a term comparable to the subject Interest Period and being in an amount approximating the designated LIBOR Rate Tranche.

“**LIBOR Rate Tranche**” shall mean any portion of the indebtedness evidenced hereby which, at a particular point in time, bears interest at a common Applicable LIBOR Rate.

“**LIBOR Lending Office**” shall mean Payee’s office (or an affiliate of Payee’s office) located in the Grand Cayman Islands, British West Indies, or such other branch of Payee or Payee’s affiliate, domestic or foreign, as it may hereafter designate as its LIBOR Lending Office.

“**Loan Agreement**” shall mean that certain Loan Agreement dated of even date herewith by and between Maker, as borrower, and Payee, as lender, relative to the indebtedness evidenced by this Note and related obligations.

“**Maturity Date**” shall mean May 30, 2007; subject, however, to the right of acceleration as herein provided and as provided elsewhere in the Loan Documents.

“**Maximum Lawful Rate**” shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Payee in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all Charges made in connection with the transaction evidenced by the Note and the other Loan Documents. To the extent that Payee is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Lawful Rate payable on the Note, Payee will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits Payee to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Payee will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Payee may, at its option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Maker as provided by applicable law now or hereafter in effect.

“**Regulation D**” shall mean Regulation D of the Board of Governors of the Federal Reserve System as the same may be amended or supplemented from time to time.

“**Regulatory Change**” shall mean any change after the date hereof in federal, state or foreign laws or regulations (including Regulation D) or the adoption or making after such date of any interpretations, directives or requests (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof.

“**Reserve Requirement**” shall mean, on any day, that percentage (expressed as a decimal fraction) which is in effect on such day, as provided by the Federal Reserve System for determining the maximum reserve requirements generally applicable to financial institutions regulated by the Federal Reserve Board comparable in size and type to Payee, including, without limitation, basic, supplemental, marginal and emergency reserves under Regulation D with respect to “Eurocurrency Liabilities” as currently defined in Regulation D, or under any similar or successor regulation with respect to Eurocurrency Liabilities or Eurocurrency funding (or other category of liabilities which includes deposits by reference to which the interest rate on a LIBOR Rate Tranche is determined or any category of extensions of credit which includes loans by a non-United States office of Payee to United States residents).

“**Tranche**” shall mean either a Base Rate Tranche or a LIBOR Rate Tranche.

2.4 **Interest Limitation Recoupment.** Notwithstanding anything in this Note to the contrary, if at any time (i) interest at the Applicable Base Rate or the Applicable LIBOR Rate, (ii) interest at the Default Rate, if applicable, and (iii) the Charges computed over the full term of this Note, exceed the Maximum Lawful Rate, then the rate of interest payable hereunder, together with all Charges, shall be limited to the Maximum Lawful Rate; provided, however, that any subsequent reduction in the Applicable Base Rate or the Applicable LIBOR Rate shall not cause a reduction of the rate of interest payable hereunder below the Maximum Lawful Rate until the total amount of interest earned hereunder, together with all Charges, equals the total amount of interest which would have accrued at the Applicable Base Rate and/or Applicable LIBOR Rate (as appropriate) if such interest rate had at all times been in effect.

2.5 **Computation Period.** Except for the computation of the Maximum Lawful Rate which shall be undertaken on the basis of a 365 or 366-day year, as the case may be, interest on the indebtedness evidenced by this Note shall be computed on the basis of a 360-day year and shall accrue on the actual number of days any principal balance hereof is outstanding.

2.6 **Initial Rate Options.** Maker shall deliver to Payee concurrently with the execution of this Note an irrevocable written notice of Maker’s election to have the initial Advance bear interest from and after the date hereof at either (i) the Applicable Base Rate or (ii) the Applicable LIBOR Rate. To the extent Maker should elect that the initial Advance bear interest at the Applicable LIBOR Rate, Maker shall further designate a duration for the Interest

Period for such Advance (i.e., one, two, three, six or twelve months). In the event Maker fails to timely deliver notice to Payee pursuant to this Section 2.6, then the initial Advance of this Note shall bear interest at the Applicable Base Rate until the date specified in any proper written notice received by Payee from Maker specifying that Maker elects to designate the Applicable LIBOR Rate pursuant to Section 2.7 hereof.

