

Prepared by and return to:  
Stephen K. Tilbrook, Esq.  
Gray Robinsons, P.A.  
401 East Las Olas Boulevard, Suite 1000  
Fort Lauderdale, FL 33308

Folio Number: 4942 3404 7490

### **ASSUMPTION OF LIABILITY AND HOLD HARMLESS AGREEMENT**

THIS ASSUMPTION OF LIABILITY AND HOLD HARMLESS AGREEMENT ("Assumption Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between:

**SUNRISE 825 LLC**, a Florida Limited Liability Company, whose principal address is 500 W. Cypress Creek Road, Suite 455, Fort Lauderdale, FL 33309 ("OWNER").

and

**CITY OF FORT LAUDERDALE**, a municipal corporation of the State of Florida having a principal address at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter "CITY").

### **R E C I T A L S**

WHEREAS, OWNER is the owner of a parcel of land legally described in **Exhibit "A"** attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Property is located on the north side of SR 838/Sunrise Boulevard, a right-of-way which is under the jurisdiction of the State of Florida Department of Transportation ("FDOT");

WHEREAS, certain Landscape and Landscape Improvements are proposed to be installed in the right-of-way of Sunrise Boulevard consisting of landscaping and irrigation ("Landscape"); and

WHEREAS, the Landscape Improvements are proposed to be installed on the north side of the Sunrise Boulevard right-of-way (between Mile Post 1.119 and MP 1.149) (the "Improvement Area"); and

WHEREAS, in order to permit the Landscape Improvements to be constructed in the FDOT right-of-way, FDOT requires the City to enter into an agreement entitled "State of Florida Department of Transportation District Four Landscape Maintenance Memorandum of Agreement" (the "Agreement") which is attached hereto and incorporated herein as **Exhibit "B"**;  
And

WHEREAS, the terms and conditions as set forth in the Agreement impose responsibility for maintenance of the Landscape Improvements; and

WHEREAS, as a condition to executing the Agreement, OWNER shall agree to assume all liability, obligations and responsibility under the Agreement and agree to indemnify and hold harmless the City from any and all liability under the Agreement only for the Landscape Improvements; and

WHEREAS, OWNER shall not be obligated to assume any maintenance responsibilities with respect to the City Improvements; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the sufficiency and adequacy of which is hereby acknowledged, OWNER and the City hereby agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated herein.
2. **Terms.** The following terms, as used and referred to herein, shall have the meanings set forth below, unless the context indicates otherwise.

*City Manager* means CITY's Chief Executive Officer, its City Manager, or his or her designee.

*City Engineer* means the City Engineer (Urban Design Engineer) for the CITY, or his designee. In the administration of this agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the City Engineer. For the purposes hereof, the CITY Engineer's designee shall be the Urban Design Engineer.

*Day(s).* In computing any period of time expressed in day(s) in this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

*Effective Date* means the effective date of this Assumption Agreement, which shall be the date upon which both (i) this Agreement is executed by the proper corporate officials for OWNER and the CITY and (ii) the Agreement is executed by FDOT and the City.

*Person* means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

**3. Compliance and Default.** OWNER agrees to assume any and all liability and responsibility for performance under the Agreement except that OWNER shall not be liable for any improvements and work done by the City or third parties, unless OWNER provides written consent to such improvements. OWNER hereby agrees to abide by and comply with each and every term and condition set forth in the Agreement and failure to so comply shall constitute a default under this Assumption Agreement. Any acts or omissions by OWNER or OWNER's contractors, agents or employees that are not in compliance with the terms and conditions of the Agreement shall constitute a default under this Assumption Agreement. The Agreement is incorporated into this Assumption Agreement as if fully set forth herein.

#### **4. Indemnification and Hold Harmless.**

(a) OWNER shall protect, defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses charged or incurred, including reasonable attorney's fees actually incurred, or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of OWNER under the Agreement and this Assumption Agreement, conditions contained therein, the location, construction, repair, maintenance use or occupancy by OWNER of the Landscape Improvements, or the breach or default by OWNER of any covenant or provision of the Agreement or this Assumption Agreement, except for any occurrence arising out of or resulting from the intentional torts or negligence of the CITY, its officers, agents and employees. However, this exception shall not be deemed a waiver of the City's sovereign immunity. Without limiting the foregoing, any and all such charges, claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the Improvements by OWNER or others, including but not limited to costs, charges and other expenses charged or incurred, including reasonable attorney's fees and costs actually incurred or liabilities arising out of or in connection with the rights, responsibilities and obligations of OWNER under the Agreement and this Assumption Agreement, or any actual violation of any applicable and known statute, ordinance, administrative order, rule or regulation or decree of any court by OWNER, is included in the indemnity.

(b) OWNER further agrees that upon delivery of proper and timely notice of violations under the Agreement it shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense. The City shall retain the right to select counsel of its own choosing as deemed appropriate. This indemnification shall survive termination, revocation or expiration of the Agreement and this Assumption Agreement and shall cover any acts or omissions occurring during the term of the Agreement and this Assumption Agreement.

**5. Insurance.** At all times during the term of the Agreement and this Assumption Agreement, OWNER, at its expense, shall keep or cause to be kept in effect the insurance coverages for the Landscape Improvements set forth in the Agreement and OWNER shall cause such coverage to be extended to CITY as an additional insured and shall furthermore provide Certificates of Insurance to CITY at least fourteen (14) days prior to the commencement of the Agreement and annually thereafter on the anniversary date of the policies.

