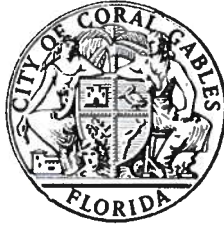


# Contract Routing Form

CONTRACT: FOOT Gable Station MMOA



## Route for Review and Approval (Signature and Date):

- 1. Procurement Officer: N/A Date: \_\_\_\_\_
- 2. Department Director: N/A Date: \_\_\_\_\_
- 3. Risk Management: N/A Date: \_\_\_\_\_
- 4. Management & Budget: N/A Date: \_\_\_\_\_
- 5. Finance Director: N/A Date: \_\_\_\_\_
- 6. City Attorney: [Signature] Date: 9.18.19
- 7. Asst. City Manager: [Signature] Date: 9/10/19
- 8. City Manager: [Signature] Date: 9/10/19
- 9. City Clerk: [Signature] Date: 9/19/19

Please contact the Procurement Division at extension 5102 if you have any questions about this contract.

**City of Coral Gables, FL**  
Finance Department / Procurement Division  
2800 SW 72<sup>nd</sup> Avenue – Miami, FL 33155



**FLORIDA DEPARTMENT OF TRANSPORTATION  
GABLES STATION IMPROVEMENTS  
MAINTENANCE MEMORANDUM OF AGREEMENT  
WITH THE CITY OF CORAL GABLES**

This **AGREEMENT**, entered into on \_\_\_\_\_, 20 , by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **City of Coral Gables**, a municipal corporation of the State of Florida, hereinafter called the **CITY**, and collectively referred to as the **PARTIES**.

**RECITALS:**

- A. The **DEPARTMENT** has jurisdiction over **State Road 5 (US-1) (South Dixie Highway) from S. Grand Avenue to Ponce DeLeon Boulevard**, which is located within the limits of the **CITY**; and
- B. Pursuant to **Permit # 2018-A-690-007, 2019-L-690-00007 and 2019-D-690-00043**, certain modifications and improvements within **DEPARTMENT** right-of-way and easements on State Road 5 from S. Grand Avenue to Ponce DeLeon Boulevard, the limits of which are further described Exhibit 'A' attached hereto and made part hereof (**PROJECT LIMITS**), have been approved in accordance with the design plans referenced in said Permit (**PLANS**); and
- C. Pursuant to **Permit # 2018-A-690-007, 2019-L-690-00007 and 2019-D-690-00043**, modifications and improvements were made within private property, as shown in Exhibit 'B', and specifically included in the **PROJECT LIMITS**; and
- D. The **CITY** has agreed to maintain the above-referenced modifications and improvements within the **PROJECT LIMITS** and any future modifications and improvements which may be permitted by the **DEPARTMENT** within the **PROJECT LIMITS** at a later date (hereinafter the **IMPROVEMENTS**); and
- E. The **PARTIES** to this **AGREEMENT** mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party with regards to the maintenance of the **IMPROVEMENTS**; and

F. The **CITY** desires to enter into this **AGREEMENT** and its officers are authorized to do so.

**NOW, THEREFORE,** for and in consideration of the mutual benefits contained herein and other good and valuable consideration, the **PARTIES** covenant and agree as follows:

**1. RECITALS**

The recitals in this **AGREEMENT** are true and correct, and are incorporated herein by reference and made a part hereof.

**2. ASSIGNMENT**

The **PARTIES** agree that the execution of this **AGREEMENT** shall constitute the assignment of all maintenance and repair responsibilities and obligations pertaining to the **IMPROVEMENTS** within the **PROJECT LIMITS** to the **CITY**, in perpetuity.

**3. DEPARTMENT RESPONSIBILITIES**

The **DEPARTMENT** may, at its sole discretion, perform periodic inspection of the **IMPROVEMENTS** to ensure that the **CITY** is performing its duties pursuant to this **AGREEMENT**. The **DEPARTMENT** shall share with the **CITY** its inspection findings, and may use those findings as the basis of its decisions regarding maintenance deficiencies, as set forth in Section 4 of this **AGREEMENT**.

