

SWIMMING POOL & PARKING AREA AGREEMENT

THIS SWIMMING POOL & PARKING AREA AGREEMENT ("Agreement") is entered into to be effective as of April 20, 2004 ("Effective Date"), by ASC Utah, Inc., a Maine corporation ("ASCU"), American Skiing Company Resort Properties, Inc., a Maine corporation ("ASCRP"), The Canyons Resort Properties, Inc., a Maine corporation ("TCRP") and Sundial Lodge Condominium Owners Association, Inc., a Utah non-profit corporation ("Sundial Association"). ASCU, ASCRP, TCRP and Sundial Association are collectively referred to as "Parties" and individually as a "Party."

RECITALS

A. TCRP was the developer of that certain condominium project at The Canyons resort commonly known as the Sundial Lodge at The Canyons ("Sundial Lodge").

B. Sundial Association was created pursuant to Utah Code Annotated Section 57-8-16 and the Declaration of Condominium for Sundial Lodge at The Canyons, executed on December 10, 1999 and recorded on December 15, 1999 ("Declaration"), to act on behalf of each of the unit owners within Sundial Lodge ("Unit Owners") as the condominium owners association for Sundial Lodge.

C. TCRP owns fee title to Commercial Unit No. 1 within the Sundial Lodge ("Commercial Unit 1"), which includes the underground parking area within the Sundial Lodge set forth on the Record of Survey Map recorded concurrent with the Declaration ("Underground Parking Area").

D. ASCU manages Sundial Lodge pursuant to a Management Agreement, dated [December 15, 2002], with Sundial Association ("Management Agreement") and ASCU leases the Underground Parking Area pursuant to a Lease Agreement, dated December 15, 1999, with TCRP ("Lease Agreement").

E. ASCRP is an affiliate of ASCU, is the parent entity of TCRP and holds title to certain real estate around the Sundial Lodge ("ASCRP Property").

F. Sundial Association desires to obtain fee simple ownership and control of that portion of the ASCRP Property located immediately south of Sundial Lodge and approximately shown on Exhibit A ("Swimming Pool Parcel") for the sole purpose of constructing and maintaining a swimming pool and hot tub facility ("Swimming Pool Improvements") for use by Unit Owners, and their guests and invitees.

G. Sundial Association, ASCU and TCRP desire to convert the Underground Parking Area to Common Areas and Facilities (as that term is defined in the Declaration) of the Sundial Lodge pursuant to Section 8 of the Declaration (the "Conversion"), provided, that ASCU, the owner of the remaining portion of Commercial Unit 1, and the Residential Owners in the future each pay a portion of the Common Expenses that were attributable to the Underground Parking Area prior to the Conversion.

H. ASCU, ASCRP and TCRP desire to obtain Sundial Association's assurance not to interfere with the lawful and properly approved development of that certain parcel of real property described on Exhibit B ("Expansion Parcel").

I. The Parties have agreed to accomplish the objectives set forth in paragraphs F through H of these Recitals pursuant to the terms set forth below.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, ASCU, ASCRP, TCRP and Sundial Association, on behalf of itself and each of the Unit Owners, covenant and agree as follows:

1. Defined Terms. All capitalized terms not defined in this Agreement shall have the meanings given to them in the Declaration.

2. Transfer of Swimming Pool Parcel to Sundial Association. Pursuant to the terms of this Agreement, ASCRP shall transfer good and marketable title to the Swimming Pool Parcel to Sundial Association by executing and delivering to Sundial Association a Special Warranty Deed ("Deed") in a form mutually acceptable to the Parties. ASCU and Sundial Association have cooperated in obtaining all permits and approvals necessary for the development and operation of the Swimming Pool Parcel for a swimming pool and hot tub facility, and Sundial Association has satisfied itself that all necessary actions and approvals have been obtained for such development and operation. From and after the Effective Date, ASCU, ASCRP, TCRP, and Sundial Association shall do, undertake and perform all acts and execute all documents reasonably required to finalize the exact location and configuration of the Swimming Pool Parcel and to enable Sundial Association to obtain all permits and approvals necessary for the construction and operation of a swimming pool and hot tub facility on the Swimming Pool Parcel. Until such time as title to the Swimming Pool Parcel is transferred to Sundial Association or this Agreement is terminated, Sundial Association shall have a license and ASCRP hereby grants Sundial Association a license to go onto the Swimming Pool Parcel and commence construction of the Swimming Pool Improvements. Sundial Association indemnifies ASCRP and its successors and assigns from any and all claims arising from, or related to, Sundial Association, or its contractor, guests and invitees, activities on the Swimming Pool Parcel, including, but not limited to, construction of the Swimming Pool Improvements.