2.7 Subsequent Rate Options. Maker shall have the option from time to time during the term of this Note to designate and redesignate whether all or certain portions of the outstanding principal balance hereof shall bear interest at the Applicable Base Rate or the Applicable LIBOR Rate, subject to the terms, conditions and requirements described below:

(a) New Advances. Maker shall be entitled to designate any new Advance as either a Base Rate Tranche or a LIBOR Rate Tranche by delivery to Payee of an irrevocable written notice no later than three (3) Business Days for a LIBOR Rate Tranche and one (1) Business Day for a Base Rate Tranche prior to the date Maker desires such Advance to be funded specifying Maker's election to have the new Advance bear interest at either the Applicable Base Rate or the Applicable LIBOR Rate. To the extent Maker should elect that such Advance bear interest at the Applicable LIBOR Rate, Maker shall further designate a duration for the Interest Period for such Advance (i.e., one, two, three, six or twelve months). In the event Maker fails to timely deliver notice to Payee properly designating the interest rate for such Advance, then the Advance shall bear interest at the Applicable Base Rate until and unless redesignated by Maker pursuant to the provisions hereof.

(b) Redesignation of Rate as to Existing Indebtedness. Maker shall be entitled to redesignate then existing Tranches of the indebtedness evidenced hereby as follows:

(1) Redesignating a LIBOR Rate Tranche. With respect to a LIBOR Rate Tranche, no later than three (3) Business Days prior to the expiration of the then current Interest Period, Maker shall, by irrevocable written notice to Payee, elect to either (i) continue to have such Tranche bear interest at the Applicable LIBOR Rate, or (ii) redesignate such Tranche to bear interest after the expiration of the then current Interest Period at the Applicable Base Rate. To the extent Maker should elect to continue such LIBOR Rate Tranche at the Applicable LIBOR Rate, such election shall not be effective unless it also designates the duration of the immediately succeeding Interest Period (i.e., one, two, three, six or twelve months). To the extent Maker should fail to timely give irrevocable written notice pursuant to this Subparagraph 2.7(b)(1), then Maker shall be deemed to have elected to redesignate the subject Tranche so as to bear interest at the Applicable Base Rate. Any LIBOR Rate Tranche may only be redesignated effective upon the expiration of the then current Interest Period.

(2) Redesignating a Base Rate Tranche. With respect to the Base Rate Tranche, as such may exist from time to time, Maker shall be entitled to elect at any time to redesignate all or any portion of such Base Rate Tranche so as to bear interest at the Applicable LIBOR Rate by giving irrevocable written notice to Payee no later than five (5) Business Days prior to the date Maker desires such election to take effect specifying (i) Maker's election that all or a designated portion (i.e., a dollar amount) of the Base Rate Tranche be redesignated as a LIBOR Rate Tranche, (ii) the duration of the immediately succeeding Interest Period for such LIBOR Rate Tranche (i.e., one, two, three, six or twelve months), and (iii) the Effective Date for such LIBOR Rate Tranche (which date shall be a Business Day and shall not be sooner than five (5) Business Days after receipt by Payee of such notice).

(c) Conditions and Requirements. Maker's right to designate, redesignate and continue any Tranche as a LIBOR Rate Tranche is subject to the following conditions: (i) No Event of Default shall have occurred and be continuing; (ii) the minimum amount of any LIBOR Rate Tranche shall be \$250,000.00; (iii) the last day of any Interest Period shall not be subsequent in time to the Maturity Date; (iv) no LIBOR Rate Tranche shall be designated, redesignated or continued if Payee determines that by reason of circumstances affecting the London interbank market either adequate or reasonable means do not exist for ascertaining the Adjusted LIBOR Rate for any Interest Period, or it becomes impracticable for Payee to obtain funds (by purchasing U.S. dollars in the London interbank market) or if Payee reasonably determines that the Adjusted LIBOR Rate will not adequately or fairly reflect the cost to Payee of maintaining the applicable LIBOR Rate Tranche at such rate, or if as a result of any Regulatory Change, it shall become unlawful or impossible for Payee to maintain any such LIBOR Rate Tranche; and (v) there shall never be more than five (5) LIBOR Rate Tranches in effect at any one time hereunder.

III. PAYMENTS.

3.1 Payment Schedule. The amounts advanced by Payee hereunder and repaid by Maker may be re-borrowed as provided in the Loan Agreement. The amounts advanced under this Note shall be due and payable as follows:

(a) Commencing on November 5, 2005, and continuing thereafter on the fifth (5th) day of each successive month until the Maturity Date, Maker shall pay Payee all then accrued but unpaid interest hereon (including without limitation, all interest accruing under any Base Rate Tranche and under any LIBOR Rate Tranche); and

(b) The outstanding principal balance hereof and any and all accrued but unpaid interest thereon shall be due and payable in full on the Maturity Date or upon earlier maturity hereof, whether by acceleration or otherwise.

