

Return recorded copy to:

Broward County Highway Construction &  
Engineering Division  
1 North University Drive, Suite 300B  
Plantation, FL 33324-2038

Document prepared by:

Al DiCalvo  
Assistant County Attorney  
Broward County Attorney's Office  
115 South Andrews Avenue, Room 423  
Fort Lauderdale, FL 33301

**NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE BURDENED PARCEL SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE BURDENED PARCEL.**

#### REVOCABLE LICENSE AGREEMENT

THIS IS AN AGREEMENT made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY,"

AND

NORTH BROWARD HOSPITAL DISTRICT, a special taxing district in Broward County created by the State of Florida, d/b/a BROWARD HEALTH, hereinafter referred to as the "LICENSEE,"

AND

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, hereinafter referred to as the "MUNICIPALITY."

WHEREAS, LICENSEE is the Owner of property which is described in Exhibit "A," attached hereto and incorporated herein (the "Burdened Parcel"); and

WHEREAS, an additional three feet of right-of-way was granted by Deed to COUNTY for the future expansion of South Andrews Avenue as recorded in O.R. Book 48550 and Page No. 1488 in the Public Records of Broward County, Florida; and

WHEREAS, Broward County is the jurisdiction that owns and controls the right-of-way for South Andrews Avenue, including that portion of the right-of-way area that lies between the Burdened Parcel and the back of curb of South Andrews Avenue; and

WHEREAS, COUNTY has agreed to permit the temporary use of a portion of said right-of-way as described in Exhibit "B," attached hereto and incorporated herein (the "Property"); and

WHEREAS, MUNICIPALITY, by motion of its governing body adopted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has approved the acceptance of the responsibility, should LICENSEE fail to comply with the terms of this Agreement, for the ongoing maintenance of the landscaping, irrigation, and other related improvements pursuant to the terms of this Agreement, and has authorized the appropriate municipal officers to execute this Agreement; and

WHEREAS, the parties have agreed to enter into this Revocable License Agreement ("Agreement") in relation to the use of the right-of-way described in Exhibit "B," as provided below; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth, COUNTY, LICENSEE, and MUNICIPALITY agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. DESCRIPTION OF PROPERTY. That portion of the right-of-way as described in Exhibit "B" (the "Property"), attached hereto and made a part hereof.
3. TERM. The term of this Agreement shall commence upon its execution by all parties and shall continue until such time as the COUNTY notifies LICENSEE, in accordance with Article 12, to cease using the Property.
4. USE OF PROPERTY. COUNTY hereby grants to LICENSEE the revocable license for non-exclusive access and use of the Property only for landscaping, irrigation, and related improvements (the "improvements"), including the ongoing maintenance thereof, as detailed in the landscaping and irrigation plans, attached hereto and incorporated herein as Exhibit "C." The Property shall not be used for any other purpose whatsoever without written amendment of this Agreement. LICENSEE covenants that it will not, without written consent of the COUNTY, permit the Property to be used by any person, firm, entity, or corporation other than LICENSEE and its agents. LICENSEE further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on, in, or upon the Property. No act shall be permitted and nothing shall be kept in or about the Property that will increase the risk of any hazard, fire, or catastrophe, and no waste shall be permitted or committed upon or any damage done to the Property. LICENSEE shall not permit the Property to be used in any manner which will violate any laws or regulations of any governmental entity or agency.