3. Conversion of Underground Parking Area to Common Areas and Facilities. Pursuant to the terms of this Agreement, TCRP and Sundial Association shall execute and record (i) an Amendment to Declaration of the Sundial Lodge at The Canyons ("Amendment to Declaration"); and (ii) a Supplemental Map (the "Supplemental Map") in order to convert the Underground Parking Area into Common Areas and Facilities. The location and configuration of that portion of the Underground Parking Area to be converted into Common Areas and Facilities and forms of Amendment to Declaration and the Supplemental Map shall be mutually acceptable to TCRP and Sundial Association. The Amendment to Declaration shall include, among other things, (i) reference to the conversion of the Underground Parking Area to Common Areas and Facilities; (ii) revised calculations of the voting and ownership interests for each Residential Unit and the remaining Commercial Unit 1 Convertible Space; and (iii) calculations

of the portion of the Converted Space Common Assessment (as defined below) attributable to each Residential Unit and the remaining Commercial Unit 1 Convertible Space. The Supplemental Map shall reflect the change in the designation of the Underground Parking Area from "Commercial Unit 1 Convertible Area" to "Common Areas and Facilities."

4. Termination of Existing Underground Parking Area Lease and Underground Parking Area License. Pursuant to the terms of this Agreement, (i) TCRP and ASCU shall enter into an Amendment to Lease Agreement in order to terminate ASCU's rights to the Underground Parking Area under the Lease Agreement; and (ii) ASCU and Sundial Association shall enter into the Termination Agreement in order to terminate that certain Parking License Agreement entered between ASCU and Sundial Association, dated December 15, 1999.

5. Amendment of the Management Agreement. Pursuant to the terms of this Agreement, ASCU and Sundial Association shall execute an Amendment to the Management Agreement (the "Amendment to Management Agreement"). The Amendment to Management Agreement includes, among other things, (i) ASCU's obligation to pay the ASCU Converted Space Common Assessment (as defined below); (ii) ASCU's obligations with regard to management of the Underground Parking Area on behalf of Sundial Association; and (iii) ASCU's agreement to extend the initial term of the Management Agreement from December 15, 2005 until July 15, 2007.

6. Sharing of Common Expenses for Underground Parking Area. Because the Underground Parking Area is being converted to Common Areas and Facilities, the Common Assessment attributable to Commercial Unit 1 is being reduced (the "Common Assessment Shortfall"). Prior to recording the Amendment to Declaration and the Supplemental Map contemplated by this Agreement, that portion of the Common Expenses assessed to the Convertible Space for the Underground Parking Area was 9.423%. If the Underground Parking Area were converted to Common Areas and Facilities pursuant to the terms of the Declaration as presently recorded, the portion of the Common Assessment presently charged to TCRP as owner of the Underground Parking Area would be reallocated to the remaining Owners based on the Par Value of their Units in the Project. The Parties desire to allocate the Common Assessment Shortfall to each of the Residential Owners, TCRP and ASCRP as set forth in this Section 6 and shall include such reallocation in the Amendment to Declaration.