#### **6. Removal of Improvements and Restoration of Improvement Area.**

(a) Except as may otherwise be expressly provided herein, it is agreed that upon termination of the Agreement, in whole or in part, OWNER shall remove all or any part of the Landscape Improvements in accordance with the terms and conditions of the Agreement, and OWNER shall restore the right of way and any impacted public utilities to conditions acceptable to FDOT. Such removal and restoration shall be at OWNER's sole cost and expense. In the event OWNER fails to begin to remove all or any part of the Landscape Improvements contemplated herein with thirty (30) days after written demand by FDOT or CITY, the CITY is hereby authorized to remove the Landscape Improvements that interfere with the easement rights or the public's use of dedicated rights-of-way and restore the right of way and any public utilities to conditions acceptable to FDOT, and all reasonable costs associated with the removal and restoration thereof shall be fully reimbursed by OWNER.

(b) In the event OWNER fails to remove the Landscape Improvements, when required to do so in accordance with this Agreement, and CITY finds it necessary to remove the Landscape Improvements in accordance with the foregoing, then the total expense incurred by the CITY in removing the Landscape Improvements and the reasonable administrative costs associated therewith shall be

considered a special assessment and lien upon the Property. OWNER consents to and grants the City the right to place a lien on the Property. OWNER shall have sixty (60) days from the date of the statement of the total expenses incurred by the CITY and the administrative costs associated therewith within which to pay or contest to the CITY the full amount due. Failure to timely pay the amount due or serve upon the CITY Manager a written letter contesting the statement of assessed expenses and administrative costs after an adequate review of no less than sixty (60) days will result in the matter being scheduled before the CITY Commission for consideration of and adoption of a Resolution assessing against the Property the expenses and administrative costs associated with the CITY's removal of the Improvements. The Resolution may also impose a special assessment lien against the Property for the expenses and costs so assessed. A Notice of the Special Assessment assessed by the CITY Commission for the unpaid expenses and costs as stated above shall be recorded with the CITY Clerk and in the Public Records of Broward County, Florida. The assessed expenses and costs and the lien provided for herein may be foreclosed in the manner provided by law. Any lien filed pursuant to this Agreement shall be subordinate to any mortgages/construction financing obtained for any portion of the Project, whether the mortgage/construction financing obtained before or after the Claim of Lien is recorded.

**7. Event of Default; Remedy.** In the event the OWNER fails to perform or violates any of the terms or conditions of the Agreement or this Assumption Agreement or is in breach or default in any term or condition thereof, the City shall notify OWNER of the specific failure or violation of this Assumption Agreement or the Agreement in writing and OWNER shall thereafter have a period of thirty (30) days to cure any such failure or violation to the City's reasonable satisfaction (an "Event of Default"). Upon an Event of Default, the City has the right 1) to take any equitable action to enforce the terms and conditions of the Agreement or this Assumption Agreement, it being stipulated by the parties that since the Agreement and this Assumption Agreement deals with the right to use public easements and rights-of-way of FDOT used for a governmental purpose, a violation or breach of any term or condition of the Agreement or this Assumption Agreement constitutes an irreparable injury to the public and CITY for which there is no adequate remedy at law or 2) take such curative action that was required to be taken by the OWNER under the Agreement and the cost and expense incurred in CITY's curative actions shall be passed on to and owed by OWNER, in which case OWNER shall be liable for payment to CITY for all reasonable and necessary costs and expenses incurred by CITY in connection with the performance of the action or actions associated with the Landscape Improvements. OWNER shall reimburse CITY within thirty (30) days following written demand for payment thereof. Interest shall begin to accrue on the unpaid amount thirty (30) days after the CITY sends the written demand for payment to OWNER, at a rate of twelve percent (12%) per annum simple interest but in no event shall interest exceed the highest amount allowed by Florida law. If a dispute arises as to the need for, or amount due to the CITY for repairs or maintenance undertaken by CITY in accordance with the Agreement or Assumption Agreement, and such dispute is not resolved within thirty days (30) days after the date that CITY makes the written demand for payment, OWNER shall pay to CITY the undisputed amount and shall provide CITY with a bond or other security acceptable to CITY for the disputed amount pending a resolution of the dispute by negotiation or litigation. If OWNER does not make the payments required under this Section within the thirty (30) day period set forth herein, then CITY shall have a right to record a Claim of Lien against the Property, which Lien may be either (a) for the total amount of the fines, including all subsections thereunder, or (b) for all reasonable and necessary costs and expenses of any cure undertaken by CITY in accordance with this Section, the cost of any interim insurance policy as provided herein, and reasonable attorneys' fees and costs associated therewith. The Lien shall be effective upon the recording of a the Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a satisfaction of such lien). In addition to the Lien, CITY shall have all other rights and remedies granted to it at law or in equity for OWNER's failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. CITY shall have all

other rights and remedies granted to it at law or in equity for OWNER's failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. The remedies found within this Section are cumulative. The exercise of one does not preclude the exercise of any other remedy.

