



2021 Linde Planting Award Agreement

DATE: October 12, 2021

AWARDEE: City of Port St. Lucie, Florida

AWARD AMOUNT: \$15,000.00

PROJECT LOCATION: Tiffany West, Port Saint Lucie, Florida

EVENT DATE: November 6, 2021

The Alliance for Community Trees, a program of the Arbor Day Foundation (hereafter called ADF), and Linde have jointly awarded a Linde Tree planting award to the City of Port St. Lucie Florida (hereafter called Awardee). This Award Agreement delineates the terms and conditions of this award.

In order to receive your award, complete this Award Agreement. Please sign, scan, and email this Award Agreement back to ADF. Payment to Awardee is contingent on ADF receiving an original signed Agreement, a completed W-9, proof of insurance, and Awardee's compliance with the terms of this Agreement. Your signature on this Agreement acknowledges your acceptance of all terms included in this Award.

TERMS

ADF and Awardee may modify the description, terms, and/or timeline of the project upon request of Awardee and at the discretion of ADF and Linde. In addition, if Linde decides to postpone or reschedule the timeline for the award, project and/or Event Date with ADF for any reason, ADF may similarly postpone or reschedule the timeline for such award, project and/or Event Date hereunder with Awardee without liability. ADF may, upon written notification, cancel this Award Agreement in the event the Awardee has failed to comply with the description, terms, and/or timeline of the project as described in this Award Agreement.

Awardee agrees to notify ADF of any organizational changes occurring during the term of this award, including, but not limited to, changes in key personnel, address or other contact information, and/or changes in tax classification under the U.S. Internal Revenue Code.

Awardee certifies that it owns the Project site or has legal authorization to utilize the site for the Project described in the Award application submitted by Awardee.

Awardee certifies that it maintains general liability insurance from an insurance company acceptable to ADF that is lawfully authorized to issue insurance in the jurisdiction where the Project site is located as will protect Awardee from claims that may arise out of or result from any business conducted by Awardee, any property that Awardee owns, other services that Awardee may provide or any other actions of Awardee necessary to complete the Project. This general liability insurance will include

products and completed operations coverage, with limits of \$1,000,000 per occurrence. Awardee shall also maintain workers compensation insurance with the statutory limits for the state in which the work is performed as well as employers' liability with policy limits of \$500,000 each accident. Certificates of insurance together with copies of the endorsements naming ADF as an additional insured shall be delivered to ADF prior to Awardee's commencement of the Project and from time to time upon request of ADF. Any such policy maintained by Awardee will provide that it may not be terminated nor may coverage be reduced except after thirty (30) days' prior written notice to ADF. Notwithstanding the foregoing, ADF acknowledges that Awardee is self-insured through Awardee's Self-Insurance Fund with respect to the coverages set forth in this paragraph. In such case, Awardee, will to the fullest extent allowable under applicable law, indemnify, defend and hold harmless the Indemnified Parties (defined herein) from and against any and all claims that would have been covered by the insurance required above which is replaced by Awardee's self-insurance. Upon request, Awardee shall provide a confirming letter to ADF in connection with its self-insurance obligations hereunder.

Awardee agrees to use ADF's template photo, video, intellectual property, and liability waiver and provide scanned copies post-event of all signed releases. Copy of waiver subject to change due to liability requirements designated by ADF.

Awardee agrees to comply with all applicable requirements of the USA Patriot Act and Executive Order 13224, and all subsequently enacted legislation, executive orders, or regulations, designed to prevent any Award funds from being used in support of terrorism or a terrorist organization.

The undersigned declares that Awardee operates in accordance with ADF's nondiscrimination policy and does not discriminate against any person or group on the basis of age, political affiliation, race, national origin, ethnicity, disability, sexual orientation, or religious belief.

Significant changes to the funded Project generally will not be approved. If minor changes become necessary, they must be requested in advance and receive approval from ADF. Awardee will notify ADF immediately in the event that any of the following occur:

- The Awardee is unable to use any portion of the Award funds for the intended purposes
- The Awardee is unable to comply with any of the terms of this Agreement
- Any Award funds are used in a manner inconsistent with the terms of this Agreement

ADF reserves the right, in its sole discretion:

- To withhold any payments provided for under this Award, to recover from the Awardee any unexpended Award funds, and, if the terms of this Agreement are violated by Awardee, to require restitution by the Awardee of any previously expended Award funds
- To require the Awardee to take reasonable precautions to prevent any diversion of Award funds
- To withhold any applicable taxes from any Award payments

This Agreement shall bind and inure to the benefit of the parties and their successors, but otherwise shall not be assignable by any party or transferable by operation of law or otherwise.

To the extent allowable under applicable law, and subject to the limitation on the Awardee's tort liability, as set forth in Section 768.28, Florida Statutes, Awardee shall indemnify, defend and hold harmless ADF and Linde, as well as their respective trustees, directors, officers, employees, agents, successors and assigns (collectively, "Indemnified Parties"), from and against any and all claims, liabilities, losses, judgments, damages or expenses and charges of any kind or nature including interest, reasonable attorneys' fees and other costs, expenses and charges which any of the Indemnified Parties may at any time incur, sustain, or become subject to by reason of any third party claim, action, suit, demand or investigation arising out of (a) Awardee's acts or omissions related to the Project or the use of the Award Funds as well as the acts or omissions of any person claiming under Awardee; and (b) any breach, violation or nonperformance by Awardee or any person claiming under Awardee of any term, covenant or provision of this Award Agreement or any law, ordinance or governmental requirement of any kind.