3.2 Application. All payments on this Note shall, except if an uncured Event of Default has occurred, in which event the payments shall be applied as determined by Payee in its sole discretion, be applied at any time and from time to time and in the following order: (i) the payment of accrued but unpaid interest hereon, (ii) the payment or reimbursement of any expenses, costs or obligations (other than the principal hereof and interest hereon) for which Maker shall be obligated or Payee entitled pursuant to the provisions hereof or of the other Loan Documents, and (iii) the payment of all or any portion of the principal balance then outstanding hereunder, in either the direct or inverse order of maturity; provided, however, that in the absence of an Event of Default, any payment applied on account of principal shall first be applied to the Base Rate Tranche and then to the LIBOR Rate Tranches.

3.3 Place. All payments hereunder shall be made to Payee at its offices located in Dallas County, Texas, at the address of Payee as specified herein or as Payee may from time to time designate in writing to Maker.

3.4 Business Days. If any payment of principal or interest on this Note shall become due and payable on any day which is not a Business Day, such payment shall be made on the next succeeding Business Day. Any such extension of time for payment shall be included in computing interest which has

accrued and shall be payable in connection with such payment.

3.5 Legal Tender. All amounts payable hereunder are payable in lawful money or legal tender of the United States of America.

3.6 Prepayment. Maker shall have the right to prepay this Note at any time and from time to time without premium or penalty, the entire unpaid principal balance of this Note or any portion thereof, but must also pay the amount of then accrued but unpaid interest on the amount of principal being so prepaid. Notwithstanding anything to the contrary set forth in this Section 3.6, to the extent Maker should attempt to effectuate a prepayment of all or any portion of a LIBOR Rate Tranche, then any such prepayment may be effectuated only on the last day of the then current Interest Period applicable to such LIBOR Rate Tranche unless Payee is paid any amounts owed to Payee pursuant to Section 3.8 hereof.

3.7 Yield Maintenance. Maker shall pay directly to Payee from time to time such amounts as Payee may determine to be necessary to compensate Payee for any costs incurred which are attributable to its making or maintaining any Advance or its obligation to make any Advance or any reduction in any amount receivable by Payee with respect to any Advance or such obligation resulting from any Regulatory Change which:

- (a) changes the basis of taxation of any amounts payable to Payee (other than taxes imposed on the overall net income of Payee by the jurisdiction in which Payee has its principal office);
- (b) imposes or modifies any reserve, special deposit, minimum capital, capital ratio or similar requirement relating to any extensions of credit or other assets of, or any deposits with or other liabilities or commitments of, Payee; or
- (c) imposes any other condition affecting the Loan Agreement, this Note or any of such extensions of credit or liabilities or commitments regarding any LIBOR Rate borrowing.

Notwithstanding the foregoing, Maker shall not be responsible pursuant to this Section 3.7 for amounts incurred as a result of any Regulatory Change which is applicable solely to Payee due to Payee being considered insolvent or in imminent danger of becoming insolvent. Payee agrees that, upon a recapture under the terms of this Section 3.7, Payee will provide Maker with the calculations and the specific formula utilized in said calculations simultaneously with any notice to Maker of a charge under this Section 3.7.

3.8 Compensation. Maker shall pay directly to Payee from time to time such amounts as Payee may determine to be necessary to compensate Payee for any loss, cost or expense incurred by it as a result of any payment or prepayment of a LIBOR Rate Tranche for any reason (including, without limitation, the acceleration of the unpaid principal balance hereof pursuant to Section 4.2 hereof) occurring on a date other than the last day of the Interest Period for such LIBOR Rate Tranche provided, however, that Payee provide Maker written notice thereof as to the amount demanded by Payee. Without limiting the effect of the preceding sentence, such compensation shall include any costs incurred by Payee in liquidating or employing deposits from third parties and an amount equal to the excess, if any, of (i) Payee's actual cost of obtaining the funds for the LIBOR Rate Tranche being paid or prepaid or not borrowed, redesignated or continued (assumed to be the LIBOR Rate applicable thereto) for the period from and including the date of such payment or prepayment or failure to borrow, redesignate or continue to but excluding the last day of the Interest Period for such LIBOR Rate Tranche (or, in the case of a failure to borrow, redesignate or continue, the interest rate for such LIBOR Rate Tranche which would have commenced on the date of such failure) over (ii) the amount of interest which would be realized by Payee in reemploying the funds so paid or prepaid or not borrowed, redesignated or continued for such period or Interest Period, as the case may be.