**8. Emergencies.** If an emergency situation arises with respect to the Agreement or the Assumption Agreement where the Improvement Area or any condition thereof presents an imminent threat to the health or safety of Persons or property, the CITY shall make reasonable efforts to provide telephone and fax or email notice to OWNER's Contact Person. If, following that notice, OWNER fails to take timely action to correct the emergency situation, and allowing the emergency situation to continue would pose an imminent threat to health or safety to Persons or property, CITY may undertake such limited actions as are necessary to eliminate the emergency; and CITY shall be entitled to recover its reasonable costs of cure or resolve the emergency from OWNER in accordance with provisions hereof. For the purposes of this Paragraph, OWNER Contact Person shall be **Felipe Yalale** telephone number 954-489-2400; and e-mail address: felipeyalale@urbanoco.com. In the event the OWNER's Contact Person or any other information pertaining to the OWNER's Contact Person shall change, such change shall be provided to the CITY Engineer in writing.

**9. Damage to Public Property.** In the event the use, operation, maintenance, repair, construction, demolition or reconstruction of the Landscape Improvements cause(s) any damage whatsoever to any other public property, then OWNER shall be responsible for the cost of repair and shall, at CITY's option, make said repairs, subject to CITY's reasonable satisfaction.

**10. Notices.**

(a) Except as provided in subparagraph (c) below, whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in the Agreement or this Assumption Agreement, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by hand delivery, or by a nationally recognized overnight courier, or by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as OWNER may from time to time designate by notice as herein provided.

(b) All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder upon receipt if by hand delivery, or upon one (1) business day after deposit with such overnight courier as required above, or upon two (2) business days after deposit with the United States mail, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

AS TO CITY: Christopher J. Lagerbloom, ICMA-CM  
City Manager  
City Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

With copy to: Alain Boileau, Esq.  
City Attorney  
City of Fort Lauderdale

100 North Andrews Avenue  
Fort Lauderdale, FL 33301

With a copy to: Transportation and Mobility Director  
City of Fort Lauderdale  
290 N.W. 3<sup>rd</sup> Avenue  
Fort Lauderdale, FL 33301

AS TO OWNER: Sunrise 825 LLC  
Attn: Felipe Yalale  
500 West Cypress Creek Road, Suite 455  
Fort Lauderdale, FL 33309

With copy to: Stephen Tilbrook, Esq.  
GrayRobinson, P.A.  
401 East Las Olas Blvd, Suite 1000  
Fort Lauderdale, FL 33301

(c) As to activities under Paragraph 8, Emergencies, notice need not be given in accordance with subparagraph (a) above, but notice shall be sufficient if given to the Contact Person pursuant to Paragraph 8, Emergencies.

**11. Independent Contractor.** As between CITY and OWNER, OWNER is an independent contractor under this Assumption Agreement. In providing such services, neither OWNER nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to OWNER or OWNER's agents any authority of any kind to bind CITY in any respect whatsoever.

**12. Joint Preparation.** Each party and its counsel have participated fully in the review and revision of this Assumption Agreement and acknowledge that the preparation of this Assumption Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Assumption Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

**13. Interpretation of Agreement; Severability.** This Assumption Agreement shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Assumption Agreement or the application of the remainder of the provisions, shall not be affected. Rather, this Assumption Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Assumption Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of this Assumption Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Assumption Agreement, unless otherwise expressly provided. All terms and words used in this Assumption Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

**14. Successors.** This Assumption Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns. It is intended that this Assumption Agreement and the rights and obligations set forth herein shall run with the land and shall bind every person having any fee, leasehold

or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

**15. No Waiver of Sovereign Immunity.** Nothing contained in this Assumption Agreement is intended to serve as a waiver of sovereign immunity by the City to which sovereign immunity may be applicable.

**16. Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Assumption Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

**17. Non-Discrimination.** OWNER shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Assumption Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

**18. Records.** Each party shall maintain its own respective records and documents associated with this Assumption Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes as applicable, and any resultant award of attorney's fees for non-compliance with that law.

**19. Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Assumption Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**20. Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Assumption Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Assumption Agreement shall not be deemed a waiver of such provision or modification of this Assumption Agreement. A waiver of any breach of a provision of this Assumption Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Assumption Agreement.

**21. Governing Law.** This Assumption Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Assumption Agreement and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Assumption 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 Assumption Agreement, CITY and OWNER hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to the Agreement or this Assumption Agreement or any acts or omissions in relation thereto.**

**22. Recording.** This Assumption Agreement shall be recorded in the Public Records of Broward County, Florida, the costs of which shall be borne by OWNER. OWNER shall record this Assumption Agreement and a copy of the recorded Assumption Agreement shall be provided to City and filed with the City Clerk's Office.

**23. Term.** This Assumption Agreement shall continue in full force and effect until such time as the Agreement becomes null and void by removal of the Landscape Improvements, by operation of law or in accordance with the terms of the Agreement, or is terminated by a court order or mutual agreement between OWNER, FDOT and CITY and no obligations lying thereunder survive such termination.

**24. Assignment.** OWNER may assign this Assumption Agreement without the prior written consent of the City to a transferee of the fee simple interest in the Property or to an owner responsible for the common areas of the Property (including a condominium association, homeowner's association or property owner's association) with written notice of such assignment and delivery of a copy of the written assumption of responsibilities executed by the assignor and recorded in the Public Records of Broward County, Florida.

**25. Police Power.** Nothing herein shall be construed as a waiver of the City's police power. OWNER shall comply with the City's codes, ordinances and regulations with respect to installation and construction of the Landscape Improvements. OWNER shall construct operate and maintain the Landscape Improvements in compliance with all health, sanitary, fire, zoning and building code requirements and any other governing authority with jurisdiction over the Improvement Area and Improvements.