The **DEPARTMENT** will be responsible for the maintenance and repair of the turn lane, curb and gutter, and inlets.

**4. CITY'S RESPONSIBILITIES**

The **CITY** shall inspect, manage and perform maintenance and repairs of all **IMPROVEMENTS** located within the **PROJECT LIMITS**, including all repairs to the covered walkway above the **IMPROVEMENTS**. The **CITY** shall further inspect the **PROJECT LIMITS** to ensure that no unpermitted **IMPROVEMENTS** or modifications are installed or constructed, and that any such unpermitted **IMPROVEMENTS** or modifications are immediately removed, or permitted in accordance with the **DEPARTMENT'S**

permitting requirements. Notwithstanding the foregoing, the **CITY** shall be obligated to remove any **IMPROVEMENTS** or features within the **PROJECT LIMITS** that may cause an unsafe condition to the public.

The **CITY**'s maintenance and repair obligations shall extend and include, but not be limited to, sidewalks, sidewalk lighting, pavers, pedestrian ramps, grass, landscape, planters, irrigation, vents, and grates located within the **PROJECT LIMITS** on State Right of Way and easements.

The **CITY** shall be responsible for and inspect, maintain, repair and manage or cause to be maintained and repaired all aboveground features located within the footprints of the **PROJECT LIMITS**, including but not limited to commercial elements, banners, vending machines, decorative lighting, ornamental light fixtures, benches, ash urns, trash receptacles, bicycle racks, valet parking stations, play/entertainment areas, event tents and platforms, kiosks, tables and chairs, advertising items, decorations, and other features installed within the **PROJECT LIMITS** from time to time, pursuant to a duly issued permit.

The **CITY** shall ensure that a **CLEAR PEDESTRIAN PATH** is maintained at all time in the State Right of Way and easements, within the **PROJECT LIMITS**. For purposes of this **AGREEMENT**, the **CLEAR PEDESTRIAN PATH** is defined as an American Disabilities Act (ADA) compliant continuous, properly lighted, safe and unobstructed way of pedestrian passage within the **PROJECT LIMITS**, extending horizontally six (6) feet. No **IMPROVEMENTS**, features, obstructions or encroachments of any kind shall be permitted within the **CLEAR PEDESTRIAN PATH** at any time, except as may be required, and approved by the **DEPARTMENT**, pursuant to the Paragraph hereunder.

The **CITY** shall maintain the **IMPROVEMENTS** in accordance with all applicable **DEPARTMENT** guidelines, standards, and procedures, which shall include but shall not be limited to the Maintenance Rating Program Handbook, as may be amended from time to time. Additionally, when the **DEPARTMENT** does not have guidelines, standards, and procedures related to certain maintenance activities, the **CITY** shall maintain the **IMPROVEMENTS** in accordance with Federal standards, guidelines, and procedures, as may be amended from time to

time, and in accordance with the standards set forth in the **PLANS**, in the Project Specifications, Special Provisions and all Manufacturer's and Vendor's maintenance recommendations. The **CITY** shall ensure that any **IMPROVEMENTS** comply with the terms of this **AGREEMENT** and meet the **DEPARTMENTS'**s safety guidelines.

**4.1** The **CITY's** responsibilities and maintenance obligations hereunder shall include, but not be limited to:

- a. Performing routine and regular inspections of the **CLEAR PEDESTRIAN PATH** surface to ensure that the surface is ADA compliant;
- b. Identifying damage and/or malfunctions in the surfaces; and repairing and/or replacing damaged areas to ensure surfaces are maintained and that they do not pose safety hazards for the public.
- c. Conducting annual condition surveys of the surfaces for gaps, settlement, drop-offs, delamination, cracking and other deficiencies described in this **AGREEMENT**.
- d. Ensuring that gaps within the surfaces shall not exceed a quarter (1/4) of an inch. Differential settlement within the concrete/finish surfaces shall not exceed a quarter (1/4) of an inch in depth.
- e. Undertaking the maintenance and repair (when needed) of proposed detectable warning surface as specified in the **PLANS** and the latest **STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION** and in accordance with all applicable **DEPARTMENT** guidelines, standards, and all applicable ADA requirements, as amended from time to time.
- f. Pruning all plant materials, which include trees, shrubs and ground covers, and parts thereof, including all material from private property encroaching into the **DEPARTMENT'S** Right-of-Way.
- g. All pruning and trimming will follow the Maintenance Rating Program Handbook which specifically requires no encroachment of trees, tree limbs or vegetation in or over travel way (or clear zone) lower than 14.5 feet, or lower than 10 feet over sidewalks.

