

FLORIDA DEPARTMENT OF

ENVIRONMENTAL PROTECTION

SOUTHEAST DISTRICT OFFICE 400 NORTH CONGRESS AVE., THIRD FLOOR WEST PALM BEACH, FL 33401 561-681-6600 RICK SCOTT GOVERNOR

HERSCHEL T. VINYARD JR. SECRETARY

August 8, 2013

City of Miami c/o Johnny Martinez, City Manager 3500 Pan American Drive Miami, FL 33133 Sent via e-mail: johnnymartinez@miamigov.com

Re: File No.: 13-0319410-001,002 File Name: City of Miami-Manatee Bend Park

Dear Mr. Martinez:

On June 13, 2013, we received your application, and on July 15, 2013, the application was complete for an exemption to perform the following activities: (1) repair an existing 240-feet of seawall by installing 159-feet of new seawall landward of the existing seawall and removing 93.5-feet of existing failed seawall; (2) install an 8-foot by 30-foot (240 ft²) kayak launch at a 10:1 slope; and (3) install 90 yd³ of riprap landward of the existing seawall. The project is located in the Little River, Class III Waters, adjacent to folio no. 01-3207-040-0320, folio no. 01-3207-040-0340, and folio no. 01-3207-040-0341, Miami (Section 7, Township 53 South, Range 42 East), in Miami-Dade County (25°50'47.92" North Latitude, 80°11'13.08" West Longitude).

Your application has been reviewed to determine whether it qualifies for any of three kinds of authorization that may be necessary for works in wetlands or waters of the United States. The kinds of authorization are (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization (State Programmatic General Permit). The authority for review and the outcomes of the reviews are listed below. Please read each section carefully. Your project **may not** have qualified for all three forms of authorization. If your project did not qualify for one or more of the authorizations, refer to the specific section dealing with that authorization for advice on how to obtain it.

1. Regulatory Review. – VERIFIED

The Department has reviewed the submitted information and has determined that the project is not expected to cause the release of pollutants in sufficient quantity, quality, content, or character with respect to the circumstances surrounding the location, use, and operation of the project, as to contribute to pollution in contravention of the provisions of Chapters 373 and 403, Florida Statutes (F.S.), or Title 62, Florida Administrative Code (F.A.C.).

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Therefore, based solely upon the documents submitted to the Department, the project install 90 yd^3 of riprap landward of the existing seawall has been determined to qualify as an activity that is exempt from the need for an Environmental Resource Permit pursuant to Chapter 373.406(6), F.S.

Based on the information you submitted, we have determined that your projects to repair an existing 240-feet of seawall by installing 159-feet of new seawall landward of the existing seawall and removing 93.5-feet of existing failed seawall and install an 8-foot by 30-foot (240 ft^2) kayak launch at a 10:1 slope, is exempt from the need to obtain an Environmental Resource Permit under Rule 40E-4.051(4)(b), F.A.C., and Rule 40E-4.051(3)(e), F.A.C.

This determination is applicable only pursuant to the statutes and rules in effect at the time the information was submitted. This determination may not be valid in the event subsequent changes occur in the applicable statutes and rules of the Department. Pursuant to Rule 62-302, F.A.C., activities that qualify for this exemption must be constructed and operated using appropriate best management practices and in a manner that does not cause water quality violations.

The determination that your project qualifies as an exempt activity pursuant to Chapter 373.406(6), F.S, may be revoked if the installation is substantially modified, or if the basis for the exemption is determined to be materially incorrect, or if the installation results in water quality violations. Any changes made in the construction plans or location of the project may necessitate a permit or certification from the Department. Therefore, you are advised to contact the Department before beginning the project and before beginning any work in waters or wetlands which is not specifically described in your submittal.

2. Proprietary Review. – GRANTED

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereignty submerged lands. The Department has the authority to review your project under Chapters 253 and 258, F.S.; and 18-21, F.A.C.; and Section 62-343.075, F.A.C.