**26. No Property Rights.** OWNER expressly acknowledges that pursuant to the terms hereof, it gains no property right through this Assumption Agreement or the Agreement to the continued possession or use of the Landscape Improvements within the Improvement Area.

(SIGNATURES TO FOLLOW)



IN WITNESS WHEREOF, the undersigned does hereby warrant that they are authorized to enter into this Assumption Agreement by OWNER and the CITY OF FORT LAUDERDALE.

Witnesses:

[Signature]  
(Witness #1 Signature)

Paula Pinto  
(Print Name)

[Signature]  
(Witness #2 Signature)

Jennifer Albuquergo  
(Print Name)

OWNER:

SUNRISE 825 LLC, a Florida Limited Liability Company

By: [Signature]

Print Name: Felipe Yalale

Title: Manager

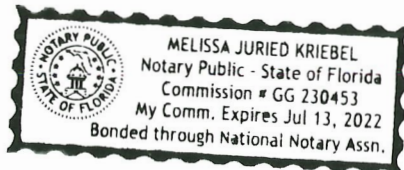
#### ACKNOWLEDGEMENT

STATE OF Florida )  
COUNTY OF Broward )SS

The foregoing instrument was acknowledged before me this 8 day of April, 2019, by Felipe Yalale, as manager of SUNRISE 825 LLC, a Florida Limited Liability Company, who is known to me or who has produced \_\_\_\_\_, as identification.

My Commission Expires: July 13, 2022

[Signature]  
NOTARY PUBLIC  
Type or Print Name: Melissa Juried Kriebel



**AS TO CITY:**

**WITNESSES:**

**CITY OF FORT LAUDERDALE**

\_\_\_\_\_

\_\_\_\_\_  
[Witness type or print name]

By \_\_\_\_\_  
Christopher J. Lagerbloom, City Manager

\_\_\_\_\_

[Witness type or print name]

**ATTEST:**

(CORPORATE SEAL)

\_\_\_\_\_  
Jeffrey A. Modarelli, City Clerk

Approved as to form:  
Alain Boileau, City Attorney

By: \_\_\_\_\_  
Print Name: Kimberly Cunningham Mosley  
Title: Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by **Dean J. Trantalis**, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:  
\_\_\_\_\_

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by **Christopher J. Lagerbloom**, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:  
\_\_\_\_\_

**Exhibit A**

**Legal Description of the Property**

Lot 16 through 24, both inclusive, less the South 15 feet of said Lot 24, all in Block 178, of PROGRESSO, according to the Plat thereof, as recorded in Plat Book 2, Page 18 of the Public Records of Miami-Dade County, Florida; said lands lying, situate and being in the City of Fort Lauderdale, Broward County, State of Florida.

**Exhibit B**

**See attached  
“State of Florida Department of Transportation  
District Four Landscape Maintenance  
Memorandum of Agreement”**

SECTION No.: 860005000  
S.R. No.: 838  
PERMIT No(s): 2018-L-491-00026  
COUNTY: BROWARD

**DISTRICT FOUR (4) AMENDMENT NUMBER FOUR (4) TO STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION LANDSCAPE INCLUSIVE  
MEMORANDUM OF AGREEMENT**

**THIS AMENDMENT** Number Four (4) to the Agreement dated December 12, 2007, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT and the **CITY OF FORT LAUDERDALE**, a municipal subdivision of the State of Florida, hereinafter called the AGENCY.

**W I T N E S S E T H**

**WHEREAS**, the parties entered into the Landscape Inclusive Maintenance of Agreement dated, December 12, 2007 for the purpose of maintaining the landscape improvements by the AGENCY on various roads including State Road 838 (Sunrise Boulevard); and,

**WHEREAS**, the DEPARTMENT and the AGENCY have agreed to add additional landscape to be installed, per Permit #2018-L-491-00026 on State Road 838 (Sunrise Boulevard) issued to Sunrise 825 LLC, in accordance with the above referenced Agreement; and,

**WHEREAS**, the parties hereto mutually recognize the need for entering into an Amendment designating and setting forth the responsibilities of each party, and

**NOW THEREFORE**, for and in consideration of mutual benefits that flow each to the other, the parties covenant and agree as follows:

1. Pursuant to page 1, paragraph 1 of the Landscape Inclusive Maintenance Memorandum of Agreement Amendment Number Two (2) for State Road 838 (Sunrise Boulevard) dated January 3, 2014, the DEPARTMENT will allow the AGENCY to have constructed additional landscape improvements or to modify an improvement located as indicated in **Exhibit "A"**, State Road 838 (Sunrise Boulevard) from M.P. 1.119 to M.P. 1.149, in accordance with the plans attached as **Exhibit "B"**.
2. The AGENCY shall agree to maintain the additional landscape improvements in the Inclusive Agreement described above according the **Exhibit "C"** Maintenance Plan, of the original agreement and add the following provision:

## **II. Specific Project Site Maintenance Requirements and Recommendations:**

*Proposed trees shall be maintained to 8' clear trunk per original specification and pruned to keep canopy width within planter area and out of roadway and sidewalk. Juniper groundcover shall be maintained at 12' maximum height.*

Except as modified by this Amendment, all terms and conditions of the original Agreement and all Amendments thereto shall remain in full force and effect.

