From: John Michael Cornell < jmcornell@zerbyinterests.com >

**Sent:** Wednesday, February 23, 2022 3:36 PM **To:** brettbibeau@miamirivercommission.org

Subject: FW: [URL Verdict: Neutral]RE: [Non-DoD Source] RE: SAJ-2004-

01387 Hurricane Cove

See attached. The most recent e-mails specifically deal with the 20' setback requirement.

--

John Michael Cornell Cell: (580) 214-1475 jmcornell@zerbyinterests.com



1884 NW North River Dr., Miami, FL 33125 Office 305.324.8004 | Fax 305.324.8002

7725 W. Reno, Suite 450, Oklahoma City, OK 73127 Office 405.232.3242 | Fax 405.603.8784

From: "emily@oceanconsultingfl.com"

<emily@oceanconsultingfl.com</pre>> Date: Wednesday, February 23,

2022 at 3:25 PM **To:** John Michael Cornell

<jmcornell@zerbyinterests.com> Cc:

"kirk@oceanconsultingfl.com" < kirk@oceanconsultingfl.com >,

"brie@oceanconsultingfl.com"

<br/>brie@oceanconsultingfl.com> Subject: FWD: RE: [URL Verdict:

Neutral]RE: [Non-DoD Source] RE: SAJ-2004-01387 Hurricane

Cove

Hi JM -

I hope you are well. Per your discussion with Kirk, please see below for correspondence with the Corps regarding the Miami River setback requirements. They have been unable to provide code language the specifically references the 20 foot setback they are requiring. We had a phone call with the Corps on January 31. During that time I asked them if there was any sort of negotiation allowed and they stated that they would be willing to consider a setback of 10 feet, but again, have not put anything in writing.

Let me know if you need anything else. Thank you!

Regards,
Emily Nelson
Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

----- Original Message -----

Subject: RE: [URL Verdict: Neutral]RE: [Non-DoD Source] RE: SAJ-2004-

01387 Hurricane Cove

From: "Kirk Lofgren" < kirk@oceanconsultingfl.com>

Date: 2/1/22 5:24 pm

To: "Clouser, Megan L CIV USARMY CESAJ (USA)"

<Megan.L.Clouser@usace.army.mil>, "emily@oceanconsultingfl.com"
<emily@oceanconsultingfl.com>

Cc: "Katie Adams" < <a href="mailto:katie@oceanconsultingfl.com">katie@oceanconsultingfl.com</a>>,

"brie@oceanconsultingfl.com" < brie@oceanconsultingfl.com >

Megan - We need the setback requirements codified, and in writing, consistent across all properties on the Miami River. The below general information and statement is not sufficient, as you might imagine.

We will get back to you as well with our next steps shortly.

Kirk Lofgren
Ocean Consulting, LLC
340 Minorca Avenue, Suite 7
Coral Gables, Florida 33134

Email: kirk@oceanconsultingfl.com

Mobile: (305) 457-5573 Fax: (305) 677-3254

----- Original Message ----- Subject: RE: [URL Verdict: Neutral]RE: [Non-DoD Source] RE: SAJ-2004-01387 Hurricane

Cove From: "Clouser, Megan L CIV USARMY CESAJ

(USA)" < < < Date: Tue, February | Megan.L.Clouser@usace.army.mil > Date: Tue, February |

01, 2022 5:17 pm To: "emily@oceanconsultingfl.com"

<emily@oceanconsultingfl.com> Cc:

"kirk@oceanconsultingfl.com" < kirk@oceanconsultingfl.com > , Katie Adams < katie@oceanconsultingfl.com > ,

"<a href="mailto:brie@oceanconsultingfl.com">brie@oceanconsultingfl.com</a> Good afternoon,

Due to the unique nature of the Miami River, there is no formal written setback guidance and therefore, each permit application is reviewed on a case-by-case basis. However, attached is the written documentation that is the basis for all setback determinations and that is Section 10 of the Rivers and Harbors Act.