6.1 Calculation of the Converted Space Common Assessment. Each year, after the annual budget (the "Budget") for Sundial Association is prepared, Sundial Association shall determine the amount of the Common Assessment Shortfall for the upcoming fiscal year by multiplying the total amount of the Budget by 9.423% (the "Converted Space Common Assessment"). The Budget shall be based on historical and projected Common Expenses for the Project. The Common Expenses used to establish the Budget shall include all assessments, except for Special Common Assessments. By way of illustration, if the Budget based on the Common Expenses for a given year (exclusive of Special Common Assessments), as adjusted to reflect any projected increase in operating costs for the next fiscal year, is \$1,000,000, the Converted Space Common Assessment will be \$94,230.00 (i.e., \$1,000,000 multiplied by .09423). Once Sundial Association has calculated the Converted Space Common Assessment, Sundial Association shall deduct such amount from the Budget, and shall assess 33.34% of such

amount to the Residential Units as part of the Common Assessment, 33.33% of such amount to the Owner of the remaining Commercial Unit 1 as part of the Common Assessment, and 33.33% of such amount to ASCU. The balance of the Budget amount, after deducting the Converted Space Common Assessment, shall be assessed to the Owners as a Regular Common Assessment in accordance with Section 24 of the Declaration.

6.2 ASCU's and TCRP's Review of the Budget and Converted Space Common Assessment. ASCU and TCRP shall have the right to review and audit the Budget and Converted Space Common Assessment calculations, at their sole and exclusive expense by providing written notice to the Sundial Association of its election to conduct an audit within fifteen (15) days of receiving the Budget and the projected Converted Space Common Assessment for the next fiscal year. In order to challenge the amount of the Converted Space Common Assessment, ASCU or TCRP, as the case may be, must complete its audit of the Budget and review of the Converted Space Common Assessment calculation and provide the Sundial Association written notice of any objections to either of the foregoing within thirty (30) days of receiving the Budget. Sundial Association shall have no obligation to adjust the amount of the Converted Space Common Assessment unless ASCU or TCRP, as the case may be, can establish that certain revenue or expense projections in the Budget that deviate from actual revenue or expense items in the prior year's Budget are based on erroneous assumptions. Sundial Association shall make its books and records available to ASCU or TCRP at a location designated by Sundial Association at the Project.

6.3 Allocation and Payment of Converted Space Common Assessment. The Converted Space Common Assessment shall be allocated and paid as follows:

6.3.1 The Residential Units are Liable for 33.34% of the Converted Space Common Assessment. The Residential Units shall pay to Sundial Association 33.34% of the Converted Space Common Assessment (the "Residential Units Converted Space Common Assessment"). The Residential Units Converted Space Common Assessment shall be allocated to each Residential Unit based on the following formula:

$$\frac{\text{Number of points assigned to a Residential Unit pursuant to Section 6.2 (as adjusted to reflect the Conversion)}}{\text{Total number of points assigned to all Residential Units}} = \text{Residential Unit's share of the Residential Units Converted Space Common Assessment}$$

The portion of the Residential Units Converted Space Common Assessment attributable to each Residential Unit shall be set forth in Exhibit A of the Amendment to the Declaration under the column entitled "% of Converted Space Common Assessment." Sundial Association shall collect the Residential Units

Converted Space Common Assessment from the Residential Owners as part of the Common Assessment in the manner set forth in the Declaration and as set forth in the Amendment to the Declaration.