- h. Removing and properly disposing of dead, diseased or otherwise deteriorated plants in their entirety, and replacing those that fall below the standards set forth in the Project Plans and in the Project Specifications, incorporated herein by reference, and all applicable **DEPARTMENT** guidelines, standards and procedures, as may be amended from time to time. All replacement materials shall be in accordance with the Project Plans and the Project Specifications and Special Provisions.
- i. When remedial action is required in accordance with the above requirements, the **CITY** at its own expense shall complete all necessary repairs within ninety (90) days of the date the deficiency is identified.
- j. The **CITY** is responsible for obtaining copies of all applicable rules, regulations, policies, procedures, guidelines, and manuals, and the Project Specification and Special Provisions, as may be amended from time to time.
- k. Maintaining a service log of all maintenance operations that sets forth the date of the maintenance activity, the location that was maintained, and the work that was performed.
- l. Submitting Lane Closure Requests to the **DEPARTMENT** when maintenance activities will require the closure of the sidewalk or a traffic lane in the **DEPARTMENT's** right-of-way. Lane closure requests shall be submitted through the District Six Lane Closure Information System, to the **DEPARTMENT's** area Permit Manager and in accordance with the District Six Lane Closure Policy, as may be amended from time to time.

##### **5. MAINTENANCE DEFICIENCIES**

If at any time it shall come to the attention of the **DEPARTMENT** that the **CITY's** responsibilities as established herein are not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **DEPARTMENT** may, at its option, issue a written notice, in care of the **CITY MANAGER**, to notify the **CITY** of the maintenance deficiencies. From the date of receipt of the notice, the **CITY** shall have a period of thirty (30) calendar days, within which to correct the cited

deficiency or deficiencies. Receipt is determined in accordance with Section 6 of this **AGREEMENT**.

If said deficiencies are not corrected within this time period, the **DEPARTMENT** may, at its option, proceed as follows:

- a. Maintain the **IMPROVEMENTS** or a part thereof and invoice the **CITY** for expenses incurred; or
- b. Terminate this **AGREEMENT** in accordance with Section 8, remove any or all **IMPROVEMENTS** located within the **PROJECT LIMITS**, and charge the **CITY** the reasonable cost of such removal; and
- c. Enforce the terms set forth in the Sidewalk Easement and Transportation Easement, both recorded in Miami-Dade County, between the **DEPARTMENT** and the property owner.

## **6. NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

**To the DEPARTMENT:** Florida Department of Transportation  
1000 Northwest 111 Avenue, Room 6205  
Coral Gables, Florida 33172-5800  
Attn: District Maintenance Engineer

**To the CITY:** City of Coral Gables  
405 Biltmore Way  
Coral Gables, FL 33134  
Attention: City Manager

Notices shall be deemed to have been received by the end of five (5) business days from the proper sending thereof unless proof of prior actual receipt is provided.

## **7. REMOVAL, RELOCATION OR ADJUSTMENT OF THE IMPROVEMENTS**

The **PARTIES** agree that the **IMPROVEMENTS** addressed by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future, at the **DEPARTMENT's** sole discretion. In the



event that the **DEPARTMENT** relocates or adjusts the **IMPROVEMENTS**, the **CITY's** maintenance responsibilities will survive the relocation or adjustment, as long as the materials remain within the **PROJECT LIMITS**.