### **LIST OF EXHIBITS**

Exhibit A - Landscape Improvements Limits and Maintenance Boundaries and Location Map

Exhibit B - Landscape Improvement Plans

**In Witness whereof**, the parties hereto have executed with this Amendment effective the \_\_\_\_ day \_\_\_\_\_ year written and approved.

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

CITY OF FORT LAUDERDALE, through its  
CITY COMMISSIONERS

By: \_\_\_\_\_  
Transportation Development Director

By: \_\_\_\_\_  
Christopher J. Lagerbloom, City Manager  
\_\_\_\_\_ day of \_\_\_\_\_, 2019

Attest: \_\_\_\_\_ (SEAL)  
Executive Secretary

Legal Review

Date

Approved as to form by Office of City Attorney

\_\_\_\_\_  
Office of the General Counsel

\_\_\_\_\_  
Kimberly Cunningham Mosley,  
Assistant City Attorney

ATTEST:

\_\_\_\_\_  
Jeffrey A. Modarelli, City Clerk

(SEAL)



SECTION No.: 860005000  
S.R. No.: 838  
PERMIT No(s): 2018-L-491-00026  
COUNTY: BROWARD

## EXHIBIT A

### LANDSCAPE IMPROVEMENTS PROJECT LIMITS

### MAINTENANCE BOUNDARIES LIMITS AND LOCATION MAP

I. PERMIT LANDSCAPE PROJECT LIMITS:

Section 8602000

State Road 838 (Sunrise Boulevard) from M.P. 1.119 to M.P. 1.149

II. INCLUSIVE LANDSCAPE MAINTENANCE AGREEMENT LIMITS:

Section 86110000

State Road 838 (Sunrise Boulevard)

M.P. 5.789 (east of N.W. 24<sup>th</sup> Avenue) to M.P. 8.161 (State Road 5/US 1)

Entire right of way

Section 86020000

State Road 838 (Sunrise Boulevard) / State Road 5 (US 1/Federal Highway) M.P. 1.060  
(State Road 838/Sunrise Boulevard) to M.P. 1.911 (N.E. 18<sup>th</sup> Avenue)

Entire right of way

Section 86005000

State Road 838 (Sunrise Boulevard)

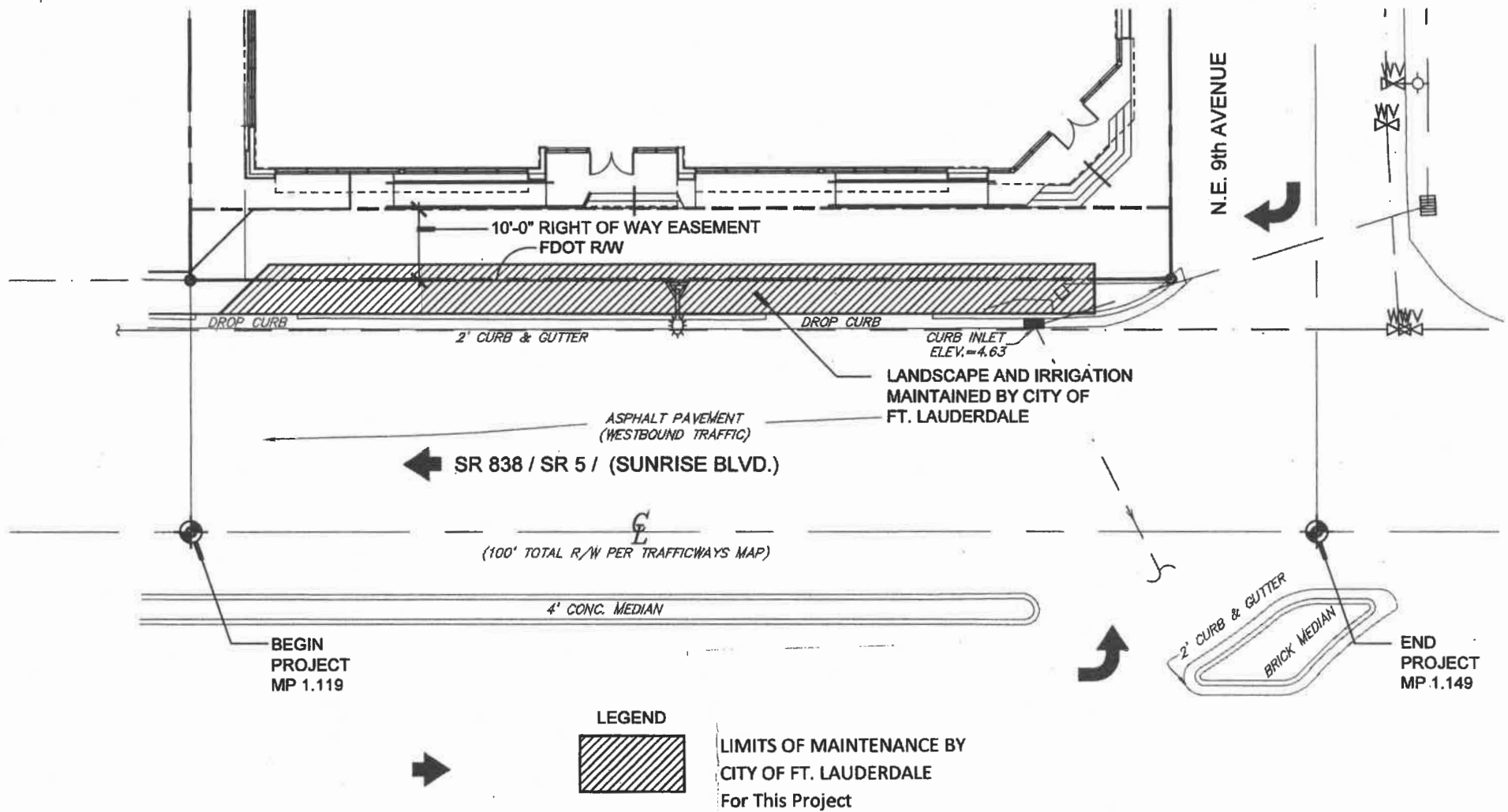
M.P. 0.000 (N.E. 18<sup>th</sup> Avenue) to M.P. 1.191 (State Road A1A)