6.3.2 ASCU is Liable for 33.33% of the Converted Space Common Assessment. ASCU, its successors and assigns under the Management Agreement (referred to in this Section collectively as "ASCU") shall pay to Sundial Association 33.33% of the Converted Space Common Assessment in equal installments on April 1, July 1, October 1, and January 1 of each year (the "ASCU Converted Space Common Assessment"). ASCU and Sundial Association shall execute the Amendment to Management Agreement, pursuant to which ASCU shall have the right to pay the ASCU Converted Space Common Assessment from fees that ASCU receives under the Management Agreement, including, without limitation, its portion of rents paid pursuant to its rental management agreements entered into with Unit Owners. Failure of ASCU to pay any installment of the ASCU Converted Space Common Assessment within ten (10) days of the date it is due shall constitute a default under the Management Agreement and shall entitle Sundial Association to pursue all remedies available under the Management Agreement. Notwithstanding the foregoing, in the event of ASCU's failure to timely pay any installment, Sundial Association may pursue all remedies that may be available at law or in equity, and shall not be limited to the remedies that may be available under the Management Agreement. ASCU's obligation to pay the ASCU Converted Space Common Assessment is contingent upon (i) the existence of the Management Agreement as amended by the Amendment to Management Agreement; and (ii) ASCU managing at least 58% of the Residential Units within the Sundial Lodge in a rental pool pursuant to rental management agreements. Accordingly, ASCU's obligation to pay the ASCU Converted Space Common Assessment shall in no case survive the expiration of the Management Agreement (as amended by the Amendment to Management Agreement) or termination by ASCU of the Management Agreement under Section 4.2 thereof for Sundial Association's default thereunder. Subject to the foregoing sentence, ASCU's obligation to pay the ASCU Converted Space Common Assessment shall not be terminated if Sundial Association terminates the Management Agreement under the first paragraph of Section 4.1 thereof for ASCU's failure of performance. In addition, ASCU's obligation to pay the ASCU Converted Space Common Assessment shall terminate as of the date that ASCU manages less than 58% of the Residential Units within the Sundial Lodge in a rental pool pursuant to rental management agreements. In that connection, during the current term of the Management Agreement (as amended by the Amendment to Management Agreement) ASCU agrees to use commercially reasonable efforts to enter into and maintain rental management agreements with Owners of more than 58% of the Residential Units offered for rent in any rental pools. Unless ASCU's payment obligations are terminated as and when provided for above, ASCU's obligation to pay the ASCU Converted Space Common Assessment shall continue if Sundial Association terminates the Management Agreement under the first paragraph of Section 4.1 thereof for ASCU's default thereunder. Any ASCU Converted Space Common Assessments not paid on or before ten (10) days after

the date when due shall bear interest at the rate of eighteen percent (18%) per annum or such lower rate set by the Condominium Management Committee pursuant to Section 24.1.4 of the Declaration from the date when due until paid, and shall be subject to a late fee in the amount of \$5.00 per day. Any payments of ASCU Converted Space Common Assessments shall be first applied to accrued interest and late fees, and then to the ASCU Converted Space Common Assessment payment first due. ASCU is barred from assessing or demanding from Sundial Association, the Residential Owners or the Residential Units any portion of the ASCU Converted Space Common Assessment, except through rental management agreements entered into with Unit Owners. ASCU shall not assign its obligation to pay the ASCU Converted Space Common Assessment to any affiliate or other entity without the prior written consent of Sundial Association, which consent shall not be unreasonably withheld, delayed or conditioned. Any assignment of the Management Agreement shall include an agreement by the assignee to assume ASCU's obligation to pay the ASCU Converted Space Common Assessment.

Commercial Unit 1 Owner is Liable for 33.33% of the Converted Space Common Assessment. The owner of the Commercial Unit No. 1 Convertible Space shall pay to Sundial Association 33.33% of the Converted Space Common Assessment in equal installments on April 1, July 1, October 1, and January 1 of each year (the "Commercial Unit Converted Space Common Assessment"). Except for the right to pay the Commercial Unit Converted Space Common Assessment in quarterly installments, such assessments shall be subject to all of the provisions governing Common Assessments set forth in Section 24 of the Declaration, including, without limitation, late fees, accrued interest on unpaid amounts and lien rights in favor of Sundial Association. The Commercial Unit Converted Space Common Assessment is an obligation that is incidental to ownership of Commercial Unit 1 and cannot be severed from Commercial Unit 1 upon the conversion of all or any portion of Commercial Unit 1 to Common Areas and Facilities (each such election being a "Subsequent Conversion," and such converted space being "Subsequently Converted Space");. The obligation of TCRP (or the then current owner of Commercial Unit 1) to pay the Commercial Unit Converted Space Common Assessment for the Subsequently Converted Space shall survive such Subsequent Conversion. Nothing in this Agreement shall prevent TCRP from selling or transferring all or a portion of Commercial Unit 1 to a third party in accordance with the terms of the Declaration, as amended. Upon such sale, TCRP shall be released from, and such third-party transferee shall be obligated to pay, that portion of the Commercial Unit Converted Space Common Assessment attributable to such portion of the Commercial Unit 1 conveyed. However, such subsequent owner of that portion of Commercial Unit 1 shall be liable for that portion of the Commercial Unit Converted Space Common Assessment attributable to such portion of Commercial Unit 1 upon a Subsequent Conversion of such Commercial Unit 1. TCRP may impose the Commercial Unit Converted Space Common Assessment on its tenants or their guests and invitees. Except in connection with a Subsequent Conversion, TCRP shall not assign its obligation to pay the Commercial Unit Converted Space Common Assessment to any affiliate

or other entity without the prior written consent of Sundial Association, which consent will not be unreasonably withheld, delayed or conditioned.

