

**RESOLUTION NO. 984**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE  
ACKNOWLEDGING EMERGENCY CONTRACTS AND AUTHORITY OF CITY  
OFFICIALS TO SEEK RECOVERY FOR THE CITY'S COSTS INCURRED IN  
REPAIRING THE SLOPE IN HARVEST RIDGE**

WHEREAS, in January 2022, the City of University Place received a report of a failing slope in conjunction with a stormwater pond associated with Harvest Ridge. The property in question is assigned tax parcel no. 4001971140 and is identified with record with the Pierce County Assessor-Treasurer as "XXX Bridgeport Wy W"; and

WHEREAS, conditions on the subject property have deteriorated. The slope at the northeast corner has failed, depositing approximately 200 cubic yards of sediment on the bottom of the pond. If this were left unchecked, during the wet season, thousands of gallons of sediment laden water would be discharged to the adjacent salmon bearing creek resulting in a hazard to the health and habitat of this waterway. In addition, underlying the slope is a sewer pipe. Should the slope continue to fail, the sewer pipe is also at risk of damage. The slope, and corresponding storm pond are directly adjacent to several waterways, which if the sewer line fails, sewage is at risk to enter these waterways; and

WHEREAS, the foregoing condition constitutes a "public nuisance" as defined by Section 9.35.015 of the University Place Municipal Code and necessitates prompt abatement action to temporarily stabilize the slope, with Harvest Ridge undertaking the efforts to permanently stabilize the slope; and

WHEREAS, on or about February 15, 2001, Harvest Ridge's predecessor-in-interest, SSHI, LLC, executed a Maintenance Agreement and Restrictive Covenant ("Maintenance Agreement"), which has been recorded under Pierce County Auditor File No. 200102270410; and

WHEREAS, under the Maintenance Agreement, after the City provides the Grantor (defined as the original signer and binding on their heirs, successors and assigns) with a reasonable opportunity to adequately repair said drainage system, if unrepaired, the City is authorized to charge Grantor its reasonable costs of such work, and if an action is necessary to recover those costs, the City may also recover its reasonable attorney fees and collect interest at the rate of twelve percent (12%) per annum. The City has supplied such notice to Harvest Ridge; and

WHEREAS, Harvest Ridge is not presently capable or able to perform the work necessary to remedy the conditions described herein; and

WHEREAS, pursuant to the City's Purchasing Policies, the City Council acknowledges the City Manager's or his designee's authority to execute contracts on an emergency basis, with subsequent confirmation by the City Council; and

WHEREAS, the City Manager (or designees) have executed, or are in the process of executing the following contracts with the following contractors to address this situation:

|                     |           |
|---------------------|-----------|
| Larson & Associates | \$ 10,000 |
| Active Construction | \$100,000 |
| Terra Associates    | \$ 15,000 |

WHEREAS, under the City's Purchasing Policies, the award of these contracts without competitive procurement is warranted inasmuch as, absent prompt remediation of the conditions therein, there exists a threat to public health, welfare, or safety and/or the City may suffer a substantial monetary loss by reason of the time required to follow regular purchasing procedures;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON:**

Section 1. Recitals Incorporated. The recitals set forth above in this Resolution are hereby incorporated herein by reference.

Section 2. Acknowledging and Approving Contracts. The Contracts executed by the City of University Place for the repair and remediation of the slope conditions in Harvest Ridge are hereby acknowledged and approved retroactively.

Section 3. Authority to Seek Recovery. The City Manager or Designee is authorized to take the steps necessary to seek recovery for the City's costs in repairing the slope conditions in Harvest Ridge. Council, however, reserves to itself, the authority to approve the settlement of any claims.

Section 4. Supplemental Grant of Authority. The City Council directs the proper officials of the City to take any other and further actions deemed necessary to implement the policies and determinations of the Council consistent with the language of this Resolution. Any actions taken consistent with the authority granted by, but before the effective date of this Resolution, are ratified, approved and confirmed.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption by the City Council.

**ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 6, 2022.**

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Steve Worthington, Mayor

**ATTEST:**

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Emelita J. Genetia, City Clerk

**APPROVED AS TO FORM:**

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Matthew S. Kaser, City Attorney