

AGENCY: City of Everett Parks and Facilities Department
CONTACT PERSON: Chris Lark, Planning and Projects Manager
ADDRESS: 802 E. Mukilteo Boulevard
Everett, WA 98203
TELEPHONE/FAX NUMBER: 425-350-0874
COUNTY DEPT: Snohomish County Council
DEPT. CONTACT PERSON: Jim Martin
TELEPHONE/FAX NUMBER: 425-388-6250/425-388-3496
PROJECT: Evergreen Arboretum and Gardens Small Urban
Tree Walk Renewal Project
AMOUNT: \$10,000.00
FUND SOURCE: 191-5167005204
CONTRACT DURATION: Through December 31, 2022

AGREEMENT FOR SMALL CAPITAL PROJECTS PARTNERSHIP PROJECT

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and the City of Everett, a municipal corporation in the State of Washington (the "Agency").

RECITALS

WHEREAS, RCW 82.46.035 authorized counties planning under the Growth Management Act the authority to levy an additional quarter percent tax on all sales of real estate; and

WHEREAS, by that legislation, this additional quarter percent tax on sales of real estate must be used solely on capital projects that are listed in a capital facilities plan; and

WHEREAS, capital projects are defined as public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems; and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

WHEREAS, by Ordinance No. 14-125, adopted December 17, 2014, the Snohomish County Council provided funding within the Real Estate Excise Tax Fund for an application process for a Small Capital Projects Partnership (SCPP) grant program; and

WHEREAS, applications for the SCPP grants were received when due, June 1, 2021; and

WHEREAS, a review team evaluated and ranked the applications and made recommendations to County Council; and

WHEREAS, the Agency's project was one of two projects recommended by the review team and authorized by the County Council for funding by Motion 21-469 approved on July 14, 2021;

WHEREAS, the County determined that the Agency's project is eligible for the SCPP grant funding; and

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Project Scope. The purpose of this Agreement is to provide funding for the Agency's Evergreen Arboretum and Gardens Small Urban Tree Walk Renewal Project.

2. Term; Time of Performance. This Agreement shall be effective on the date on which it has been executed by authorized representatives of both parties and shall expire on December 31, 2022. The Agency shall commence Project work immediately and complete the Project work required by this Agreement no later than December 31, 2022.

3. Reimbursement of Project Expenses. Subject to Section 6 hereof and upon the completion of the Project to the satisfaction of the County, the County will reimburse the Agency for Project expenses as set forth in the Project budget in Appendix A. The Agency shall submit a request for reimbursement for Project expenses supported by detailed statements, including invoices from third parties incident to those Project expenses, if any, indicating Project work performed as appropriate and consistent with the schedule of Project work outlined in Appendix A. Total requests for reimbursement for this Project shall not exceed \$10,000.00 (the "Contract Maximum").

4. Direction and Control. The Agency agrees that it will perform the Project work under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. The parties agree that neither the Agency nor its employees are entitled to any benefits or rights enjoyed by employees of the County. The Agency specifically has the right to direct and control Agency's own activities in performing the Project work in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

5. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

6. Indemnifications and Hold Harmless—Except for the sole negligence of the County, the Agency shall indemnify and hold harmless the County, its officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature which are in any way resulting from Agency's activities and/or services associated with this Agreement. The duty to indemnify and hold the County harmless shall not extend to any claim regarding the City's eligibility to receive grant funding, unless such claim arises out of a misrepresentation by the City to the County that the County reasonable relied upon to its detriment.

In the event the County incurs attorney fees and/or costs in the defense of claims under this provision such attorney fees and costs shall be recoverable from the Agency. In addition Snohomish County shall be entitled to recover from the Agency its attorney fees, and costs incurred to enforce the provisions of this section.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

7. Insurance; No Limitation.

The Agency shall maintain its usual self-insurance program during the term of this Agreement.

8. Non-Discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Agency shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Agency of the Agency's compliance with the requirements of Chapter 2.460 SCC. If the Agency is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Agency's obligations under other federal, state, or local laws against discrimination.

9. Compliance with Laws. The Agency shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

10. Termination.

County, Washington.

16 Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Agency, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Agency, as the case may be.

17. Severability. Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

18. Complete Agreement. This Agreement constitutes the entire understanding of the parties. Any written or verbal agreements that are not set forth herein or incorporated herein by reference are expressly excluded.

SNOHOMISH COUNTY:

Stephanie Wright
County Council

Date: 9/29/2021

City of Everett:
[Signature]
Mayor

Date: 9-14-21

Approved as to form only:

COUNCIL USE ONLY	
Approved	<u>9/29/2021</u>
ECAF #	<u>2021-0771</u>
MOT/ORD	<u>Motion 21-342</u>

Office of the City Attorney
APPROVED AS TO FORM
David C. Hall, City Attorney
Counsel to the Agency 9.14.21 Date

ATTEST:
[Signature]
City Clerk

APPENDIX A

**SCOPE OF WORK
AND PROJECT BUDGET**

AGENCY: City of Everett Parks and Facilities Department

PROJECT: Evergreen Arboretum and Gardens Small Urban Tree Walk Renewal Project

SCOPE OF WORK

1. The Agency will be reimbursed by the County for Project work, including eligible expenses incurred in executing the Project, pursuant to the Agreement in an amount not to exceed the Contract Maximum of \$10,000.00 .

The Agency shall support removing dead, dying, and overgrown trees and shrubs, fixing the irrigation system, adding conduit for eventual electrical power, amending the soil, and replanting the Walk with new and improved specie to meet the path's educational function.

Expenses eligible for reimbursement under the Agreement are defined as those listed in the 'COUNTY' line of the Project Budget below and, to the extent not inconsistent with this Appendix A. Invoices submitted to the County by the Agency will include itemized invoices from third parties, if any, for all eligible expenditures for which the Agency seeks reimbursement. In order to ensure timely closeout of the Project, the Agency shall submit its final invoice to the County no later than thirty (30) calendar days after completion of the Project work to be reimbursed pursuant to this Agreement, PROVIDED THAT, in no event shall billings submitted after that date to be paid by the County and PROVIDED FURTHER, that the aggregate of all billings submitted by the Agency and paid by the County pursuant to this Agreement shall not exceed the Contract Maximum of \$10,000.00.