7. Limited Development Waiver by Sundial Association. The Sundial Association confirms that ASCU, ASCRP and for TCRP and their successors and assigns have the right to develop the Expansion Area separate and apart from the development of the Sundial Lodge. In consideration of the transfer of the Swimming Pool Parcel to Sundial Association, Sundial Association hereby waives, and agrees not to publicly or privately, directly or indirectly, raise or voice any objection to, or otherwise oppose, the development of the Expansion Area so long as such development complies with all state and local laws and ordinances, including any design criteria or approvals required by The Canyons Resort Village Association, Inc. ("RVMA") or the guidelines of the Special Planned Area for The Canyons. Nothing in this Agreement shall be construed or interpreted to compromise or limit any rights held by any Residential Owners, acting in their individual capacity and not by or on behalf of the Sundial Association, to object to the development of the Expansion Area.

8. Binding Effect. Each reference herein to any Party shall be deemed to include its successors and assigns, legal representatives, executors or administrators.

9. Validity of Agreement. Each of the Parties agrees to take such action as may be required to ensure that the Special Warranty Deed, Amendment to Declaration, Supplemental Map, Amendment to Lease, Termination of Parking License and Amendment to Management Agreement (collectively, the "Transaction Documents") are executed, delivered to the appropriate parties, and recorded, if required, no more than sixty (60) days after the Effective Date of this Agreement. The Parties acknowledge that initial drafts of the Transaction Documents have been prepared and circulated and the Parties agree to act in good faith to (i) negotiate any remaining terms and provisions in the Transaction Documents in accordance with this Agreement, and (ii) obtain any and all authorizations and approvals necessary to effectuate the transactions contemplated by this Agreement. In the event that the Transaction Documents are not fully-executed, delivered and/or recorded within such sixty (60) day time period, and all of the Parties do not agree to extend such sixty-day deadline and are unable to finalize the Transaction Documents and complete the transaction contemplated by this Agreement after pursuing non-binding mediation as contemplated by Section 10, this Agreement shall be null and void and have no further force or effect.

10. Non-Binding Mediation; Attorneys' Fees. If a dispute arises between the Parties with regard to the interpretation or application of this Agreement or the final form of the Transaction Documents, the Parties agree to participate in good faith, non-binding mediation before a mutually acceptable mediator in the state of Utah, with each Party bearing its own costs of mediation. Any such non-binding mediation shall be completed within 30 days of the date either Party submits a written request for non-binding mediation to the other Party. Non-binding mediation shall not be required in instances where either party reasonably believes that injunctive or other immediate judicial or equitable relief is required to protect its rights. If a Party commences a legal proceeding to enforce any of the terms of this Agreement, the prevailing Party in such action shall be entitled to recover reasonable attorneys' fees and costs from the other Party to be fixed by the court in the same action. The term "legal proceeding" as used above shall be deemed to include appeals from a lower court judgment and it shall include

proceedings in the federal bankruptcy court, whether or not they are adversary proceedings or contested matters.

11. Venue and Choice of Law. The Parties agree that venue for any legal proceeding involving or arising from this Agreement shall be in Summit County, Utah, and that this Agreement shall be interpreted and construed according to Utah law (excluding choice of laws rules).

12. Counterparts. This Agreement may be executed in several counterparts, all of which together shall constitute one agreement binding on all Parties hereto, notwithstanding that all the parties have not signed the same counterpart.

13. Time of Essence. Time is of the essence with respect to each provision of this Agreement.

14. Modification. A modification of, or amendment to, any provision contained in this Agreement shall be effective only if the modification or amendment is in writing and signed by all of the Parties. Any oral representation or modification concerning this Agreement shall be of no force or effect. This Agreement shall not be supplemented or modified by any course of dealing.

15. Construction. Unless otherwise provided, references in this Agreement to Sections are to Sections in this Agreement. This Agreement shall be construed according to its fair meaning and not strictly for or against any one Party, as if all the Parties had prepared it.