IV. DEFAULT AND REMEDIES.

4.1 Default. Maker shall be in default hereunder immediately upon the occurrence of an Event of Default.

4.2 Remedies. If an Event of Default shall occur, then Payee may, at its option, without notice or demand, declare the unpaid principal balance of, and the accrued but unpaid interest on, this Note immediately due and payable, foreclose all liens and security interests securing payment hereof, pursue any and all other rights, remedies and recourses available to Payee or pursue any combination of the foregoing. All remedies hereunder, under the Loan Documents and at law or in equity shall be cumulative.

4.3 Waiver. Except as specifically provided in the Loan Documents, Maker and any endorsers or guarantors hereof severally waive presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest and notice of protest and non-payment, bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any endorsers or guarantors hereof agree (i) that the time for any payments hereunder may be extended from time to time without notice and consent, (ii) to the acceptance of further collateral, and/or (iii) the release of any existing collateral for the payment of this Note, all without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note or any installment hereof shall affect the liability of Maker under this Note or any endorser or guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

4.4 No Waiver. Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

4.5 Collection Costs. Maker agrees to pay all costs of collection hereof when incurred, including reasonable attorneys' fees, whether or not any legal action shall be instituted to enforce this Note.

V. MISCELLANEOUS.

5.1 Loan Documents. This Note is issued pursuant to the Loan Agreement and is secured, inter alia, by all of the assets owned by the entities which comprise Maker, including, but not limited to, (i) multiple Deeds of Trust dated of even date herewith executed by any of Stratus Properties Inc.,

Stratus Properties Operating Co., L.P., Circle C Land, L.P., Austin 290 Properties, Inc. or Calera Court, L.P. in favor of Melinda A. Chausse, Trustee, for the benefit of Payee, covering certain real and personal property situated in multiple counties in Texas (the "**Mortgaged Properties**"), as more particularly described therein, (ii) subordinate Deeds of Trust executed by Subsidiaries (as defined in the Loan Agreement) of Maker for the benefit of Payee, covering certain real property owned by such Subsidiaries ("**Subordinate Deeds of Trust**"), (iii) multiple Assignments of Reimbursables and Other Fees dated of even date herewith executed by Maker for the benefit of Payee, and multiple Assignments of Partnership Interests now or hereafter executed pursuant to the Loan Agreement (collectively, the "**Assignments**") (this Note, the Loan Agreement, Deeds of Trust, Subordinate Deeds of Trust, the Assignments, and all the other documents evidencing, securing or pertaining to the transaction in which the indebtedness evidenced hereby was incurred are, collectively, referred to as the "**Loan Documents**").

5.2 **Notices.** All notices or other communications required or permitted to be given pursuant hereto shall be in writing and shall be deemed properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, or (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the designated address of the intended addressee. Either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days notice to the other party in the manner set forth herein. For purposes of such notices, the addresses of the parties shall be as follows:

Payee: Comerica Bank
1601 Elm Street, 2nd Floor
M.C. 6504
Dallas, Texas 75201
Attn: National Real Estate Services

Maker: Stratus Properties Inc.
98 San Jacinto Boulevard, Suite 220
Austin, Texas 78701
Attn: William H. Armstrong, III

Stratus Properties Operating Co., L.P.
98 San Jacinto Boulevard, Suite 220
Austin, Texas 78701
Attn: William H. Armstrong, III

Circle C Land, L.P.
98 San Jacinto Boulevard, Suite 220
Austin, Texas 78701
Attn: William H. Armstrong, III

Austin 290 Properties, Inc.
98 San Jacinto Boulevard, Suite 220
Austin, Texas 78701
Attn: William H. Armstrong, III

With a copy to: Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Attention: Kenneth Jones, Esq.

5.3 **GOVERNING LAW. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS.** Any action or proceeding under or in connection with this Note against Maker or any other party ever liable for payment of any sums of money payable on this Note may be brought in any state or federal court in Dallas County, Texas. Maker and each such other party hereby irrevocably (i) submits to the nonexclusive jurisdiction of such courts and (ii) waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum.

