

## **Tree Power Program Grant Agreement**

This Tree Power Program Grant Agreement ("Agreement") is entered into by and between Public Utility District No. 1 of Snohomish County, Washington State municipal corporation ("PUD"), and City of Everett ("Grantee"), a (Municipality), in order to set forth the commitments between the PUD and Grantee regarding Tree Power funds for Grantee's project. The PUD and Grantee are also referred to herein individually as "Party" and collectively as "Parties."

### **Background and Purpose:**

The PUD is a Public Utility District organized under Title 54 of the Revised Code of Washington ("RCW") to provide retail electric service in Snohomish County and Camano Island, Washington.

The PUD has created the Tree Power Program to support urban forestry tree planting in parks, green spaces and urban areas promoting energy efficiency by reducing heat retention of buildings, pavement, and hard surfaces.

Grantee will purchase, plant and maintain trees ("Project") at a site located at 1226 W Casino Rd, Everett, WA 98204 ("Site") using funds provided by the PUD under the Tree Power program and this Agreement.

The Parties hereby agree to the following terms as a condition of the award under the Tree Power Program.

### **1. Term and Termination**

a. This Agreement shall become effective on the date fully executed below (the "Effective Date") and shall terminate five (5) years after the date of Project completion unless sooner terminated in accordance with this Section.

b. The PUD may terminate this Agreement upon fifteen (15) days written notice to the Grantee in the event that the Grantee is in default of any term and/or condition of the Agreement and fails to cure such default within that fifteen (15) day period, or such longer period as provided by the PUD. The notice of termination shall state the reasons therefore and the effective date of the termination.

c. In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law.

### **2. Grant Award**

The PUD hereby awards Grantee a grant of \$8,955.00 ("PUD Grant" or "Grant"), to be used by Grantee to develop and support the Project. Eighty percent (80%) of the PUD Grant will be provided to Grantee upon execution of this Agreement. The remainder of the Grant shall be provided to Grantee upon PUD's confirmation that the Project is complete and subject to verification against actual Project costs. The Project is described on attached and incorporated Exhibit "A." The Project shall be completed by Grantee within one (1) year of the date of this Agreement unless otherwise agreed to by the Parties.

### **3. Use of Grant Funds**

a. Grantee agrees to use the PUD Grant exclusively for the development and support of the Project and in accordance with the terms and conditions of this Agreement. A minimum of 80% of funds must be used for direct tree planting expenses. Direct tree planting expenses include trees and items that ensure the health and sustainability of the newly planted trees such as mulch, stakes, tree ties, water bags, and soil amendments. Items that are not permitted reimbursable Grant expenses include but are not limited to digging/cutting tools, watering devices or water, personal protective equipment, wheelbarrows, dollies, food/drink for workers, etc. The PUD has sole discretion to determine what is or is not a reimbursable Grant expense.

b. No portion of this Grant may be expended to influence legislation or to support participation in any political campaign.

### **4. Recapture of Grant Funds**

a. In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Agreement, PUD reserves the right to recapture funds in an amount to compensate PUD for the noncompliance in addition to any other remedies available at law or in equity.

b. Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by PUD. In the alternative, PUD may recapture such funds from payments due under this Grant.

### **5. Records, Inspection & Facility Access**

a. Upon reasonable notice from the PUD, Grantee will allow the PUD to access and inspect the Project at reasonable times during the term of this Agreement.

b. Grantee shall maintain and retain records related to its use of the Grant funds for the term of this Agreement. Upon request, the PUD has the right to inspect and audit the books and records of the Grantee related to the Project and the use of PUD Grant funds.

### **6. Planting and Maintenance**

The Grantee agrees to plant and maintain trees for the Project in accordance with appropriate horticulture and silviculture standards and as approved by the PUD Arborist. Unless otherwise agreed by the Parties, any trees that are purchased and planted pursuant to this Agreement and Grant but that die within three (3) years of the date of this Agreement shall be replaced by Grantee within one (1) year with trees approved by the PUD Arborist at the sole expense of Grantee.

### **7. Promotion**

Grantee grants permission to the PUD to: collect and display information about any aspect of the Project, including but not limited to site mapping, photographs and data documenting the Project; identify Grantee in educational and communications materials, including, but not limited to web sites, presentations, publications, press releases and promotional materials. Grantee will allow signage to be displayed on the Grantee's property at a location that is within walking distance of the Project and has

reasonable visibility.

## **8. Release, Indemnity, and Hold Harmless**

a. The Grantee shall indemnify and hold harmless and release the PUD and its commissioners, officers, employees and agents and each of their heirs, personal representatives, successors and assigns from and against any and all liabilities, losses, claims, damages, costs, demands, fines, judgments, penalties, obligations and payments, together with any reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and out-of-pocket expenses and reasonable costs and expenses of investigation) arising, directly or indirectly, out of or in connection with this PUD Grant and/or the Project.

b. If the injury, loss or damage is caused by, or results from the concurrent negligence of the PUD, its officers, agents and/or employees and the Grantee, its officers, agents and/or employees, the indemnity and hold harmless requirements and obligations of Grantee provided in subsection (a) shall be valid and enforceable only to the extent of the Grantee's negligence.