## **8. TERMINATION**

This **AGREEMENT** is subject to termination under any one of the following conditions:

- a. By the **DEPARTMENT**, if the **CITY** fails to perform its duties under Section 4 of this **AGREEMENT**, following the thirty (30) days written notice, as specified in Section 5 of this **AGREEMENT**.
- b. In accordance with Section 287.058(1)(c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **CITY** pertinent to this **AGREEMENT** which are subject to provisions of Chapter 119, of the Florida Statutes.
- c. If mutually agreed to by both parties, upon thirty (30) days advance notice. An agreement to terminate shall be valid only if made in writing and executed with the same formalities as this **AGREEMENT**.

## **9. TERMS**

- a. The effective date of this **AGREEMENT** shall commence upon execution by the **PARTIES**. This **AGREEMENT** shall continue in perpetuity or until termination as set forth in Section 7.
- b. E-Verify

The **CITY** shall:

- i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and

- ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. **(Executive Order Number 2011-02)**

The **CITY** shall insert the above clause into any contract entered into by the **CITY** with vendors or contractors hired by the **CITY** for purposes of performing its duties under this **AGREEMENT**.

- c. This writing embodies the entire **AGREEMENT** and understanding between the **PARTIES** hereto and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
- d. This **AGREEMENT** shall not be transferred or assigned, in whole or in part, without the prior written consent of the **DEPARTMENT**.
- e. This **AGREEMENT** shall be governed by and constructed in accordance with the laws of the State of Florida. Any provisions of this **AGREEMENT** found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions of the **AGREEMENT**.
- f. Venue for any and all actions arising out of or in connection to the interpretation, validity, performance or breach of this **AGREEMENT** shall lie exclusively in a state court of proper jurisdiction in Leon County, Florida.
- g. A modification or waiver of any of the provisions of this **AGREEMENT** shall be effective only if made in writing and executed with the same formality as this **AGREEMENT**.
- i. The section headings contained in this **AGREEMENT** are for reference purposes only and shall not affect the meaning or interpretation hereof.

- j. No term or provision of this **AGREEMENT** shall be interpreted for or against either Party because the Party or its legal representative drafted the provision.
- k. The **DEPARTMENT** is a state agency, self-insured and subject to the provisions of Section 768.28, Florida Statutes, as may be amended from time to time. Nothing in this **AGREEMENT** shall be deemed or otherwise interpreted as waiving the **DEPARTMENT's** sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

## **10. INDEMNIFICATION**

Subject to Section 768.28, Florida Statutes, as may be amended from time to time, the **CITY** shall promptly indemnify, defend, save and hold harmless the **DEPARTMENT**, its officers, agents, representatives and employees from any and all losses, expenses, fines, fees, taxes, assessments, penalties, costs, damages, judgments, claims, demands, liabilities, attorneys' fees, (including regulatory and appellate fees), and suits of any nature or kind whatsoever caused by, arising out of, or related to the **CITY's** exercise or attempted exercise of its responsibilities as set out in this **AGREEMENT**, including but not limited to, any act, action, neglect or omission by the **CITY**, its officers, agents, employees or representatives in any way pertaining to this **AGREEMENT**, whether direct or indirect, except that neither the **CITY** nor any of its officers, agents, employees or representatives will be liable under this provision for damages arising out of injury or damages directly caused or resulting from the sole negligence of the **DEPARTMENT**.

The **CITY's** obligation to indemnify, defend and pay for the defense of the **DEPARTMENT**, or at the **DEPARTMENT's** option, to participate and associate with the **DEPARTMENT** in the defense and trial of any claim and any related settlement negotiations, shall be triggered immediately upon the **CITY's** receipt of the **DEPARTMENT's** notice of claim for indemnification. The notice of claim for indemnification shall be deemed received if the **DEPARTMENT** sends the notice in accordance with the formal notice mailing requirements set forth in Section 6 of this **AGREEMENT**. The **DEPARTMENT's** failure to notify the **CITY** of a claim shall not release the

**CITY** of the above duty to defend and indemnify the **DEPARTMENT**.

The **CITY** shall pay all costs and fees related to this obligation and its enforcement by the **DEPARTMENT**. The indemnification provisions of this section shall survive termination or expiration of this **AGREEMENT**, but only with respect to those claims that arose from acts or circumstances which occurred prior to termination or expiration of this **AGREEMENT**.