- 4.1 LICENSEE shall submit plans for the installation of the improvements, together with a schedule for the ongoing maintenance thereof, to the Broward County Highway Construction and Engineering Division at least thirty (30) days before installation, and shall not install the improvements until written approval is obtained from the Broward County Highway Construction and Engineering Division. The landscaping plans shall incorporate a minimum fifty percent (50%) native species by plant types (i.e. canopy tree, palm tree, and shrub) and, together with the schedule for the ongoing maintenance, shall comply with the Broward County Naturescape program and Florida-Friendly Landscaping principles.
- 4.2 LICENSEE shall notify the Broward County Highway Construction and Engineering Division within five (5) days after installation of the improvements. The Broward County Highway Construction and Engineering Division may require LICENSEE to reinstall or remove the improvements, if the improvements or use do not comply with this Agreement or the approved plans.
- 4.3 COUNTY, its agents or authorized employees, shall continue to have unimpeded and unrestricted access to the Property at any and all times to examine it to determine if LICENSEE is properly using the Property pursuant to the terms and conditions of this Agreement.
- 4.4 Any replacement of the landscaping, irrigation, or any other related improvements permitted by this Agreement, by LICENSEE shall require the prior submittal of plans and approval by the Broward County Highway Construction and Engineering Division, consistent with the requirements under Sections 4.1 and 4.2, above.
- 4.5 MUNICIPALITY hereby acknowledges and affirms that it shall be responsible for and assume the LICENSEE's responsibilities and obligations for the ongoing maintenance of the landscaping, irrigation, and related improvements, should LICENSEE fail to perform or comply with any terms or conditions of this Agreement. MUNICIPALITY shall be responsible for and assume LICENSEE's responsibilities and obligations upon notice from COUNTY that LICENSEE has failed to perform or comply with any terms or conditions of this Agreement. COUNTY shall not be obligated to proceed against LICENSEE or exhaust any other remedies it may have against LICENSEE or MUNICIPALITY prior to enforcing the obligations of MUNICIPALITY herein.
- 4.6 The obligations of LICENSEE as set forth in this Agreement may be performed by LICENSEE or MUNICIPALITY through the use of its employees, or LICENSEE or MUNICIPALITY may enter into a contract with a third party to perform the services. In the event LICENSEE or MUNICIPALITY contracts with a third party, each shall remain fully

responsible hereunder and shall ensure that its contractor complies at all times with each and every term, condition, duty, and obligation set forth herein.

5. ASSIGNMENT. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered, except to successors or assignees taking title to LICENSEE's Burdened Parcel, without the written consent of the COUNTY.
6. DAMAGE TO PROPERTY. LICENSEE shall not by its use or access cause damage to the Property. Both parties agree that all personal property placed by LICENSEE upon the Property shall remain the property of LICENSEE, and shall be placed upon the Property at the risk of LICENSEE. LICENSEE shall give the COUNTY, or its agent, prompt written notice by registered or certified mail of any occurrence, incident, or accident occurring on the Property.
7. COMPENSATION. No payment shall be made by the LICENSEE for the privileges granted in this Agreement.
8. INDEMNIFICATION OF COUNTY.
  - 8.1 LICENSEE and MUNICIPALITY are entities subject to Section 768.28, Florida Statutes, as may be amended from time to time, and agree to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by either LICENSEE or MUNICIPALITY to be sued by third parties in any matter arising out of this Agreement or any other contract.
  - 8.2 In the event that LICENSEE or MUNICIPALITY contract with a third party to perform any of LICENSEE's obligations under this Agreement, any contract with such third party shall include the following provisions:
    - 8.2.1 Indemnification: Contractor shall indemnify and hold harmless COUNTY, its officers, agents, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of contractor, and other persons employed or utilized by contractor in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. To the extent permitted by law, in the event that any action or proceeding is brought against Broward County by reason of any such claim or demand, contractor shall, upon written notice from Broward County, resist and defend such action or proceeding by counsel satisfactory to Broward County.

- 8.2.2 To the extent permitted by law, the indemnification provided above shall obligate contractor to defend, at its own expense, to and through appellate, supplemental, or bankruptcy proceeding, or to provide for such defense, at Broward County's option, any and all claims of liability and all suits and actions of every name and description covered by subsection 8.2.1 above which may be brought against Broward County, whether services were performed by contractor or persons employed or utilized by contractor.
- 8.2.3 In order to insure the indemnification obligation noted above, contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverage set forth in Article 9, in accordance with the terms and conditions required therein.
- 8.2.4 The policies referred to in subsection 8.2.3 herein above shall be without any deductible amount unless otherwise approved by Broward County's Risk Management Division and shall be issued by approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Broward County, Florida.