Entire right of way

III. LANDSCAPE IMPROVEMENTS MAINTENANCE BOUNDARY LIMITS MAP:

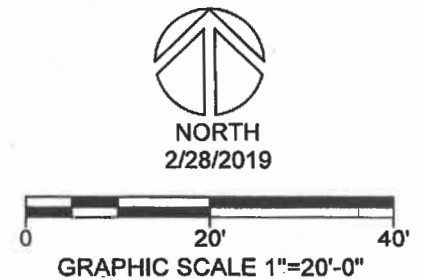
*\*All limits of the original agreement and amendments shall apply*

Please See Attached



# **LANDSCAPE IMPROVEMENT MAINTENANCE BOUNDARY MAP**

**CITY OF FORT LAUDERDALE  
FDOT PERMIT NUMBER 2018-L-491-00026**



SECTION No.:	860005000
S.R. No.:	838
PERMIT No(s).:	2018-L-491-00026
COUNTY:	BROWARD

## **EXHIBIT B**

### **LANDSCAPE IMPROVEMENT PLANS**

The AGENCY agrees to install the landscape improvements in accordance with the plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by: Rhett Roy Landscape Architecture/Planning, P.A.  
Rhett G. Roy, RLA.

Date: December 12, 2018

**825 SUNRISE BLVD.**  
**825 EAST SUNRISE BLVD.**  
**FT. LAUDERDALE, FL 33304**  
**BROWARD COUNTY**

(SR 838 / SR 5 / SUNRISE BLVD.)

INDEX OF LANDSCAPE PLANS  
 SHEET NO. SHEET DESCRIPTION

--- COVER SHEET  
 LP-1 LANDSCAPE PLAN  
 LR-1 IRRIGATION PLAN

END PROJECT  
 MP 1.149  
 BEGIN PROJECT  
 MP 1.119  
 ROADWAY DESIGN  
 SPEED = 35 MPH

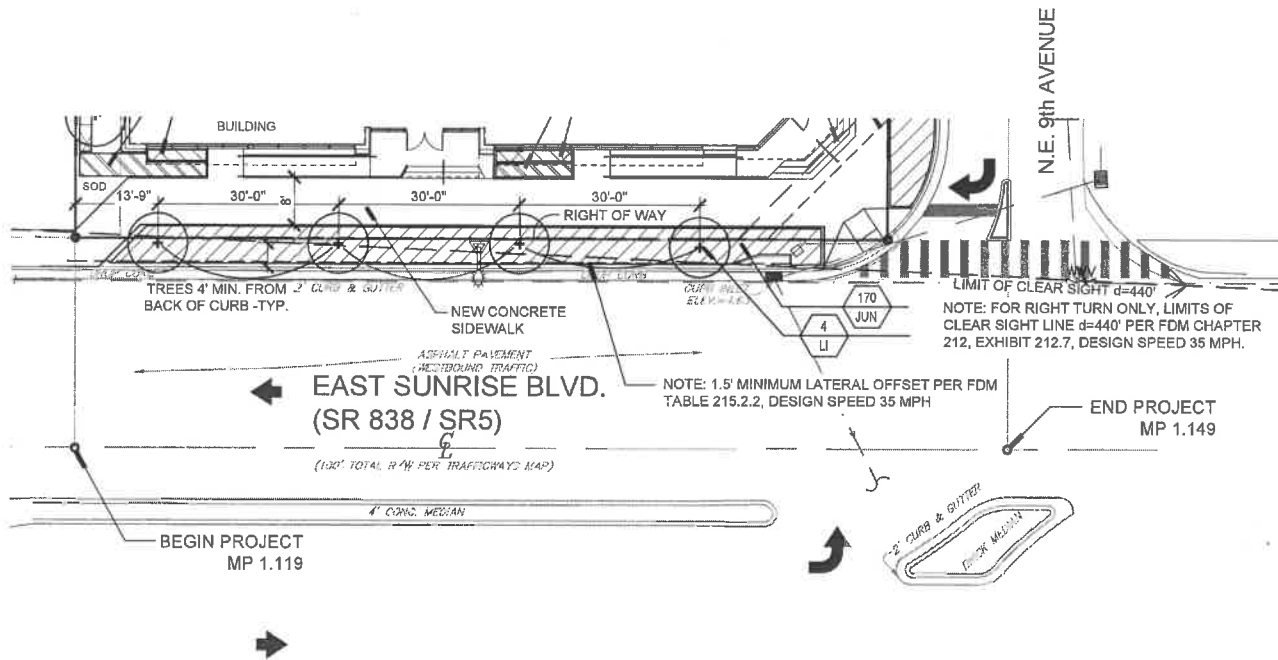


GOVERNING STANDARD PLANS: FLORIDA DEPARTMENT OF  
 TRANSPORTATION, FY 2018-19 STANDARD PLANS FOR ROAD AND  
 BRIDGE CONSTRUCTION AND APPLICABLE INTERIM REVISIONS (IRS).  
 GOVERNING STANDARD SPECIFICATIONS: FLORIDA DEPARTMENT OF  
 TRANSPORTATION JULY 2018 STANDARD SPECIFICATIONS FOR ROAD  
 AND BRIDGE CONSTRUCTION.