Regards, Megan

From: <a href="mailto:emily@oceanconsultingfl.com">emily@oceanconsultingfl.com</a>

<emily@oceanconsultingfl.com> Sent: Monday,
January 31, 2022 4:13 PM To: Clouser, Megan L CIV
USARMY CESAJ (USA)

< <u>Megan.L.Clouser@usace.army.mil</u> > **Cc:** <u>kirk@oceanconsultingfl.com</u>; Katie Adams

<<u>katie@oceanconsultingfl.com</u>>;

brie@oceanconsultingfl.com Subject: [URL Verdict:

Neutral]RE: [Non-DoD Source] RE: SAJ-2004-01387 Hurricane Cove

Hi Megan -

Thanks for taking the time to discuss this Project with us today. Can you point me to the code language where it states a 20-foot setback requirement on the Miami River? I have been reviewing the documents you provided below and cannot find any mention specific to the Miami River.

Thank you!

Regards, Emily Nelson Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7

Coral Gables, FL 33134 O: (305) 921-9344

C: (786) 496-2193

----- Original Message -----

Subject: RE: [Non-DoD Source] RE: SAJ-2004-01387

Hurricane Cove From: "Clouser, Megan L CIV

USARMY CESAJ (USA)"

< Megan.L.Clouser@usace.army.mil > Date: 11/29/21

4:44 pm To: "Emily Nelson"

<emily@oceanconsultingfl.com> Cc:

"kirk@oceanconsultingfl.com"

< kirk@oceanconsultingfl.com > , "Katie Adams"

<<u>katie@oceanconsultingfl.com</u>>,
"<u>brie@oceanconsultingfl.com</u>"
<<u>brie@oceanconsultingfl.com</u>>
Good afternoon,

Attached please links to our setback guidance posted on our website

http://cdm16021.contentdm.oclc.org/utils/getfile/collection/p16021coll11/id/1971

https://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/FAQs%20Fact%20Sheet%20Regulatory%20Aug%202013\_508.pdf

The main page is:

https://www.saj.usace.army.mil/Missions/Regulatory
/Source-Book/

I will reach out to Navigation and check their availability.

Regards,

Megan Clouser Senior Project Manager US Army Corps of Engineers 9900 SW 107th Avenue, Suite 203 Miami, FL 33176 (305) 526-7182 From: Emily Nelson < <a href="mailto:emily@oceanconsultingfl.com">emily@oceanconsultingfl.com</a>>

Sent: Monday, November 29, 2021 2:01 PM To:

Clouser, Megan L CIV USARMY CESAJ (USA)

< Megan.L.Clouser@usace.army.mil > Cc:

kirk@oceanconsultingfl.com; Katie Adams

< katie@oceanconsultingfl.com > ;

brie@oceanconsultingfl.com Subject: Re: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

#### Hi Megan

A few thing we want to clarify:

- 1 All along the Miami River there are seawalls built directly on the channel boundary line. There is no setback for these walls.
- 2 We are replacing the docking facility entirely in the same footprint. There is no new extension into the federal channel.
- 3 No slips are located in the federal channel. All slips are located landward of the channel line.

Given this information, we are a bit confused by the request for 20-foot setbacks. Is there someone in navigation we can speak with directly regarding this?

Let me know, thank you!

Regards,

**Emily Nelson** 

#### **Ocean Consulting**

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7

Coral Gables, FL 33134

O: (305) 921-9344

C: (786) 496-2193

On 11/29/2021 12:12 PM, Clouser, Megan L CIV USARMY CESAJ (USA) wrote:

Good afternoon,

The Navigation Section of the Corps has recommended that the proposed project be redesigned as the proposal places the docking structures within the entirety of the setback of the Miami

River and extends to the edge of the federal channel. Please note that the federal navigation channel is intended for the passage of vessels through the channel to or from their points of destination (berth, slip, or mooring area). It is never intended to be an area for mooring of vessels.

The practicable alternative to the proposal that would allow the project to be authorized would be to reconfigure the proposal such that all proposed structures are landward of the 20 foot setback. If the practicable alternatives are not incorporated into the proposed work then Navigation Section will object to issuance of this permit.

As the Corps considers the application incomplete, we will not take action on it until we receive the required information and drawings. We request you provide this information within 30 days. If the Corps does not receive a response, we will assume you have no further interest in obtaining a Department of the Army permit and the Corps will withdraw your permit application. Such action will constitute final action by the Department of the Army.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a State permit does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

Regards,

Megan Clouser Senior Project Manager US Army Corps of Engineers 9900 SW 107th Avenue, Suite 203 Miami, FL 33176 (305) 526-7182

From: Clouser, Megan L CIV USARMY CESAJ (USA) Sent: Tuesday, November 23, 2021 2:52 PM To:

emily@oceanconsultingfl.com Cc:

kirk@oceanconsultingfl.com; Katie Adams

<katie@oceanconsultingfl.com>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Good afternoon,

The public notice was published on September 30, 2021 and the x,y coordinates were sent to navigation on the same day.