The **CITY's** evaluation of liability or its inability to evaluate liability shall not excuse the **CITY's** duty to defend and indemnify the **DEPARTMENT** under the provisions of this section. Only an adjudication or judgment, after the highest appeal is exhausted, specifically finding the **DEPARTMENT** was solely negligent shall excuse performance of this provision by the **CITY**.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

**CITY OF CORAL GABLES:**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION:**

BY:  \_\_\_\_\_  
CITY Manager

BY: \_\_\_\_\_  
District Director of  
Transportation Operations

ATTEST:  \_\_\_\_\_ (SEAL)  
CITY Clerk

ATTEST: \_\_\_\_\_  
Executive Secretary

**LEGAL REVIEW:**

BY:  \_\_\_\_\_  
CITY Attorney

BY: \_\_\_\_\_  
District Chief Counsel

# **EXHIBIT 'A'**

## **PROJECT LIMITS**

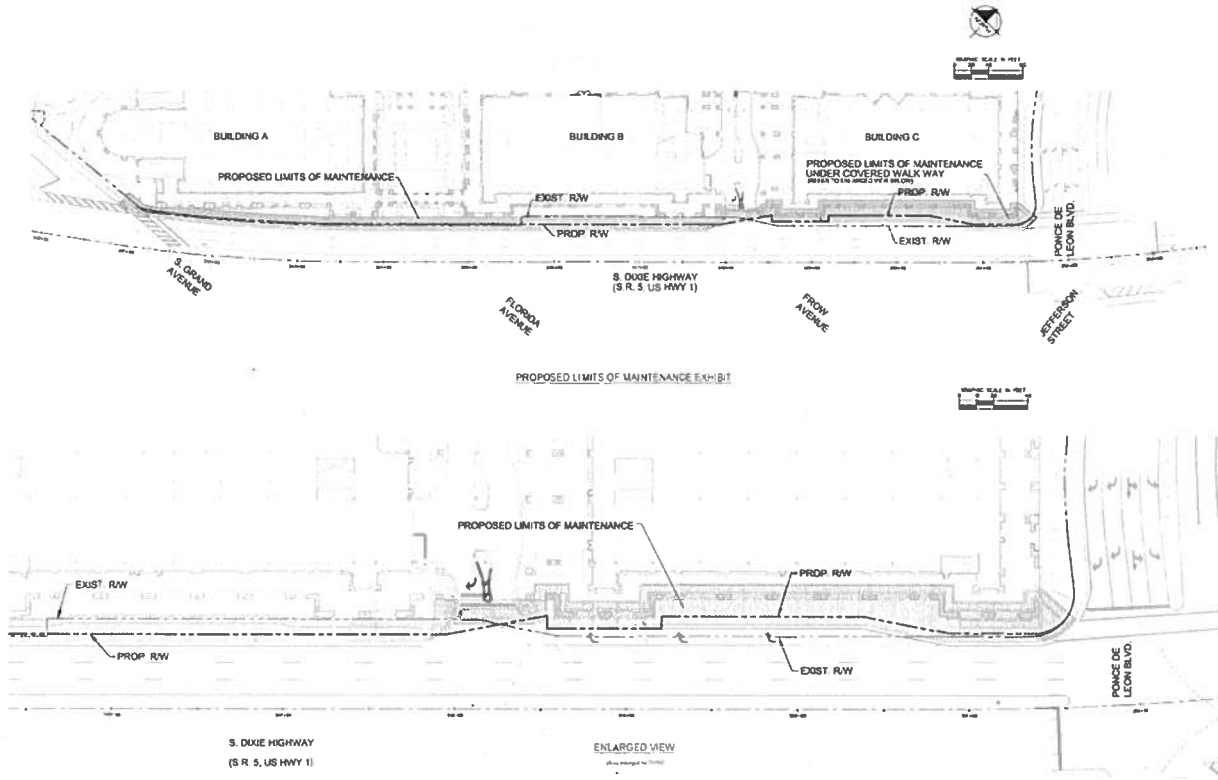
Below are the limits of the modifications to the State right-of-way including easements (**IMPROVEMENTS**) to be maintained under this **AGREEMENT**.