REVISED 12/12/2018

FDOT PERMIT # 2018-L-491-00026



NOTE: CYPRESS MULCH IS NOT PERMITTED ON FDOT RIGHT OF WAY. MULCH PERMITTED TO BE USED ARE HARDWOOD MULCH (CONTAINING NO CYPRESS PRODUCTS), RECYCLED MULCH OR APPROVED EQUAL, CERTIFIED BY THE MULCH AND SOIL COUNCIL (MSC). SUBMIT PROOF OF CERTIFICATION TO THE FDOT DISTRICT OPERATIONS PERMIT LANDSCAPE INSPECTOR UPON INSPECTION.

NOTE: OWNERSHIP OF ALL SUITABLE EXCAVATED MATERIAL, AS DETERMINED BY THE DEPARTMENT, SHALL REMAIN IN THE DEPARTMENT UNTIL FINAL ACCEPTANCE OF THE PERMITTED PROJECT IS FULFILLED. EXCAVATED MATERIALS SHALL BE HAULED BY THE PERMITTEE, AT THEIR COST & EXPENSE FROM THE SITE TO THE BROWARD OPERATIONS CENTER OR STOCKPILED IN THOSE AREAS AS DIRECTED BY THE DEPARTMENT, INCLUDING ASPHALT MILLINGS.

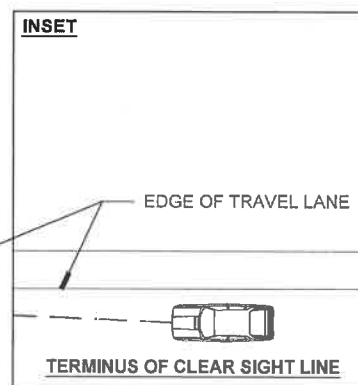
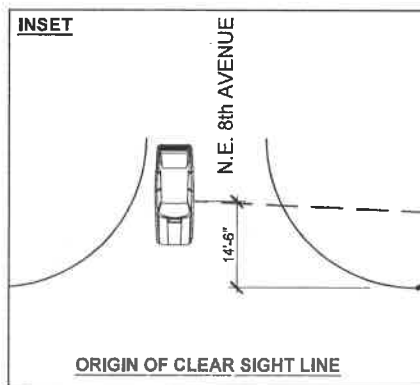
NOTE: CONTRACTOR SHALL REPAIR ANY AND ALL DAMAGE DONE TO FDOT PROPERTY DURING DEMOLITION, RELOCATIONS AND/OR INSTALLATION ACTIVITIES AT HIS SOLE EXPENSE.

#### NOTES:

- FOR THE PORTION OF LANDSCAPE MATERIAL THAT WILL BE INSTALLED WITHIN THE FDOT RIGHT OF WAY REFER TO FDOT STANDARD PLANS INDEX 580-001 LANDSCAPE INSTALLATION.
- LANDSCAPE INSTALLATION WITHIN FDOT RIGHT OF WAY SHALL COMPLY WITH CURRENT FDOT MAINTENANCE SPECIFICATIONS 580-2.1
- PROVIDE MINIMUM PLANTING VERTICAL CLEARANCE, AS REQUIRED BY THE FDOT MAINTENANCE RATING PROGRAM:
  - a. SIDEWALK = 8.5' VERTICAL CLEARANCE
  - b. ROADWAY = 14.5' VERTICAL CLEARANCE
- INSTALL GRADE A EUCALYPTUS MULCH IN PLANTING BEDS
- SODDED AREAS WILL BE IN ACCORDANCE WITH STANDARD PLANS INDEX 570-010 AND STANDARD SPECIFICATIONS SECTIONS 162, 570, 961, 962, 963 AND 967 OF THE DEPARTMENT'S LATEST EDITION OF GOVERNING DESIGN STANDARDS AND STANDARD SPECIFICATIONS. ALL DISTURBED AREAS WILL BE SODDED WITHIN ONE (1) WEEK OF INSTALLATION OF SAID PERMITTED WORK.