Regards,

Megan

From: emily@oceanconsultingfl.com

<emily@oceanconsultingfl.com> Sent: Tuesday,

November 23, 2021 1:46 PM To: Clouser, Megan L

CIV USARMY CESAJ (USA)

< <u>Megan.L.Clouser@usace.army.mil</u> > Cc:

kirk@oceanconsultingfl.com; Katie Adams

<katie@oceanconsultingfl.com>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Hi Megan,

Please confirm receipt of the XY coordinates. Do you have any updates on the public notice or navigation section approval?

Please advise. Thank you!

Regards, Emily Nelson Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7

Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

----- Original Message ------

Subject: RE: [Non-DoD Source] RE: SAJ-2004-01387

Hurricane Cove From:

"emily@oceanconsultingfl.com"

<emily@oceanconsultingfl.com> Date: 10/25/21

2:58 pm To: "Clouser, Megan L CIV USARMY CESAJ

(USA)" < Megan.L.Clouser@usace.army.mil > Cc:

"kirk@oceanconsultingfl.com"

< kirk@oceanconsultingfl.com > , "Katie Adams"

<katie@oceanconsultingfl.com>,

"brie@oceanconsultingfl.com"

<bri>description

## Hi Megan,

Please see attached XY survey. Please confirm receipt and advise if you need anything else to continue processing.

### Thanks!

Regards, Emily Nelson Project Manager Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

From: Clouser, Megan L CIV USARMY CESAJ (USA)

< <u>Megan.L.Clouser@usace.army.mil</u> > Sent:

Wednesday, October 6, 2021 4:20 PM To:

emily@oceanconsultingfl.com Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'

<<u>katie@oceanconsultingfl.com</u>>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Good afternoon,

The project went out on public notice on September 30 (attached).

The Navigation Section of the Corps has requested that you provide the xy-coordinates for the most

waterward points of all of the proposed structures so they can review it for 408 compliance.

As the Corps considers the application incomplete, we will not take action on it until we receive the required information and drawings. We request you provide this information within 30 days. If the Corps does not receive a response, we will assume you have no further interest in obtaining a Department of the Army permit and the Corps will withdraw your permit application. Such action will constitute final action by the Department of the Army.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a State permit does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

Thank you,

Megan

From: <a href="mailto:emily@oceanconsultingfl.com">emily@oceanconsultingfl.com</a> Sent: Tuesday, September 28, 2021 8:08 AM To: Clouser, Megan L CIV USARMY CESAJ (USA) <a href="mailto:emegan-L.Clouser@usace.army.mil">Megan.L.Clouser@usace.army.mil</a> Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'
<katie@oceanconsultingfl.com>;

<u>brie@oceanconsultingfl.com</u> Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Hi Megan,

Please see attached the revised application and the revised plans. The square footage has been updated to 3,944 square feet and is reflected on both S-3 and S-3.1.

Please confirm receipt and advise if anything else is needed. Thank you!

Regards, Emily Nelson Project Manager

# Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

From: Clouser, Megan L CIV USARMY CESAJ (USA)

< <u>Megan.L.Clouser@usace.army.mil</u> > Sent: Friday,

September 24, 2021 4:39 PM To:

emily@oceanconsultingfl.com Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'

<katie@oceanconsultingfl.com>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

### Good afternoon,

I was drafting the public notice for this and the following items are needed:

- 1 Please provide a revised application with the dredging component included.
- 2 There is a discrepancy on the plans. S-3 states 3,936 sq ft for the proposed floating dock. Page S-3.1 has 3,888 sq ft. Please clarify which sq footage is correct and modify the plans accordingly.