FINANCIALS

ADF will disburse the Award funds in two payments. The first payment of \$11,875.00 will be disbursed upon the return of an original signed Award Agreement, a completed W-9 form, and proof of insurance listing the Arbor Day Foundation as an additional insured. Should you not currently be a member of the Alliance for Community Trees program, your membership fee of \$125 will be deducted from your first payment. A final payment of \$3,000.00 will be disbursed upon satisfactory completion of the project and receipt of a final project report. Funds paid to Awardee, shall be used exclusively for the Linde Tree Planting Project.

This award is made for use until December 31st, 2021. Awardee shall maintain records of expenditures of Award funds and make books, records, and personnel available to ADF and its agents as appropriate. Awardee agrees to cooperate with ADF with regard to any such monitoring or evaluation.

Award funds and any interest earned thereon shall not be used:

- A. To carry on propaganda, or otherwise to attempt to influence legislation (within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"));
- B. To participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office (within the meaning of section 501(c)(3) of the Code);
- C. To make any awards to individuals or organizations (unless pre-approved in writing by ADF).
- D. No part of the Award funds shall be paid to any ADF official, and Awardee acknowledges that no gifts or services were or will be rendered to ADF or any ADF official in exchange for this Award.

Notwithstanding anything stated herein, this Agreement shall terminate, and all further disbursements or expenditures of the Award by Awardee shall cease if (i) any of the facts contained in Awardee's award proposal cease to be correct and accurate; (ii) if Awardee fails to perform any of the requirements of this Agreement; or (iii) Linde notifies ADF of its decision to indefinitely postpone the award, project and/or Event Date. In such event, Awardee shall immediately return any unexpended portion of the Award to ADF, and ADF shall have no obligation to disburse any additional amounts

payable under the Award, regardless of any claimed adverse effect on the programs or operations of the Awardee.

EXECUTION

During the award period, the Awardee will achieve the following outcomes with regards to your Linde Planting Project:

- A. Develop and adhere to a project timeline, culminating in a planting on 11/6/2021.
- B. Provide regular updates for communication with ADF staff and partners as applicable
- C. Plant and maintain a minimum of 80 trees.
- D. Obtain all necessary permits and permissions for the Project, including securing and long-term space maintenance plans, insurance and legal land use zoning and permits.
- E. Manage and educate approximately 40 volunteers on tree planting, care, and maintenance best practices
- F. Allow for participation by Linde employees in the planting event.
- G. Provide or ensure two years of maintenance and care for trees, to ensure healthy establishment
- H. Promote the event using media in the local area in coordination with ADF and Linde to recognize Linde and other applicable partners
- I. Complete a Final Project Report including 5-6 high quality event photos, video submissions utilizing Cinebody (a free app that ADF will detail and provide user instructions), and impact stories, **no later than 10 business days post-event**. The final report will be distributed prior to the completion of your event.
- J. Meet all covenants and metrics as outlined in the Awardee's Linde Tree Planting Project proposal and as required by the Alliance for Community Trees Request for Proposals, both to be superseded by this Agreement should any discrepancies present.

During the award period, ADF will:

- A. Distribute Linde "Award Funds" to Awardee as outlined in financial section above.
- B. Provide a Final Project Report in advance of the report due date, including i-tree analysis training requirements.

PROMOTION

All marketing drafts must be received by ADF at least 2 weeks before the event date to allow for adequate review, approval, and distribution timelines. ADF requires that Awardee include the name and logo of ADF and Linde on all project-related promotional materials. All logos will be supplied to Awardee in a useable format. Awardee shall not assign or distribute the ADF or Linde logos for any reason other than promotion of this award project. Awardee agrees not to alter either the ADF or Linde logos in any way including color, fonts, ratio dimensions, background, and/or layout.

Awardee hereby authorizes Arbor Day to include its trademarks in mutually agreed-upon advertising copy, solely in connection with this Agreement, subject to prior review and approval of such use by Awardee which shall not be unreasonably withheld. ADF hereby authorizes Awardee to use ADF's trademarks (the "Arbor Day Marks") solely in connection with this Agreement, subject to prior review and approval. Except as otherwise expressly permitted hereby, neither party shall use the other party's Marks without the prior express written consent of such party.

Public announcements of the Award may be made by the Awardee, ADF, or Linde. Any related press release, media alert, website posting, or other public announcements about the Program or the Award

must acknowledge that the Awardee is a “proud partner of the Arbor Day Foundation,” and that the Program is “made possible by partnership with the Arbor Day Foundation and Linde.”

ADF and Linde must review and approve any public announcements (fliers, original press releases, e-blasts, etc.) at least two weeks prior to distribution.

IN WITNESS WHEREOF, I, the undersigned, am authorized to enter into such an Agreement and hereto have caused this Agreement to be executed as of the day and year below within.

SIGNED, SEALED AND DELIVERED

The Arbor Day Foundation

Dan Lambe
President, Arbor Day Foundation

Date

Agreement of Awardee:

Russ Blackburn, City Manager
City of Port St. Lucie

Date