**State Road Number:** SR 5 (US-1)

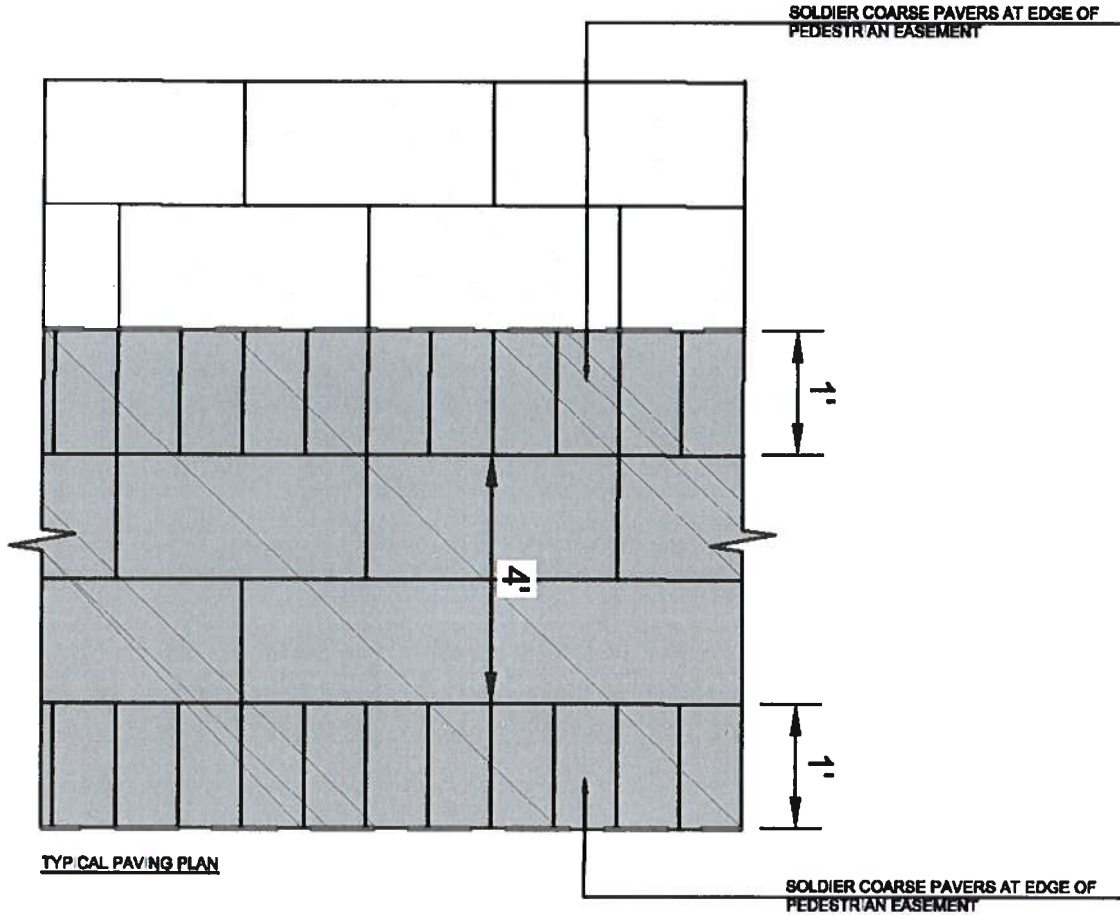
**Local Road Names:** South Dixie Highway