Your project will occur on sovereignty submerged land and will require authorization from the Board of Trustees to use public property. As staff to the Board of Trustees, we have reviewed the proposed project and have determined that, as long as it is located within the described boundaries and are consistent with the attached general consent conditions, the project qualifies for a consent by rule to use sovereignty submerged lands. Therefore, pursuant to Chapter 253.77, Florida Statutes, you may consider this letter as authorization from the Board of Trustees to perform the project.

3. Federal Review (SPGP) – NOT GRANTED

Federal authorization for the proposed project is reviewed by DEP pursuant to an agreement between the Department and the U.S. Army Corps of Engineers (Corps). The agreement is outlined in a document titled *Coordination Agreement Between the U.S. Army Corps of Engineers and the Florida Department of Environmental Protection State Programmatic* File Name: 13-0319410-001,002 FDEP File No.: City of Miami- Manatee Bend Park Page 3 of 5

General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). As shown on the attached drawings, the proposed project is <u>not</u> consistent with the SPGP program. A copy of your application has been sent to the Corps who may require a separate permit. Failure to obtain their authorization prior to construction could subject you to enforcement action. For further information, contact the Corps directly at 305/526-7181.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification will expire after one year, and will not be valid at any other time if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. However, the activity may still be conducted without further notification to or verification from the Department after the one-year expiration of this verification, provided: 1) the project design does not change; 2) site conditions do not materially change; and 3) there are no changes to the statutes or rules governing the exempt activity. In the event you need to re-verify the exempt status for the activity after the one-year expiration of this verification, a new application and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required. Conditions of compliance with the regulatory exemption are contained in Attachment A.

This letter does not relieve you from the responsibility of obtaining other permits (federal, state, or local) that may be required for the project.

NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS

This letter acknowledges that the proposed activities are exempt from ERP permitting requirements under Chapter 373.406(6), F.S., Rule 40E-4.051(4)(b), F.A.C., and Rule 40E-4.051(3)(e), F.A.C. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption. Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activities are not authorized under the exemption established under Chapter 373.406(6), F.S., Rule 40E-4.051(4)(b),F.A.C., and Rule 40E-4.051(3)(e), F.A.C.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

If you wish to limit the time within which all substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any specific person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in section 50.051 of the Florida Statutes. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Florida Department of Environmental Protection Southeast District Submerged Lands and Environmental Resources Program 400 North Congress Avenue, 3rd Floor West Palm Beach, Florida 33401

If you have any questions, please contact Gina Chiello at (561) 681-6654 or by email at <u>Gina.Chiello@dep.state.fl.us</u>. When referring to your project, please use the FDEP file name and number listed above.

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Sincerely, 8/8/13

Benny Luedike Date Environmental Manager Submerged Lands and Environmental Resources Program

Copies furnished to:

Rosalinda Rodriguez, USACOE- Miami-Dade, <u>Rosalinda.Rodriguez@usace.army.mil</u> Lisa Spadafina, Miami-Dade County RER, <u>spadaL2@miamidade.gov</u> Linda Whitman, Coastal Systems International, Inc., <u>LWhitman@coastalsystemsint.com</u>

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to 120.52(9), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk Date

GENERAL CONSENT CONDITIONS:

(1) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

(2) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(3) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.

(4) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(5) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

(6) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

(7) Structures or activities shall not create a navigational hazard.

(8) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

(9) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF DETERMINATION OF EXEMPTION

The Department of Environmental Protection gives notice that the projects to repair an existing 240-feet of seawall by installing 159-feet of new seawall landward of the existing seawall and removing 93.5-feet of existing failed seawall; (2) install an 8-foot by 30-foot (240 ft²) kayak launch at a 10:1 slope; and (3) install 90 yd³ of riprap landward of the existing seawall, located in the Little River, Class III Waters, adjacent to folio no. 01-3207-040-0320, folio no. 01-3207-040-0330, folio no. 01-3207-040-0340, and folio no. 01-3207-040-0341, Miami (Section 7, Township 53 South, Range 42 East), in Miami-Dade County (25°50'47.92" North Latitude, 80°11'13.08" West Longitude) have been determined to be exempt from requirements to obtain an Environmental Resource Permit.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