5.4 **Interest Limitation.** It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Note or the indebtedness evidenced hereby and by the other Loan Documents (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Maker and Payee related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged or received by reason of Payee's exercise of the option to accelerate the maturity of the Note, or (iii) Maker will have paid or Payee will have received by reason of any voluntary prepayment by Maker of the Note, then it is Maker's and Payee's express intent that all amounts charged in excess of the Maximum Lawful Rate shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Payee shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to Maker), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to

comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Maker and Payee agree that Payee shall, with reasonable promptness after Payee discovers or is advised by Maker that interest was received in an amount in excess of the Maximum Lawful Rate, either refund such excess interest to Maker and/or credit such excess interest against the Note then owing by Maker to Payee. Maker hereby agrees that as a condition precedent to any claim seeking usury penalties against Payee, Maker will provide written notice to Payee, advising Payee in reasonable detail of the nature and amount of the violation, and Payee shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Maker or crediting such excess interest against the Note then owing by Maker to Payee. All sums contracted for, charged or received by Payee for the use, forbearance or detention of any debt evidenced by the Note shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Note for so long as debt is outstanding. **IN NO EVENT SHALL THE PROVISIONS OF CHAPTER 346 OF THE TEXAS FINANCE CODE (WHICH REGULATES CERTAIN REVOLVING CREDIT LOAN ACCOUNTS AND REVOLVING TRIPARTY ACCOUNTS) APPLY TO THE NOTE.** Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Payee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

5.5 **Captions.** The article and section headings used in this Note are for convenience of reference only and shall not affect, alter or define the meaning or interpretation of the text of any article or section contained in this Note.

5.6 **Joint and Several Liability.** If this Note is executed by more than one party, each such party shall be jointly and severally liable for the obligations of Maker under this Note. If Maker is a partnership, each general partner of Maker shall be jointly and severally liable hereunder, and each such general partner hereby waives any requirement of law that in the event of a default hereunder, Payee exhaust any assets of Maker before proceeding against such general partner's assets.

5.7 **NO ORAL AGREEMENTS. THIS NOTE AND ALL THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT OF MAKER AND PAYEE AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE. The provisions of this Note and the Loan Documents may be amended or revised only by an instrument in writing signed by Maker and Payee.**

5.8 This Note consolidates, amends and restates in its entirety, and supersedes, (i) that certain Promissory Note dated as of December 16, 1999, executed by Maker and payable to the order of Comerica Bank-Texas in the stated principal amount of \$20,000,000, and (ii) that certain Revolving Credit Note dated as of December 16, 1999, executed by Maker and payable to the order of Comerica Bank-Texas in the stated principal amount of \$10,000,000 (the foregoing notes, as amended and modified from time to time, herein collectively called the "**Original Note**"). Maker acknowledges and agrees that the indebtedness outstanding under the Original Note and the liens, security interests and assignments granted by the undersigned securing the Original Note are valid and subsisting except to the extent the Mortgaged Properties were previously released from such liens, security interests, assignments and other interests, and that such liens, security interests, and assignments continue to secure the repayment of the indebtedness evidenced by this Note, and that as of the date of this Note, there are no offsets, claims or defenses existing in connection with the loan evidenced by this Note. This Note is entitled to all of the liens, security interests, benefits and priorities securing the Original Note except to the extent the Mortgaged Properties were previously released from such liens, security interests, assignments and other interests.

EXECUTED to be effective as of the date first above written.

MAKER:

STRATUS PROPERTIES INC.,
a Delaware corporation

By: /s/ John E. Baker
John E. Baker, Senior Vice President

STRATUS PROPERTIES OPERATING CO., L.P.

a Delaware limited partnership

By: STRS L.L.C., a Delaware limited liability company, its General Partner

By: Stratus Properties Inc., a Delaware corporation, its Sole Member

By: /s/ John E. Baker
John E. Baker, Senior Vice President

CIRCLE C LAND, L.P., a Texas limited partnership

By: Circle C GP, L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By: /s/ John E. Baker
John E. Baker, Senior Vice President

AUSTIN 290 PROPERTIES, INC.
a Texas corporation

By: /s/ John E. Baker
John E. Baker, Senior Vice President

The undersigned, Calera Court, L.P., hereby executes this Note to evidence its agreement to be bound by the provisions of Article 4 of Addendum 2 attached to the Loan Agreement, and its obligation and liability for that portion of the Indebtedness under the Calera Court Construction Loan (as defined in the Loan Agreement).

CALERA COURT, L.P., a Texas limited partnership

By: Calera Court Management, L.L.C., a Texas limited liability company, its general partner

By: Stratus Properties Operating Co., L.P., a Delaware limited partnership, its Manager

By: STRS L.L.C., a Delaware limited liability company, its general partner

By: Stratus Properties Inc., a Delaware corporation, its Manager

By: /s/ John E. Baker
John E. Baker,
Senior Vice President

Schedule

