

**HARTSTENE POINTE WATER - SEWER DISTRICT
MASON COUNTY WASHINGTON**

RESOLUTION NO. 2009- 33

**A RESOLUTION OF THE
HARTSTENE POINTE WATER - SEWER DISTRICT COMMISSIONERS
AUTHORIZING A QUIT CLAIM DEED CONVEYANCE OF REAL AND
PERSONAL PROPERTY AND AGREEMENT OF TRANSFER
FROM MASON COUNTY**

WHEREAS, The Board of Mason County Commissioners adopted Resolution No. 31-8 submitting to the voters the question of whether to create Hartstene Pointe Water - Sewer District which would include all lands currently within Hartstene Pointe and Hartstene Pointe Addition 1-10 as platted.

WHEREAS, On June 10, 2008 the Mason County Auditor certified that Hartstene Pointe Water - Sewer District Proposition 1 had been passed by the voters;

WHEREAS, Hartstene Pointe Water - Sewer District was created;

THEREFORE, The Board of Commissioners of Hartstene Pointe Water - Sewer District hereby resolves:


The attached QUIT CLAIM DEED document and AGREEMENT FOR TRANSFER OF HARTSTENE POINTE WATER AND SEWER is hereby approved and shall be entered into by the District's Board of Commissioners.

ADOPTED, by the District's Board of Commissioners at a regular scheduled meeting on October 29, 2009


HARTSTENE POINTE WATER - SEWER DISTRICT
Mason County, Washington



Roger Ray, President



Mary Alice Cary, Commissioner



William Parisio, Commissioner

10/29/2009

After Recording Return to:

ROBERT W. JOHNSON, PLLC
P. O. Box 1400
Shelton WA 98584

QUIT CLAIM DEED

The GRANTOR, Mason County, a Washington County, Grantor, for and in consideration of the mutual benefit of the parties and other valuable consideration, conveys and quit claims to the Hartstene Pointe and Sewer and Water District, a Washington Municipal Corporation, Grantees, all Grantor's interest in the following described real and personal property, situated in the County of MASON, state of Washington:

The Hartstene Pointe Sewerage System consisting of system of conduits, pumps, treatment plants, equipment, and any real or personal property (tangible and intangible to include choses in action) and structures located on the following described real property utilized by the County for the purpose of operating the system or conveying from their source, treating in any manner, and conveying to final points of disposal, all wastes of any nature permitted to enter said system. Specifically included as integral parts of the system are all conduits of any nature forming a part of the general network of conduits or connected directly or indirectly to said network, all pumps, wastewater treatment plant and structures of any kind used in connection with the collection, treatment and disposal of the wastes handled by the system, all appurtenances to any of the above, either physically or functionally connected therewith;

Together with the Hartstene Pointe Water System consisting of the water rights, wells, water mainlines, tanks, well house, pumps, equipment, and any other real or personal property (tangible and intangible), conduits, and structures located within the following described real property used for the purpose of operating water system or conveying water from its sources to customers of the Hartstene Pointe Water System:

Both of said systems consisting of both real and personal property located on the following described real property situated in Mason County:

Plat of Hartstene Pointe: Volume 8 of Plats, Pages 80-85
Plat of Hartstene Pointe Addition 1: Volume 8 of Plats, Pages 111-112
Plat of Hartstene Pointe Addition 2: Volume 9 of Plats, Pages 38-40
Plat of Hartstene Pointe Addition 3: Volume 9 of Plats, Pages 15-16
Plat of Hartstene Pointe Addition 4: Volume 8 of Plats, Pages 121-123
Plat of Hartstene Pointe Addition 5: Volume 9 of Plats, Pages 63-65

Plat of Hartstene Pointe Addition 6: Volume 9 of Plats, Page 66

Plat of Hartstene Pointe Addition 7: Volume 9 of Plats, Pages 43-44

a. Plat of Hartstene Pointe Addition 8: Volume 9 of Plats, Pages 50-51

b. Plat of Hartstene Pointe Addition 9: Volume 9 of Plats, Pages 3-4

c. Plat of Hartstene Pointe Addition 10: Volume 9 of Plats, Pages 131-132

Together with (Legal description for OUTFALL?)

DATED this _____ day of _____, 2009.

Mason County

By: _____

STATE OF WASHINGTON)

:ss

COUNTY OF MASON)

On this day, personally appeared before me _____, to me known to be the _____ of the County that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said County, for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument.

GIVEN under my hand and official seal this _____ day of _____, 2009.