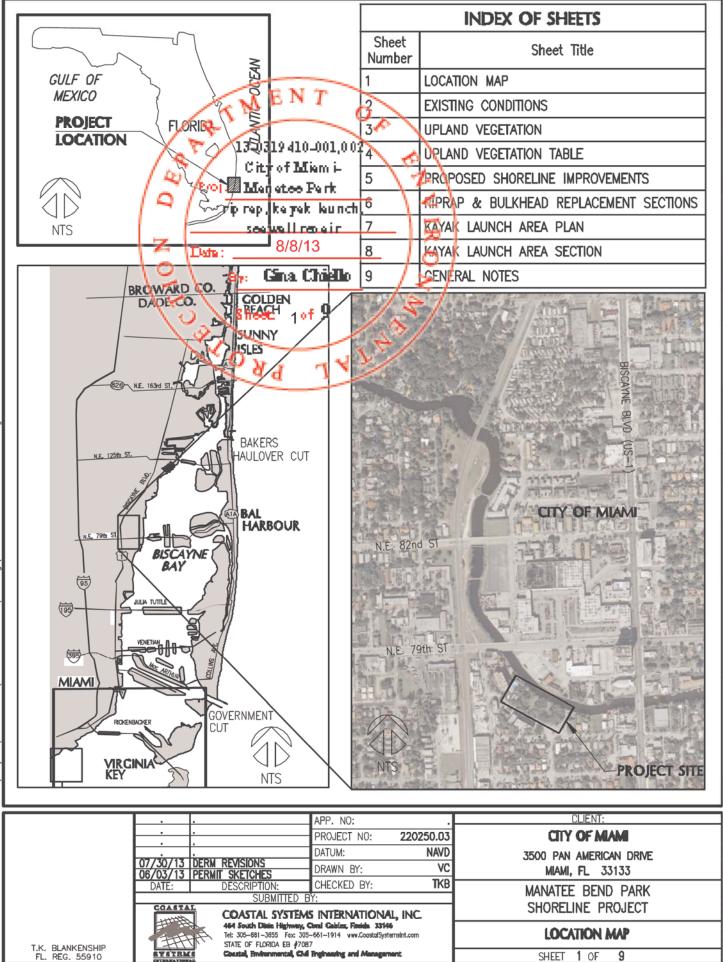
(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and

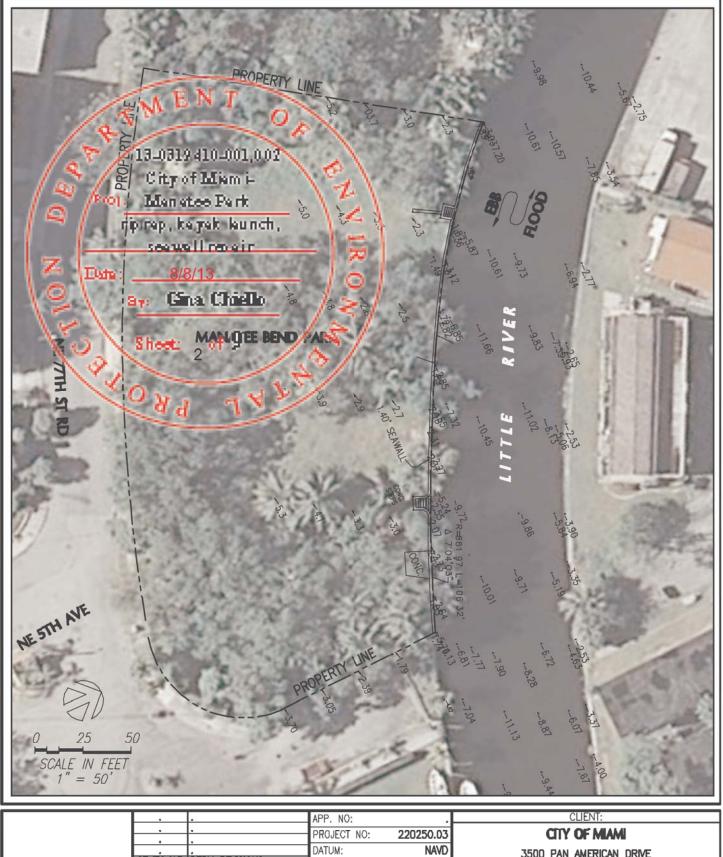
(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301.