As the Corps considers the application incomplete, we will not take action on it until we receive the required information and drawings. We request you provide this information within 30 days. If the Corps does not receive a response, we will assume you have no further interest in obtaining a Department of the Army permit and the Corps will withdraw your permit application. Such action will constitute final action by the Department of the Army.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a State permit does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

Regards,

Megan Clouser Senior Project Manager US Army Corps of Engineers 9900 SW 107th Avenue, Suite 203 Miami, FL 33176 (305) 526-7182

From: emily@oceanconsultingfl.com 
<emily@oceanconsultingfl.com 
Sent: Tuesday,
August 3, 2021 3:40 PM To: Clouser, Megan L CIV
USARMY CESAJ (USA)
</emul>
<a href="Megan.L.Clouser@usace.army.mil">Megan.L.Clouser@usace.army.mil</a>; Gilbert, Ingrid
N CIV USARMY CESAJ (USA)
<a href="Ingrid.N.Gilbert@usace.army.mil">Ingrid.N.Gilbert@usace.army.mil</a>> Cc:
kirk@oceanconsultingfl.com; 'Katie Adams'
<a href="katie@oceanconsultingfl.com">katie@oceanconsultingfl.com</a>; brie@oceanconsultingfl.com Subject: RE: [Non-DoD Source] RE: SAJ-2004-01387 Hurricane Cove

Thanks. Let me know if you need anything else.

Regards,
Emily Nelson
Project Manager
Ocean Consulting
www.oceanconsultingfl.com
340 Minorca Avenue, Suite 7
Coral Gables, FL 33134
O: (305) 921-9344

O: (305) 921-9344 C: (786) 496-2193 Yes. Just confirming for the 408/Navigation review.

Thanks, Megan

From: emily@oceanconsultingfl.com
<emily@oceanconsultingfl.com> Sent: Tuesday,
August 3, 2021 3:17 PM To: Clouser, Megan L CIV
USARMY CESAJ (USA)
<Megan.L.Clouser@usace.army.mil>; Gilbert, Ingrid
N CIV USARMY CESAJ (USA)
<Ingrid.N.Gilbert@usace.army.mil> Cc:
kirk@oceanconsultingfl.com; 'Katie Adams'
<katie@oceanconsultingfl.com>;
brie@oceanconsultingfl.com Subject: RE: [Non-DoD
Source] RE: SAJ-2004-01387 Hurricane Cove

No riprap proposed. This project is in the Miami River and riprap is never proposed in that location. There is also no seawall work proposed as part of this project. Regards, Emily Nelson Project Manager

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340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

From: Clouser, Megan L CIV USARMY CESAJ (USA)

<<u>Megan.L.Clouser@usace.army.mil</u>> Sent: Tuesday,
August 3, 2021 3:15 PM To:

<u>emily@oceanconsultingfl.com</u>; Gilbert, Ingrid N CIV
USARMY CESAJ (USA)

<<u>Ingrid.N.Gilbert@usace.army.mil</u>> Cc:
kirk@oceanconsultingfl.com; 'Katie Adams'

< <u>katie@oceanconsultingfl.com</u>>; <u>brie@oceanconsultingfl.com</u> **Subject**: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Good afternoon,

After the proposed project area is dredged, is riprap proposed for the base of the seawall?
Regards,
Megan

From: emily@oceanconsultingfl.com
 <emily@oceanconsultingfl.com> Sent: Tuesday,
August 3, 2021 8:39 AM To: Clouser, Megan L CIV
USARMY CESAJ (USA)
 <Megan.L.Clouser@usace.army.mil>; Gilbert, Ingrid

## N CIV USARMY CESAJ (USA)

<Ingrid.N.Gilbert@usace.army.mil> Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'

<<u>katie@oceanconsultingfl.com</u>>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane

Cove Importance: High

Hi Megan,

Please see attached the most recent set of drawings as well as a revised Section 7 checklist to match the drawings. Maintenance dredging has been added to the scope after conversations we have had with DERM since the Section 7 was originally submitted to you.

Please confirm receipt of this information and advise if you need anything else right away. Please help us to expedite this review. We were under the impression this file has been in NMFS Consultation since February when we initially submitted the RAI response to you.

The Florida DEP is actively reviewing this file and should be issuing the permit soon. We are waiting on some final revisions to the submerged lands lease survey.

Lastly, a reminder that this Project is in the Miami River and we are reducing overwater footprint. The wet slip count is decreasing. I do not believe that NMFS and USFWS review should be required. Please advise.