## 9. INSURANCE.

- 9.1 LICENSEE and MUNICIPALITY are entities subject to Section 768.28, Florida Statutes, as may be amended from time to time, and each shall furnish Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of this Agreement. Additionally, if LICENSEE or MUNICIPALITY elects to purchase excess liability coverage, LICENSEE and MUNICIPALITY agree that COUNTY will be furnished with a Certificate of Insurance listing "Broward County, Florida" as a certificate holder on each policy and additional insured on the Comprehensive General Liability and Excess policies.
- 9.2 In the event that LICENSEE contracts with a third party to perform any of LICENSEE's obligations under this Agreement, any contract with such third party shall include, at a minimum, the following provisions:
- 9.2.1 Insurance: Contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at the contractor's sole cost and expense, insurance of the types and amounts as set forth herein below. Contractor shall specifically protect Broward County and the Broward County Board of County Commissioners by naming "Broward County, Florida" as additional insured under the Comprehensive General or Commercial Liability Insurance policy hereinafter described as well as any Excess Liability

Policy coverage.

9.2.2 Comprehensive General Liability with minimum limits of One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) per aggregate, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:

- A. Premises and/or Operations.
- B. Contractual Liability
- C. Broad Form Property Damage
- D. Independent Contractors
- E. Personal Injury
- F. Explosion/Collapse/Underground Hazard

9.2.3 Contractor shall furnish to Broward County Certificates of Insurance or Endorsements evidencing the insurance coverages specified by this section prior to the beginning performance of work under this Agreement.

9.2.4 Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of contractor is completed. All policies must be endorsed to provide Broward County with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

9.2.5 The policies referred to above shall be without any deductible amounts unless specifically agreed by COUNTY and shall be issued by approved companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better.

9.2.6 The foregoing requirements represent minimum coverage that shall be contained in LICENSEE's contracts with a third party. Any additional requirements shall be subject to LICENSEE's standard requirements for similar services.

10. MAINTENANCE AND REPAIR OF LICENSED PROPERTY. It shall be the responsibility of LICENSEE to keep the Property clean, sanitary, and free from trash and debris. The upkeep and maintenance of all areas licensed by COUNTY to LICENSEE shall be borne by LICENSEE, and LICENSEE agrees to maintain the Property in accordance with the terms and conditions of this Agreement, consistent

with prudent and well-reasoned maintenance procedures and techniques. LICENSEE specifically agrees to install and maintain the improvements as detailed in the plans as shown in Exhibit "C," in a manner that will not pose a hazard to persons or vehicles on adjacent property or the right-of-way.

11. SECURITY. (Check one)

LICENSEE is obligated to maintain with the COUNTY adequate security in the form of a cash bond or letter of credit in the amount of \$\_\_\_\_\_ to ensure the repair and maintenance of the Property during the term of this Agreement and to ensure restoration of the Property following termination.

There is no obligation for security as a condition for granting this Revocable License Agreement.

12. TERMINATION. This Agreement is merely a right to access and use, and grants no estate in the Property. This Agreement may be terminated by COUNTY, through the Board of County Commissioners or the County Administrator, with or without cause and at any time during the term hereof, upon thirty (30) days written notice to LICENSEE and MUNICIPALITY. It is expressly understood by the parties that LICENSEE is receiving from COUNTY a revocable license which may be terminated at any time by COUNTY for any or no cause whatsoever.

13. SURRENDER UPON TERMINATION.

LICENSEE shall peaceably surrender its use of and deliver the Property to the COUNTY, or its agents, immediately upon expiration or termination of this Agreement.

LICENSEE shall remove from the Property, at LICENSEE'S own expense, anything placed upon it unless the COUNTY, in writing, authorizes LICENSEE to leave any landscaping, irrigation, or related improvements on the Property. COUNTY shall have no obligation to move, reinstall, replace, or in any way compensate LICENSEE for any loss resulting from or arising out of the termination of this Agreement, the requirement to remove the improvements, or the removal of the same by COUNTY upon failure of the LICENSEE to restore the Property. LICENSEE agrees to return the Property to a safe condition following removal of the improvements. LICENSEE shall be obligated to repair or pay for any damage to COUNTY property resulting from the removal of the improvements.

14. WAIVER. Failure of the COUNTY to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right contained in this Agreement, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition, or right; but the same shall remain in full force and effect. None of the conditions, covenants, or provisions of this Agreement shall be waived

or modified by the parties unless done so in writing as provided for in Article 23, below.

15. NOTICES. Whenever either party desires or is required to give notice to the other, it must be given by written notice and sent by certified or registered mail, return receipt requested, sent to the other party at the address set forth below, or to such other address as such party may from time to time designate by notice.

