

2009-015102

Klamath County, Oregon



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After recording, return to:

Lon Bryant
18215 Pine Hurst Road
Bend OR 97701

11/25/2009 02:03:08 PM

Fee: \$62.00

1st 2009

DOMESTIC WATER WELL AGREEMENT AND EASEMENT

DATE: March 6, 2006

"GRANTORS": AMERICAN CASH EQUITIES, INC., an Oregon corporation,
Patrick M. Gisler

"GRANTEE": DIAMOND PEAKS TRACT #1355 HOMEOWNERS
ASSOCIATIONS, INC., an Oregon nonprofit corporation

RECITALS

- A. Grantor owns or has an easement on the real property described on the attached Exhibit "A" (the "Property"). A water well, pump, pressure tanks, reservoir, pipe, electrical hookups, fire hydrant, 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 done 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 of such water line. Any installation, inspection, maintenance or repair of such water shall be done in such a way so as to cause a minimum of interference to the Property, and Grantee, at Grantee's expense, shall return the Property to its condition existing immediately prior to any installation, inspection, maintenance, upgrade or repair. Grantor shall not construct any improvements over the subsurface water line which is the subject to this easement.

5. **Binding Effect on Successor Interest.** 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 assignments of the parties.

6. **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 provisions or any other provision of this Agreement.

7. **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 the 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.

8. **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.

DATED AND SIGNED this 8th day of March, 2006

"Grantee"

**DIAMOND PEAKS TRACT #1355
HOMEOWNERS
ASSOCIATION, INC., an Oregon
nonprofit corporation**

X By Lon W Bryant
X Its President

"Grantors"

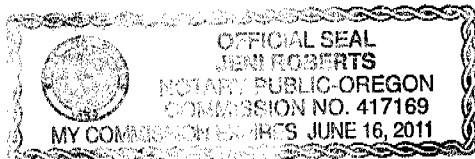
**AMERICAN CASH EQUITIES, INC.,
an Oregon corporation,
Patrick M. Gisler**

By Patrick M. Gisler
Its President
By Patrick M. Gisler
Its President

STATE OF OREGON)

Deschutes)ss.
County of _____)

Personally appeared by the above-named Lon W Bryant, as
President Of **DIAMOND PEAKS TRACT #1355 HOMEOWNERS
ASSOCIATION, INC.** and acknowledged the foregoing instrument to be his/her voluntary act before me this
20 day of November, 2008



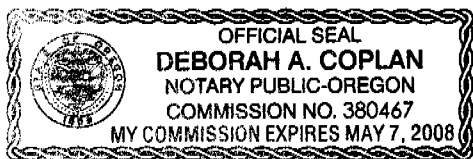
[Signature]
Notary Public of Oregon

6-16-11
Commission Expiration Date

STATE OF OREGON)

_____)ss.
County of Deschutes)

Personally appeared by the above-named Patrick M. Gisler, as
Secretary Of **AMERICAN CASH EQUITIES, INC.,** an Oregon corporation, Patrick
M. Gisler and acknowledged the foregoing instrument to be his/her voluntary act before me this
8th day of March, 2006.



Deborah A. Coplan
Notary Public of Oregon

May 7, 2008
Commission Expiration Date

Dated and signed this 20 day of Nov, 2009

"Grantee"

Diamond Peaks Tract #1355 Homeowners Association Inc., an Oregon non profit corporation

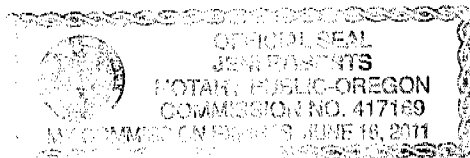
By: [Signature]
Its: Treasurer

State of Oregon

County of Deschutes

Personally Appeared by the above named, as Treasurer of Diamond Peaks Tract #1355 Homeowners Association Inc., and acknowledged the forgoing instrument to be his/her voluntary act before me this 20 day of November, 2009.

[Signature]
Notary Public of Oregon



6-16-11
Commission Expiration Date

Exhibit "A"

"Property"

Parcel 1: Lot 42, Block 3 of Tract 1119 Lesiure Woods II, Klamath County, Oregon.
 Lot 1, Block 1, Cres-Del Acres, Klamath County, Oregon.

"Appurtenant Property"

Lots 1 through 21, 26 through 29, 32 through 59 Diamond Peaks Tract #1355; Lots 1 through 11, 14 and 15, Block 1 and Lots 1 through 3, Block 4 in LEISURE WOODS TRACT #1074 in the County of Klamath, State of Oregon.