Notary Public in and for the State of

Washington, residing at _____

My Commission expires:

**AGREEMENT FOR TRANSFER OF
HARTSTONE POINTE WATER AND SEWER**

THIS AGREEMENT is made on ___ day of October, 2009, by Mason County, a Washington County, hereinafter referred to as "County", and the Hartstone Pointe Water-Sewer District, a Washington Municipal Corporation, hereinafter referred to as "District."

RECITALS

WHEREAS: Mason County has owned and operated a water system and a sewer system located at the Hartstone Pointe Development located on the northerly tip of Harstine Island since 1977,

WHEREAS: On March 11, 2008 the board of county commissioners approved a resolution submitting to a public vote on May 20, 2008 the question of establishing the Hartstone Pointe Water – Sewer District for the purposes of transferring the ownership and responsibility for the maintenance, operation, repair and replacement of the water and sewer systems located at Hartstone Pointe to the Hartstone Pointe Water – Sewer District.

WHEREAS: Pursuant to Chapter 57.04 RCW an election was duly held wherein a majority of voters voting upon the proposition voted in favor of the formation of the Hartstone Point Water – Sewer District thus forming District for purposes of owning and operating the water and sewer system located at Hartstone Pointe.

WHEREAS: Hartstone Pointe Water-Sewer District – territory includes all lands currently within the developments commonly known as Hartstone Pointe and Hartstone Pointe Addition 1-10 as platted.

WHEREAS: RCW 39.33.010 and RCW 36.34.130 authorize the Board of County Commissioners to transfer to the District the title to any property, including real property, on such terms and conditions as may be mutually agreed upon by the County and the District.

WHEREAS: RCW 39.33.010 and RCW 57.08.044 authorize the District to enter into contracts with any county for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the district, and necessary or desirable to carry out the purposes of the district.

WHEREAS: The County and District have agreed that all property, real, personal and intangible, associated with the ownership and operation of the water system and sewer system at Hartstone Pointe Development be transferred to the District without monetary consideration.

NOW THEREFORE, in consideration of the mutual benefits to be derived from the transfer and as duly authorized by proper resolution adopted by the County and District's respective governing

boards, it is hereby agreed as follows:

1. DEFINITION OF TERRITORY OF HARTSTENE POINTE WATER AND SEWER DISTRICT:

The "Territory" is defined by following records of the Auditor of Mason County, WA:

- a. Plat of Hartstene Pointe: Volume 8 of Plats, Pages 80-85
- b. Plat of Hartstene Pointe Addition 1: Volume 8 of Plats, Pages 111-112
- c. Plat of Hartstene Pointe Addition 2: Volume 9 of Plats, Pages 38-40
- d. Plat of Hartstene Pointe Addition 3: Volume 9 of Plats, Pages 15-16
- e. Plat of Hartstene Pointe Addition 4: Volume 8 of Plats, Pages 121-123
- f. Plat of Hartstene Pointe Addition 5: Volume 9 of Plats, Pages 63-65
- g. Plat of Hartstene Pointe Addition 6: Volume 9 of Plats, Page 66
- h. Plat of Hartstene Pointe Addition 7: Volume 9 of Plats, Pages 43-44
- i. Plat of Hartstene Pointe Addition 8: Volume 9 of Plats, Pages 50-51
- j. Plat of Hartstene Pointe Addition 9: Volume 9 of Plats, Pages 3-4
- k. Plat of Hartstene Pointe Addition 10: Volume 9 of Plats, Pages 131-132

2. DEFINITION OF SEWER SYSTEM: "Hartstene Pointe Sewerage System" means the system of conduits, pumps, treatment plants, equipment, and any real or personal property (tangible and intangible including choses in action) and structures located within the District's Territory utilized by the County for the purpose of operating the system or conveying from their source, treating in any manner, and conveying to final points of disposal, all wastes of any nature permitted to enter said system. Specifically included as integral parts of the system are all conduits of any nature forming a part of the general network of conduits or connected directly or indirectly to said network, all pumps, wastewater treatment plant and structures of any kind used in connection with the collection, treatment and disposal of the wastes handled by the system, all appurtenances to any of the above, either physically or functionally connected therewith. The Sewer System shall include the outfall and any lease or easement rights for the location of the same.

3. DEFINITION OF WATER SYSTEM: "Hartstene Pointe Water System" means the water rights, wells, water mainlines, tanks, well house, pumps, equipment, and any real or personal property (tangible and intangible), conduits, and structures located within the District's Territory and used for the purpose of operating water system or conveying water from its sources to customers of the Hartstene Pointe Water System.

4. PROPERTY NOT INCLUDED IN THE SYSTEMS: Any real or personal property not physically located within the District's Territory on the date of the Transfer will not be transferred to the District.