**AGREEMENT Limits:** West Side of SR 5 (US-1) from S. Grand  
Avenue to Ponce DeLeon Boulevard

**County:** Miami-Dade



**EXHIBIT 'B'**  
**PEDESTRIAN EASEMENT**



**SECTION**

**PAVER NOTE:**

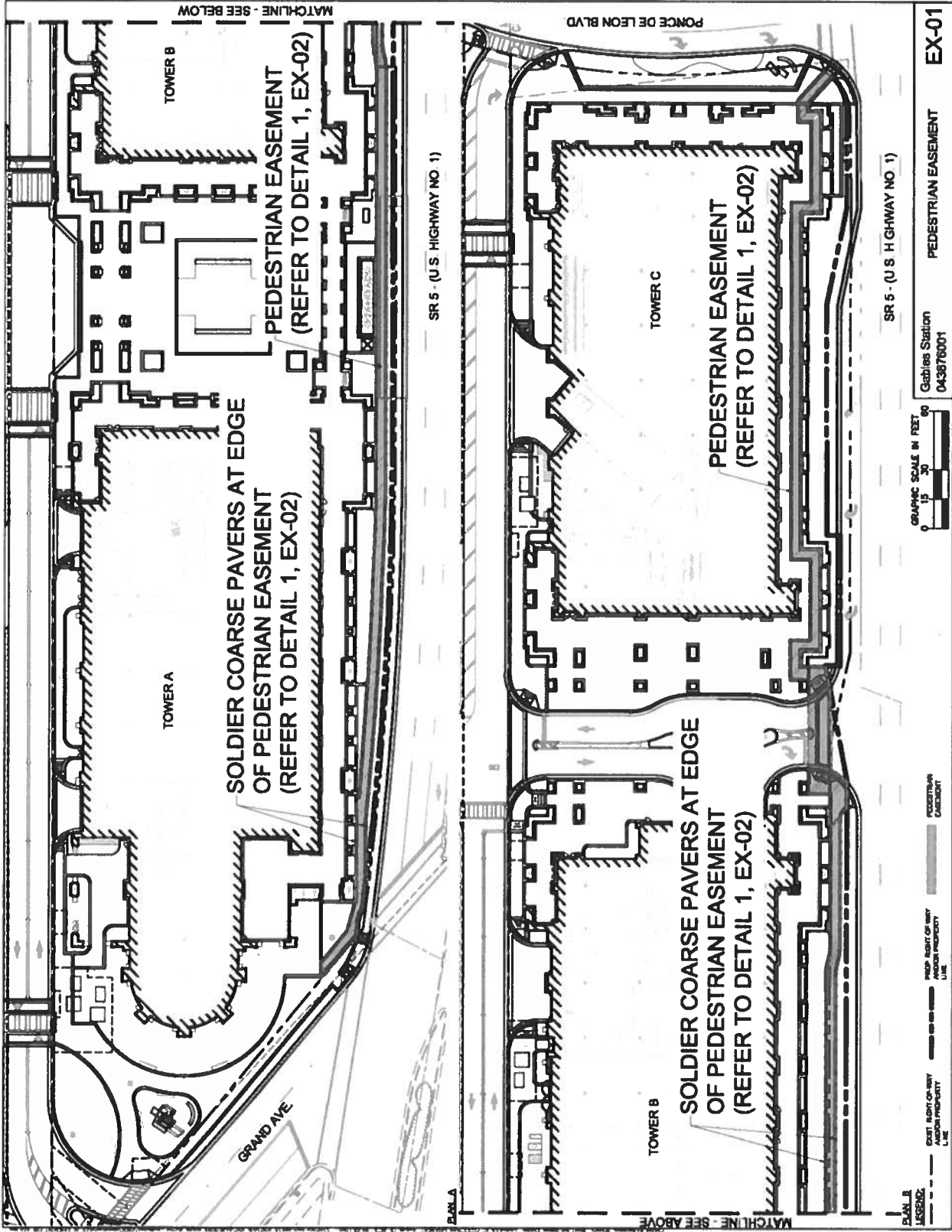
- SEE L-300 307 SERIES, HARDSCAPE SCHEDULE FOR PAVER SPECIFICATIONS

**NOTES:**

- SEE L-300 SERIES, HARDSCAPE PLANS, CALLOUTS AND SCHEDULE
- SEE PAVER MANUFACTURER'S DETAILS AND INSTALLATION SPECIFICATIONS
- SEE CIVIL DRAWINGS FOR BASE AND SUB-BASE SPECIFICATIONS
- DARK GREY GROUT COLOR SAMPLE TO BE SUBMITTED TO L.A. FOR REVIEW, PRIOR TO CONSTRUCTION

① PEDESTRIAN PAVERS  
NTS





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