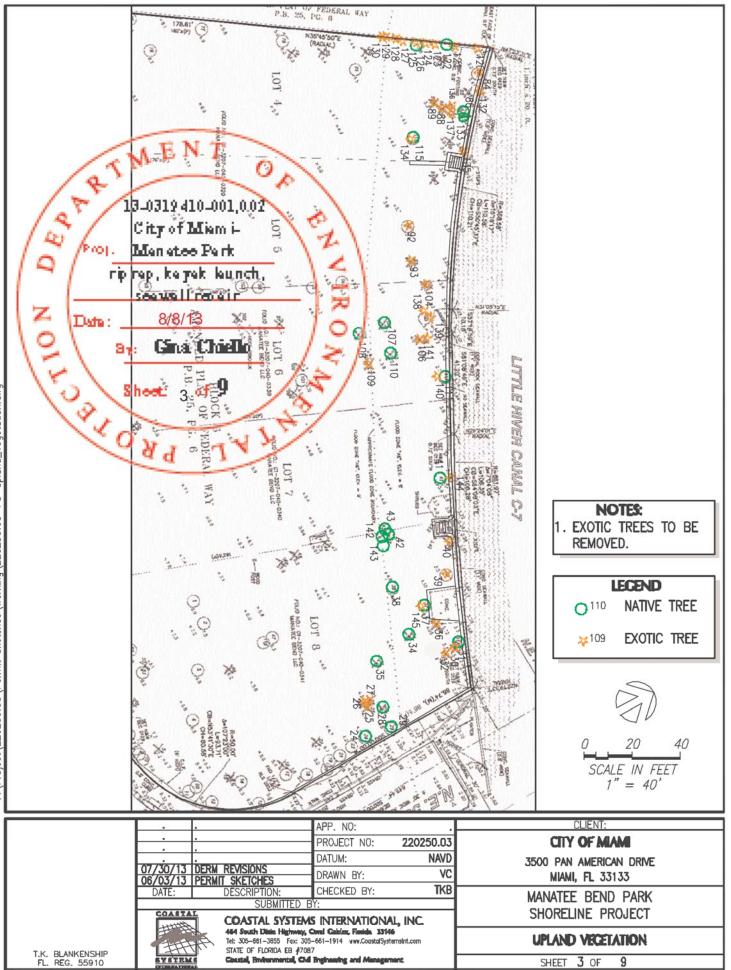
Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Southeast District office, 400 North Congress Avenue, 3rd Floor, West Palm Beach, Florida 33401.