5. TRANSFER OF WATER SYSTEM AND SEWER SYSTEM. The County hereby agrees

to convey by quit claim deed, the form of which is attached hereto and incorporated by this reference, to the District the water system known as the HARTSTENE POINTE WATER SYSTEM (Water System) and the sewer system known as the HARSTENE POINTE SEWER SYSTEM (Sewer System) in accordance with the terms provided below.

6. TRANSFER OF RESERVES: Upon recording of the quit claim deed by the County Auditor, the Treasurer is hereby directed to transfer all funds, except the reserve funds hereinafter provided for, to the District to be deposited in the District's fund held with the Treasurer. The County agrees to sign any documents required by the Treasurer to effectuate the transfer.
7. RETENTION OF A PORTION OF THE RESERVES: The County shall retain the sum of Fifty Thousand Dollars (\$50,000.00) for a period up to ninety days after transfer for the purposes of paying any expenses accrued prior to transfer associated with the water and sewer system. The County shall provide an accounting of such expenditures to the District and transfer any remaining funds to the District at the conclusion of said 90 day period.
8. SALE SUBJECT TO ENCUMBRANCES. The County represents that this transfer is intended to be a sale of the assets free of encumbrances and that the County will provide a list of all outstanding obligations accrued through closing to the District which the District shall assume. Except as disclosed by the County or otherwise stated herein, the transfer shall be free of any other encumbrances.
9. EXISTING DEPT OF ECOLOGY LOAN. The County and District agree that the District shall be fully responsible as of the effective date of this instrument for the existing DOE loan, number 1060011 incurred by the County for the benefit the Hartstene Point systems. The County and District agree to provide all requested materials and cooperate with DOE in DOE's amendment of the loan documents to transfer the loan obligation to the District and to relieve the County of any further obligation on the loan. The District shall bear full responsibility for any expense incurred by the County in the amendment process.

In the event that DOE declines to or otherwise fails to amend the loan documents to transfer the loan obligation to the District and relieve the County of further obligation on the loan, the District shall reimburse the County for any payments on the loan made by the County after the effective date of this instrument. Demand for payment shall be made by the County to the District not less than quarterly and payment shall be tendered by the District within thirty (30) days of receipt of demand for payment. Upon failure to timely pay a demand under this section, the County Treasurer may deduct such amount, plus any statutory fees and costs allowed, without notice directly from any account maintained for the benefit of the District by the County.

10. RECORDS AND COOPERATION. The County shall provide the District with all relevant records including, but not limited to engineering records, pertaining to the Water System and Sewer System. The County's representative shall cooperate and attempt to provide the District with information necessary for an easy transition of operation of the Water System and Sewer System to the District at minimal further expense to the District.
11. HOLD HARMLESS BY COUNTY: The County shall indemnify and hold harmless the District, its officials, commissioners, employees, successors, and assigns from any and all claims of whatsoever nature arising out of, or in any way connected to the Water System or Sewer System for any acts or omissions occurring before the transfer of the assets herein. This indemnification and hold harmless provision includes reasonable attorneys' fees and legal costs, and includes but is not limited to expert witness fees and costs.
12. HOLD HARMLESS BY DISTRICT: The District shall indemnify and hold harmless the County, its officials, commissioners, employees, successors, and assigns from any and all claims of whatsoever nature, including but not limited to claims by any third party for injury to person or property arising out of, or in any way connected to the operation of the Water System or Sewer System occurring after the transfer of the assets herein. This indemnification and hold harmless provision includes actual attorneys' fees and legal costs, and includes but is not limited to expert witness fees and costs.
13. OUTFALL. The District assumes all responsibility for any and all claims of whatever nature, known or unknown, current or future, related to the failure and subsequent relocation of the sewer outfall arising from the outfall pipe failure in December, 2008
14. TRANSFER DATE: The deed shall be recorded on November 4, 2009.
15. POSSESSION: The District shall be entitled to possession on transfer.
16. MODIFICATION: This agreement and the rights and duties hereunder may not be modified, revised or terminated except by a writing signed by all parties hereto or their duly authorized representative.
17. COUNTERPARTS: This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same agreement of the parties.
18. GOVERNING LAW: This agreement shall be construed in accordance with the laws of the State of Washington.
19. SURVIVAL OF TERMS: The provisions of this agreement shall survive closing and shall not merge into the final documents.

20. SEVERABILITY: If any provision of this agreement is held invalid or unenforceable by a court of competent jurisdiction, the other provisions of this agreement will remain in full force and effect. Any provision of this agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

Hartstene Pointe Water – Sewer District:

Roger Ray, Commissioner

Mary Alice Cary, Commissioner

William Parisio, Commissioner

MASON COUNTY

Tim Sheldon, Commissioner

Lynda Ring-Erickson, Commissioner

Ross Gallagher, Commissioner