## Thank you!

Regards,
Emily Nelson
Project Manager
Ocean Consulting
www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134 O: (305) 921-9344

C: (786) 496-2193

From: Clouser, Megan L CIV USARMY CESAJ (USA) < <a href="Megan.L.Clouser@usace.army.mil">Megan.L.Clouser@usace.army.mil</a> Sent: Friday,

July 30, 2021 5:33 PM To:

emily@oceanconsultingfl.com; Gilbert, Ingrid N CIV USARMY CESAJ (USA)

<Ingrid.N.Gilbert@usace.army.mil > Cc:
kirk@oceanconsultingfl.com; 'Katie Adams'

< katie@oceanconsultingfl.com > ;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

# Good morning Emily,

The plans were never attached to your last submittal. I still need the site plans that have cross sections and the pilings. Can you please provide those so I can reactivate the file? Once I have that, I can coordinate with our Navigation and 408 Sections. Also, can you please provide the State permit/exemption when you get it?

Regards,

## Megan

From: emily@oceanconsultingfl.com

<emily@oceanconsultingfl.com> Sent: Wednesday,

July 28, 2021 4:21 PM To: Clouser, Megan L CIV

**USARMY CESAJ (USA)** 

< <u>Megan.L.Clouser@usace.army.mil</u>>; Gilbert, Ingrid

N CIV USARMY CESAJ (USA)

< < Ingrid.N.Gilbert@usace.army.mil > Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'

<<u>katie@oceanconsultingfl.com</u>>;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane

Cove Importance: High

Megan,

I hope you are well. I am checking in on this Project. Please confirm receipt and the below information and let me know the status of the file at NMFS.

Thank you!

Regards, Emily Nelson Project Manager Ocean Consulting

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344

C: (786) 496-2193

From: emily@oceanconsultingfl.com

<emily@oceanconsultingfl.com> Sent: Tuesday,

February 9, 2021 8:36 AM To: 'Clouser, Megan L CIV

USARMY CESAJ (USA)'

< Megan.L.Clouser@usace.army.mil > Cc:

kirk@oceanconsultingfl.com; 'Katie Adams'

< katie@oceanconsultingfl.com > ;

brie@oceanconsultingfl.com Subject: RE: [Non-DoD

Source] RE: SAJ-2004-01387 Hurricane Cove

Hi Megan,

Please see below for our responses.

Please note, this Project is in the Miami River and we are reducing overwater footprint. The wet slip count is decreasing. NMFS and USFWS consultation should not be required.

Thank you for your review. Please confirm receipt and advise if you need anything else.

Regards, Emily Nelson Project Manager

**Ocean Consulting** 

www.oceanconsultingfl.com

340 Minorca Avenue, Suite 7 Coral Gables, FL 33134

O: (305) 921-9344 C: (786) 496-2193

----- Original Message ----- Subject: SAJ-2004-01387 Hurricane Cove From: "Clouser, Megan L CIV USARMY CESAJ (USA)" < Megan.L.Clouser@usace.army.mil > Date: Wed, December 30, 2020 1:44 pm To: "kirk@oceanconsultingfl.com" < kirk@oceanconsultingfl.com > Cc: "Gilbert, Ingrid N CIV USARMY CESAJ (US)" < Ingrid.N.Gilbert@usace.army.mil > Good afternoon,

The Corps is in receipt of your application. Please provide the following information so that we may continue processing your application.

- 1 Section 23 on the application is not completed. Please fill out the avoidance, minimization and mitigation section. Please see attached a revised application which includes a response to Section 23.
- 2 The plans provided do not have a cross section. Please provide revised plans that reflect all structures. – Please see attached revised plans which include cross-sections.
- 3 Please provide the number of pilings proposed and their installation methodology. NMFS will require this information for consultation. There is a total of 412 concrete piles and 33 wood piles. All piles will be installed using an impact hammer.
- 4 Attached please find a copy of the Section 7 checklist. I will need filled out to initiate consultation with NMFS. **Please see attached the Section 7 Checklist.**
- 5 Please provide a copy of the approved Marina Operating Permit so we can make our effect determination for the manatee.
  - Please see attached the MOP.

As the Corps considers the application incomplete, we will not take action on it until we receive the required information and drawings. We request you provide this information within 30 days. If the Corps does not receive a response, we will assume you have no further interest in obtaining a Department of the Army permit and the Corps will withdraw your permit application. Such action will constitute final

action by the Department of the Army.

The Corps cautions you that work performed in any waters of the United States, including wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from the Florida Department of Environmental Protection or any Water Management District does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

# Regards,

Megan Clouser Senior Project Manager US Army Corps of Engineers 9900 SW 107th Avenue, Suite 203 Miami, FL 33176 (305) 526-7182