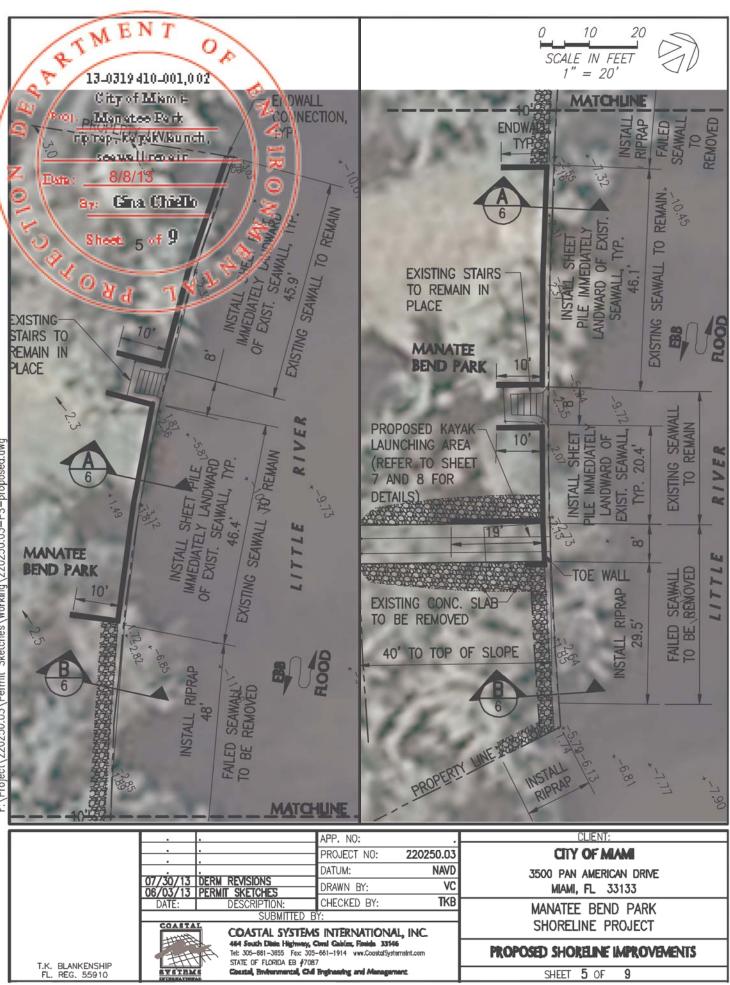


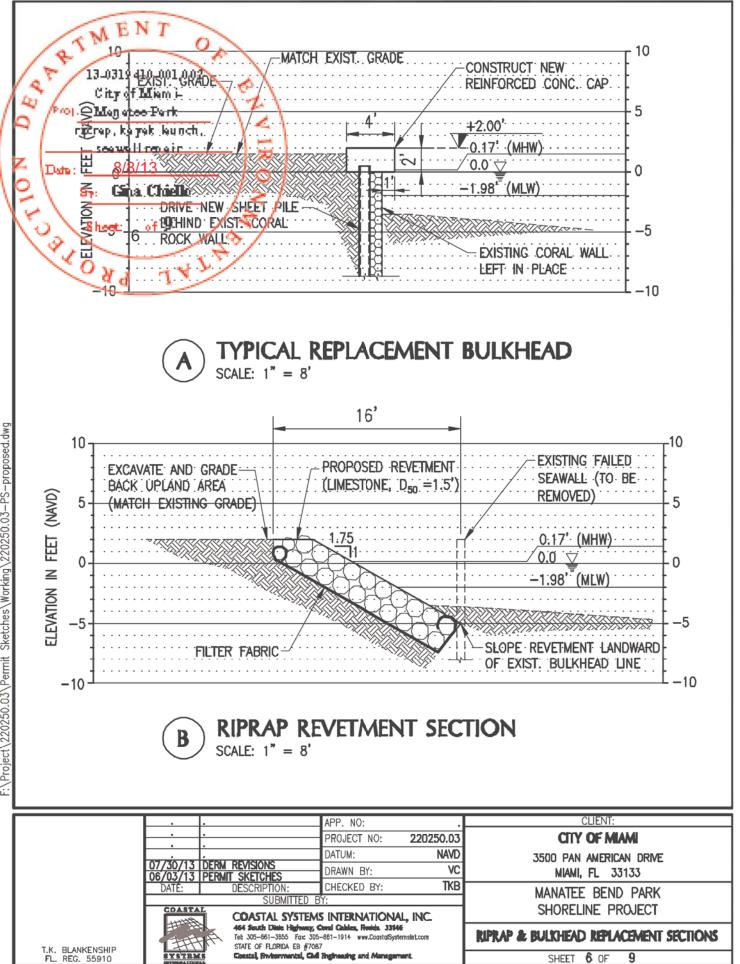


			PROJECT NO:	220250.05				
			DATUM:	NAVD	3500 PAN AMERICAN DRIVE			
	07/30/13	DERM REVISIONS PERMIT SKETCHES	DRAWN BY:	VC	MIAMI, FL 33133			
	DATÉ:	DESCRIPTION:	CHECKED BY:	ТКВ	MANATEE BEND PARK			
		SUBMITTED B						
	COASTA	COASTAL SYSTEM			SHORELINE PROJECT			
T.K. BLANKENSHIP	464 South Divis Highway, C Tet: 305-661-3655 Fax: 305- STATE OF FLORIDA EB #7087		-661-1914 www.CoastalSyste		EXISTING CONDITIONS			
FL. REG. 55910	SYSTEM	16 Constal, Environmental, CM		nent.	SHEET 2 OF 9			