Notice to COUNTY shall be addressed to:

Director of the Broward County Highway Construction  
and Engineering Division  
1 North University Drive, Suite 300B  
Plantation, FL 33324-2038

Notice to LICENSEE shall be addressed to:

Director, Design & Construction  
Broward Health  
303 Southeast 17<sup>th</sup> Street  
Fort Lauderdale, FL 33316  
(954) 355-5979

Notice to MUNICIPALITY shall be addressed to:

City Manager  
City of Fort Lauderdale  
P.O. Drawer 14250  
Fort Lauderdale, FL 33302-4250

16. ENTIRE AGREEMENT. This Agreement embodies the entire agreement between the parties. It may not be modified or terminated except as provided in this Agreement. If any provision herein is invalid, it shall be considered deleted from this Agreement, and such deletion shall not invalidate the remaining provisions.
17. COMPLIANCE WITH LAWS. LICENSEE shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations relating to the use of the Property.
18. VENUE; CHOICE OF LAW; WAIVER OF JURY TRIAL. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any

other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

19. COVENANTS RUNNING WITH THE LAND AND RECORDATION OF AGREEMENT. It is specifically intended that LICENSEE's obligations under this Agreement shall be a covenant upon the Burdened Parcel and shall run with the Burdened Parcel to all succeeding owners. This covenant shall be subject to specific performance in addition to any and all other remedies available to COUNTY. This Agreement shall be recorded in the Public Records of Broward County, Florida, at LICENSEE's expense. Upon termination of this Agreement, a document of equal dignity to this document shall be executed and recorded by COUNTY.
20. CAPTIONS AND HEADINGS. Captions and headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
21. EXHIBITS. The attached Exhibits "A," "B," and "C" contain additional terms of this Agreement and are incorporated herein by reference.
22. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge, and deliver and cause to be done, executed, acknowledged, and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
23. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY, LICENSEE, and MUNICIPALITY.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and LICENSEE, signing by and through its \_\_\_\_\_, duly authorized to execute same, and MUNICIPALITY, signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners

By \_\_\_\_\_, Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Insurance requirements  
approved by Broward County  
Risk Management Division

Approved as to form by  
Joni Armstrong Coffey  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By \_\_\_\_\_  
Signature (Date)

By \_\_\_\_\_  
Al A. DiCalvo (Date)  
Assistant County Attorney

\_\_\_\_\_  
Print Name and Title above

\_\_\_\_\_  
Michael J. Kerr  
Chief Trial Counsel

AAD  
4/10/12; 7/27/12; 8/22/12; 8/27/12; 6/27/13  
NBHD(HealthSouth-SportsMed&OrthoCenter)-RLA\_v3Final-062713.a01.doc



REVOCABLE LICENSE AGREEMENT BETWEEN BROWARD COUNTY, NORTH BROWARD HOSPITAL DISTRICT D/B/A BROWARD HEALTH, AND CITY OF FORT LAUDERDALE FOR NON-EXCLUSIVE ACCESS AND USE OF A PORTION OF COUNTY RIGHT-OF-WAY.

MUNICIPALITY

ATTEST:

CITY OF FORT LAUDERDALE

\_\_\_\_\_  
Municipal Clerk

By \_\_\_\_\_  
Mayor-Commissioner

(SEAL)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Municipal Manager

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

APPROVED AS TO FORM:

By \_\_\_\_\_  
Municipal Attorney

Insert your exhibits, such as:

**EXHIBIT "A"**

(Legal Description of Burdened Parcel)

**EXHIBIT "B"**

(Legal Description of Licensed Property)

**EXHIBIT "C"**

(Sample)

A reduced copy of plans illustrating the landscaping, irrigation, and related improvements, together with a schedule for the maintenance thereof, is included herewith. A full-size set of plans are on file with the Broward County Highway Construction and Engineering Division under Project Reference No. 120110001.

All landscaping shall be properly installed, maintained, and fertilized in accordance with the Broward County Naturescape program and Florida Friendly Landscaping principles.

Broward County Naturescape program information can be found at:

<http://www.broward.org/NaturalResources/NatureScape/Pages/Default.aspx>

Florida-Friendly Landscaping principles and information can be found at:

<http://www.floridayards.org>