16. Titles and Headings. Titles and headings of Sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

17. Exhibits. Each exhibit referred to in, and attached to, this Agreement is an integral part of this Agreement and is incorporated in this Agreement by this reference.

18. Pronouns; Interpretation. All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person to whom reference is made may require. The terms "include," "includes" and "including" when used herein shall be deemed in each case to be followed by the words "without limitation."

19. Severability. If any provision herein shall be held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (i) such holding or action shall be strictly construed; (ii) such provision shall be fully severable; (iii) this Agreement shall be construed and enforced as if such provision had never comprised a part hereof; (iv) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this Agreement; and (v) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid and unenforceable provision as may be possible.

enforceable provision as similar in terms to such illegal, invalid and unenforceable provision as may be possible.

20. No Merger. Neither the occurrence of completion of the transactions contemplated by this Agreement nor the execution or delivery of the various documents (including, without, limitation, the Deed) that are contemplated by this Agreement to be executed and delivered prior to, in connection with the Agreement shall result in the termination or extinguishment of this Agreement or the merger of this Agreement into such documents. Each provision of this Agreement shall survive all of such matters.

21. Authorization. Each individual executing this Agreement represents and warrants that such individual has been duly authorized to execute and deliver this Agreement in the capacity and for the entity set forth where such individual signs.

22. Relationship Between Parties. Nothing in this Agreement shall be construed to create any partnership, agency or joint venture relationship between the Parties.

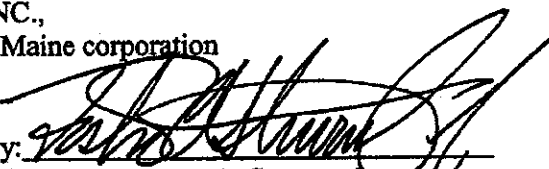
23. No Third-Party Rights. The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Parties and their respective permitted successors and assigns. This Agreement is not intended to nor shall it be construed to benefit any third party.

24. Entire Agreement. This Agreement (including the exhibits attached hereto) and all documents contemporaneously executed in accordance herewith collectively constitute the entire agreement of the Parties regarding the subject matter hereof and supersede any prior promises, representations, warranties, agreements or understandings (whether oral, written or implied) between the Parties that are not set forth herein or therein.

THIS SWIMMING POOL & PARKING AREA Agreement has been executed and delivered by ASC Utah, Inc., American Skiing Company Resort Properties, Inc., The Canyons Resort Properties, Inc. and Sundial Lodge Condominium Owners Association, Inc. as of the Effective Date.


TCRP:

THE CANYONS RESORT PROPERTIES,
INC.,
a Maine corporation

By: 
Print Name: Foster A. Stewart, Jr.
Title: Senior Vice President & General Counsel

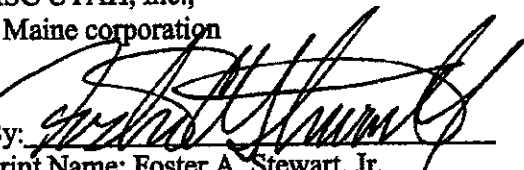
SUNDIAL ASSOCIATION:

SUNDIAL LODGE CONDOMINIUM
OWNERS ASSOCIATION, INC.,
a Utah non-profit corporation

By: 
Print Name: Joseph E. Wrona
Title: General Counsel

ASCU:

ASC UTAH, Inc.,
a Maine corporation

By: 
Print Name: Foster A. Stewart, Jr.
Title: Senior Vice President & General Counsel

ASCRP:

AMERICAN SKIING RESORT
PROPERTIES, INC.,
a Maine corporation

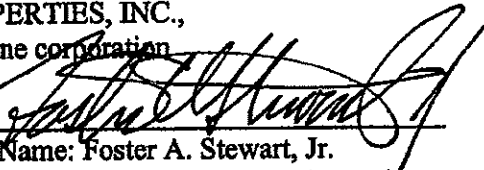
By: 
Print Name: Foster A. Stewart, Jr.
Title: Senior Vice President & General Counsel

EXHIBIT LIST

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Swimming Pool Parcel
B	Expansion Parcel