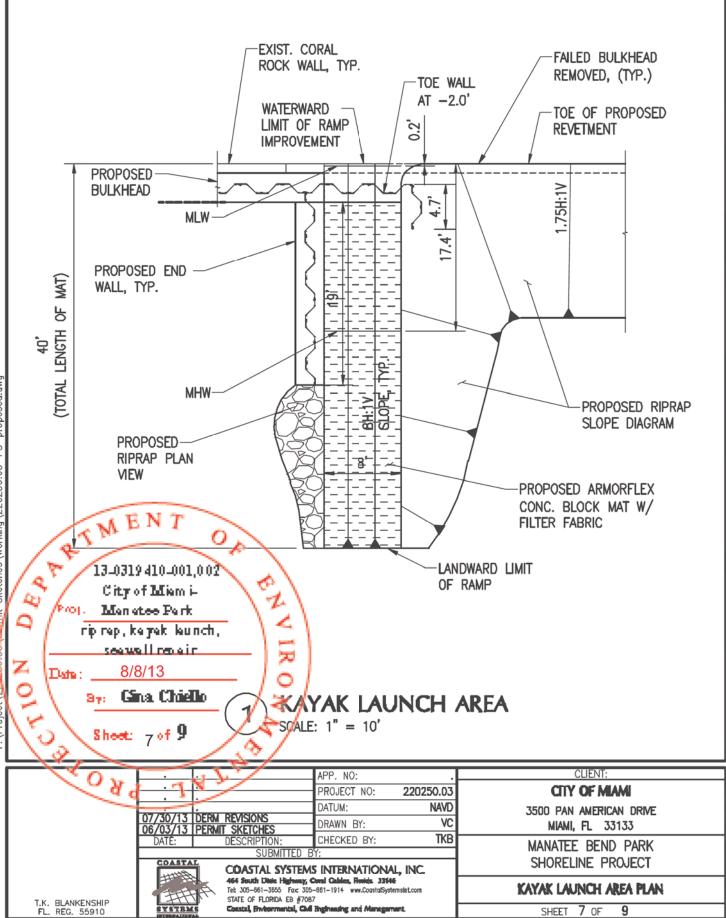


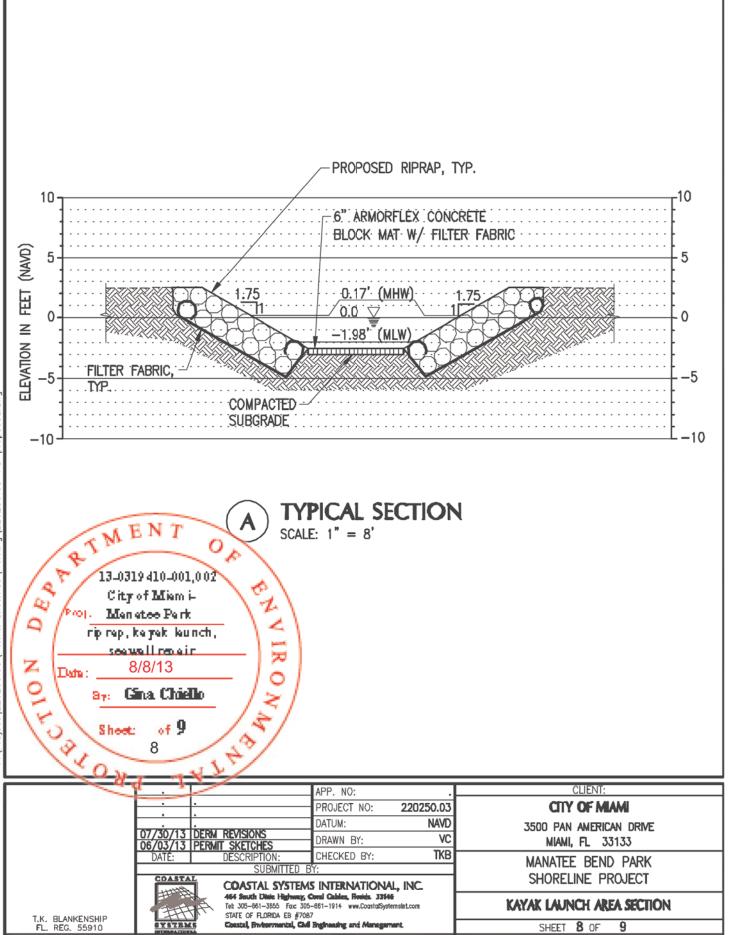
			TREE/SHRUB TABL	E			
	Point#	Common Name	Scientific Name	Diameter (")	Height (')	Spread (')	
	24	Gumbo Limbo	Bursera simaruba	10	30	20	
	25	Solitaire Palms	Ptychosperma elegans	4	40	7	
	26	Solitaire Palms	Ptychosperma elegans	5	30	7	
	27	Solitaire Palms	Ptychosperma elegans	5	30	7	
	28	Coconut Palm Live Oak	Cocos nucifera	<u>14</u> 14	40 40	30 25	
	30 (7)	Areca Palm	Quercus virginiana Dypsis lutescens	2	8	15	
	31	Coconut Palm	Cocos nucifera	8	45	20	
	32 (5)	Travelers Tree	Ravenala madagascariensis	6	12	7	
	34	Coconut Palm	Cocos nucifera	12	35	15	
	35	Coconut Palm	Cocos nucifera	12	40	18	
	36 (7) 37 (2)	Travelers Tree Live Oak	Ravenala madagascariensis	4 30	27 50	25 55	
	37 (2)	Gumbo Limbo	Quercus virginiana Bursera simaruba	48	45	50	
	30	Brazil Beauty Leaf	Calophyllum brasiliense	10	35	25	
	46 (9)	Areca Palm	Dypsis lutescens	2	15	12	
~ M	D 41	Seagrape	Coccoloba uvifera	96	30	35	
a 'V ~	42	Minila Palm	Veitchia merrillii	4	35	10	
8 /	43	Manua Palm	Veitchia merrillii Raubinia varioaata	6 28	25 25	12 35	