c. Solely and expressly for purposes of its duties to indemnify and hold harmless the PUD as set forth above, the Grantee specifically and expressly waives any immunity it might have under the State Industrial Insurance law (RCW Title 51) in the event that a claim is made against the PUD for a death of or injury to any employee of Grantee. THE GRANTEE ACKNOWLEDGES THAT THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

d. The PUD's inspection or acceptance of any of the Grantee's work and/or services when completed shall not be grounds to avoid any of these covenants of indemnification.

e. The provisions of this section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

## **9. Notices**

All notices or reports under this Agreement shall be addressed as follows:

To the Grantee:                   **City of Everett - Parks  
Katherine Phillips  
802 E Mukilteo Blvd  
Everett, WA 98203**

To the PUD:                       **Public Utility District No. 1 OF Snohomish County  
Attn: Sheri Miller and Treepower@snopud.com  
PO Box 1107  
Everett, WA 98206-1107**

## **10. Governing Law and Venue**

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington (regardless of the laws that might otherwise govern under applicable principles of conflicts of law). Venue for any action arising under or in connection with this Agreement shall be in the Superior

Court for Snohomish County, Washington, or in the United States District Court for the Western District of Washington.

#### **11. Fair Meaning.**

The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either Party hereto because of authorship. This Agreement shall be deemed to have been drafted by all Parties.

#### **12. Severability.**

a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the Parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict and shall be deemed modified to conform to such statutory provision.

#### **13. Amendments**

No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment signed by both parties.

#### **14. Assignment**

Grantee shall not assign its rights or obligations under this Agreement to any other party without the prior express written consent of the PUD.

#### **15. Authority to Bind Parties and Enter Into Agreement.**

The undersigned represent that they have full authority to enter into this Agreement and to bind the Parties for and on behalf of the legal entities set forth below.

#### **16. Counterparts**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

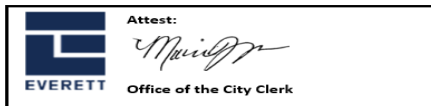
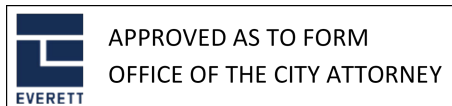
(Signatures on Following Page)

PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY

By: John Hoffman  
Print Name: John Hoffman  
Title: AGM Customer & Energy Services  
Dated: 08/29/2024

CITY OF Everett

By: [Signature]  
Print Name: Cassie Franklin  
Title: Mayor  
Dated: 08/29/2024














# SNOPUD Tree Power Agreement\_SD

Final Audit Report

2024-08-29

Created:	2024-08-28
By:	Marista Jorve (mjorve@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAASPgvrZbxDfzB1ypI9DJpZ8VtHydSstLL

## "SNOPUD Tree Power Agreement\_SD" History

-  Document created by Marista Jorve (mjorve@everettwa.gov)  
2024-08-28 - 8:17:56 PM GMT
-  Document emailed to kmoore@everettwa.gov for approval  
2024-08-28 - 8:18:42 PM GMT
-  Email viewed by kmoore@everettwa.gov  
2024-08-28 - 9:34:30 PM GMT
-  Signer kmoore@everettwa.gov entered name at signing as Kimberly Moore  
2024-08-28 - 9:34:46 PM GMT
-  Document approved by Kimberly Moore (kmoore@everettwa.gov)  
Approval Date: 2024-08-28 - 9:34:48 PM GMT - Time Source: server
-  Document emailed to John Hoffman (jmhoffman@snopud.com) for signature  
2024-08-28 - 9:34:50 PM GMT
-  Email viewed by John Hoffman (jmhoffman@snopud.com)  
2024-08-29 - 12:50:55 PM GMT
-  Document e-signed by John Hoffman (jmhoffman@snopud.com)  
Signature Date: 2024-08-29 - 2:30:24 PM GMT - Time Source: server
-  Document emailed to Tim Benedict (TBenedict@everettwa.gov) for approval  
2024-08-29 - 2:30:32 PM GMT
-  Email viewed by Tim Benedict (TBenedict@everettwa.gov)  
2024-08-29 - 3:08:27 PM GMT
-  Document approved by Tim Benedict (TBenedict@everettwa.gov)  
Approval Date: 2024-08-29 - 3:08:39 PM GMT - Time Source: server

 Document emailed to Cassie Franklin (cfranklin@everettwa.gov) for signature

2024-08-29 - 3:08:43 PM GMT

 Email viewed by Cassie Franklin (cfranklin@everettwa.gov)


2024-08-29 - 4:02:27 PM GMT

 Document e-signed by Cassie Franklin (cfranklin@everettwa.gov)

Signature Date: 2024-08-29 - 4:02:36 PM GMT - Time Source: server

 Document emailed to Marista Jorve (mjorve@everettwa.gov) for approval

2024-08-29 - 4:02:38 PM GMT

 Email viewed by Marista Jorve (mjorve@everettwa.gov)

2024-08-29 - 4:03:39 PM GMT

 Document approved by Marista Jorve (mjorve@everettwa.gov)

Approval Date: 2024-08-29 - 4:03:53 PM GMT - Time Source: server

 Agreement completed.

2024-08-29 - 4:03:53 PM GMT