#### PLANT LIST

SYM	ITEM	SPECIFICATION	QUAN
LI	Lagerstroemia indica Standard	14' ht., 6' spr., 8' c.t., 3" d.b.h.	4
	Crape Myrtle		
JUN	Juniperus chinensis Blue Pacific	8' ht. x 24" spr., 24" o.c.	170
	Shore Juniper		



REVISED 12/12/2018

#### LANDSCAPE PLAN 825 SUNRISE BLVD. FT. LAUDERDALE, FLORIDA LP-1

Rhett Roy  
Landscape Architecture - Planning  
412 North Andrews Avenue  
Fort Lauderdale, FL 33301  
954-462-0704

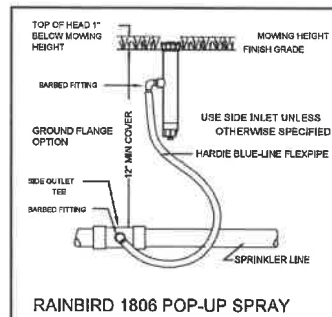
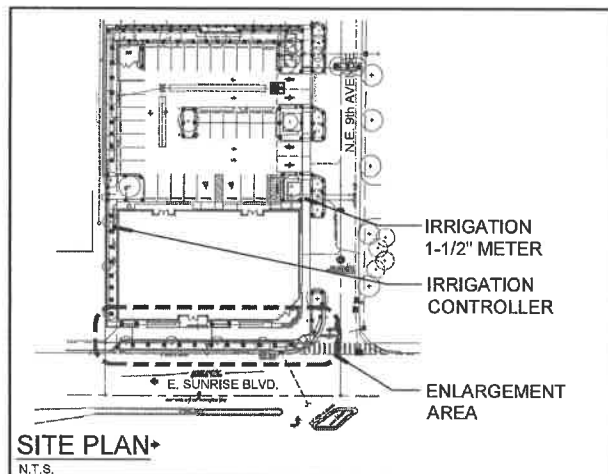
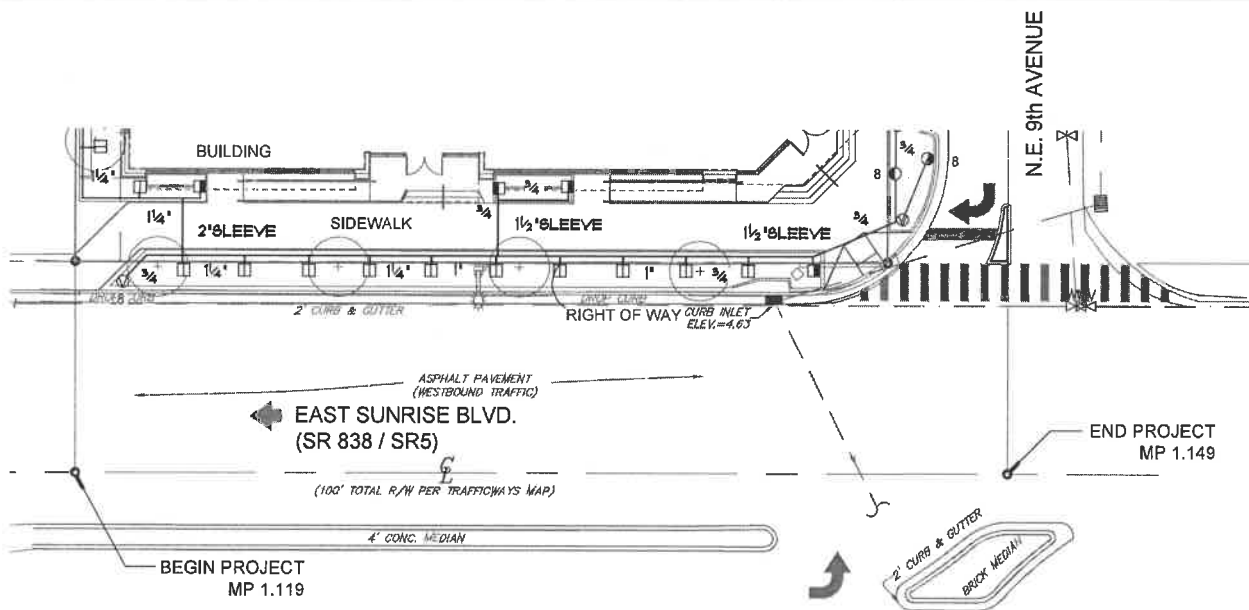


NORTH  
SCALE: 1"=20'-0"  
OCT. 26, 2018

0 20'

Always call 811 two full business days before you dig.  
**Sunshine811.com**

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NOTE: OWNERSHIP OF ALL SUITABLE EXCAVATED MATERIAL, AS DETERMINED BY THE DEPARTMENT, SHALL REMAIN IN THE DEPARTMENT UNTIL FINAL ACCEPTANCE OF THE PERMITTED PROJECT IS FULFILLED. EXCAVATED MATERIALS SHALL BE HAULED BY THE PERMITTEE, AT THEIR COST & EXPENSE FROM THE SITE TO THE BROWARD OPERATIONS CENTER OR STOCKPILED IN THOSE AREAS AS DIRECTED BY THE DEPARTMENT, INCLUDING ASPHALT MILLINGS.

- NOTES:
- CONTRACTOR SHALL REPAIR ANY AND ALL DAMAGE DONE TO FDOT PROPERTY DURING DEMOLITION, RELOCATIONS AND/OR INSTALLATION ACTIVITIES AT HIS SOLE EXPENSE.
  - FDOT REQUIRES 24 HOUR EMERGENCY ACCESS TO WATER SOURCE.
  - CONTRACTOR SHALL PROVIDE FDOT DISTRICT OPERATIONS MANAGER WITH A SET OF "AS-BUILT" IRRIGATION PLANS.

REVISED 12/12/18

**IRRIGATION PLAN**  
**825 SUNRISE BLVD.**  
**FT. LAUDERDALE, FLORIDA**  
**LR-1**

Rhett Roy  
 Landscape Architecture - Planning  
 412 North Andrews Avenue  
 Fort Lauderdale, FL 33301  
 954-462-0704



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