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State of Oregon, County of Klamath  
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Linda Smith, County Clerk  
Fee \$ 31<sup>00</sup> # of Pgs 3

**DOMESTIC WATER WELL AGREEMENT AND EASEMENT**

**DATE:** January 28, 2002

**"GRANTOR":** AMERICAN CASH EQUITIES, INC., an Oregon corporation

**"GRANTEE"** THE DIAMOND PEAKS AT LEISURE WOODS I & II  
HOMEOWNERS ASSOCIATIONS, INC., an Oregon nonprofit  
corporation

**RECITALS**

A. Grantor owns the real property described on the attached Exhibit "A" (the "Property"). A water well, pump, pressure tanks, reservoirs, pipe, electrical hookups, fire hydrants, spigots and related facilities, all for drawing water from said well, are located on the Property (the "System").

B. Grantee is a homeowner association for homes located on the adjoining real property described on the attached Exhibit "A" (the "Appurtenant Property").

C. It is the intent of the parties to this Agreement to create and bind themselves, their heirs, successors and assigns to a Domestic Water Well Agreement for the purpose of providing a reasonable domestic water supply to the Appurtenant Property, and a right of access for the Grantee and its successors to the System for the repair and maintenance of the System and further to assure the present and future owners of the Appurtenant Property a water line easement across the Property for the benefit of the Appurtenant Property.

**NOW, THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

**AGREEMENT**

1. **Ownership of the System.** Grantor shall convey all its interest in the System to Grantee by a Bill of Sale and any further transfer document which may be necessary.

2. **Use of Water.** Grantee shall be entitled to a quantity of water from the System sufficient to satisfy the domestic needs of up to 75 single-family dwellings and reasonable needs related to occupancy of such dwellings located or to be located on the Appurtenant Property. There shall be no additional hookups for any purpose, unless agreed to in writing by the parties.

**3. Allocation of Expenses:**

A. The cost of maintaining, repairing, upgrading and replacing the System, or any part thereof, shall be borne by the Grantee.

B. The System is located in one or more small buildings and the cost of maintaining, repairing and replacing such buildings shall be borne solely by Grantee.

C. Each owner of Grantee shall be responsible for the purchase, installation, maintenance and repair of a delivery system from the System to the respective dwellings owned by each party on the above-described real property.

**4. Easement.** To guarantee Grantee access to the System, Grantor hereby grant Grantee, their heirs, successors and assigns unless terminated as set forth below, the perpetual right to ingress and egress on the Property in a reasonable fashion to use and occupy that portion of the Property which is necessary or desirable for the limited purpose of inspecting, installing, repairing, replacing, upgrading and/or maintaining the System and supplying electricity to the System. Additionally, Grantor hereby grant to Grantee a perpetual exclusive easement 10 feet in width running five feet on either side of the existing subsurface water line between the System and the Appurtenant Property for the inspection, installation, maintenance, replacement, upgrade and/or repair of such water line. Any installation, inspection, maintenance or repair of such water line shall be done in such a way so as to cause a minimum of interference to the Property, and Grantee, at Grantee' expense, shall return the Property to its condition existing immediately prior to any installation, inspection, maintenance, upgrade or repair. Grantor shall not construct any improvement over the subsurface water line which is the subject of this easement.

**5. Binding Effect on Successor Interests.** The terms, conditions and provisions of this Agreement shall run with the Property and the Appurtenant Property and shall extend to, be binding upon and inure to the benefit of the heirs, personal representatives and assigns of the parties.

**6. Attorney Fees.** If suit or action is instituted to declare or enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees from the losing party in the trial and all appellate courts, in addition to any other recovery and costs. The attorney fee award shall include a reasonable amount in connection with enforcement of the judgment.

**7. Waiver.** The failure by either party at any time to require strict performance of any provision of this Agreement shall not be a waiver of or prejudice the right to subsequently enforce that provision or any other provision of this Agreement.

**8. Entire Agreement.** This Agreement is the final and complete agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties, verbal and written, are replaced by this Agreement and are of no further force or effect.

9. **Reversion and Termination.** In the event that the System is abandoned or otherwise unused for a period of one year, then all ownership and other rights of Grantee set forth herein shall revert to Grantor without further action on either parties part and this Agreement and easement shall terminate and be of no further force or effect.

"Grantee"

THE DIAMOND PEAKS AT LEISURE  
WOODS I & II HOMEOWNERS  
ASSOCIATION, INC., an Oregon  
nonprofit corporation

By Mary Karp  
Its President

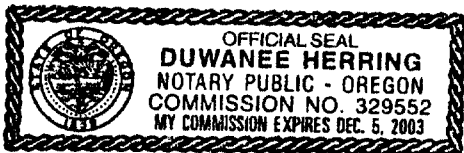
"Grantor"

AMERICAN CASH EQUITIES, INC.,  
an Oregon corporation

By Joel Gisle  
Its President

STATE OF OREGON)  
) ss.  
County of ~~Deschutes~~  
Lane

Personally appeared the above-named MARY KARP, as President of THE DIAMOND PEAKS AT LEISURE WOODS I & II HOMEOWNERS ASSOCIATION, INC. and acknowledged the foregoing instrument to be her voluntary act before me this 7<sup>th</sup> day of December, 2001.



Duwane Herring  
Notary Public for Oregon

STATE OF OREGON )  
) ss.  
County of Deschutes )

Personally appeared the above-named JOEL GISLER, as PRESIDENT of AMERICAN CASH EQUITIES, INC., an Oregon corporation, and acknowledged the foregoing instrument to be his voluntary act before me this 28 day of JANUARY, 2002.



Diana Davies  
Notary Public for Oregon  
Comm. Exp. - Nov. 6, 2005