RTN 13-	0318470	Common Scree	Bauhinia variegata Pandanus utilis	28	25	35 10	
Ci Ci	trof (d)		Dypsis lutescens	3	25	20	
- M	104	Solitaire Palms	Ptychosperma elegans	3	20	10	
	105	Live Oak	Quercus virginiana	30	45	45	
пр ге			Washing tonia robusta	12	30	15	
se	<u>o jun 197</u> 7e		Cocos nucifera	8	35	20	
ate: 8/	108 8/1309	Coconut Palm 🔑 Washington Palm	Cocos nucifera Washingtonia robusta	12 15	40 35	20 15	
11 . <u>0</u> /	110	Coconut Palm	Cocos nucifera	12	40	20	
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	117	Spider kly	Hymenocallis sp.	\	\	\	
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30.	122	Dinnerplate Aralia	Dracaena marginata Polyscias scutellaria	4	~ ~	3	
~ ~ ~	123	Ornamental Plant		\	\ \	\	
	124	Ornamental Plant		\	\	\	
	125	Ornamental Plant		\	\	\	
	126	Dinnerplate Aralia	Polyscias scutellaria	5		7	
	127 128	Ornamental Plant Pothos	Epipremnum aureum	\	\	4	
	128	Pothos	Epipremnum aureum Epipremnum aureum	\	\	2	
	130	Pothos	Epipremnum aureum	Ì.	\	2	
	131	Live Oak	Quercus virginiana	40	35	60	
	132	Spider Lily	Hymenocallis sp.	\	\	2	
	133	Manila Palm	Veitchia merrillii	\	8	3	
	134	Seagrane & Dethe	Coccoloba uvifera &	1	`	1	
	134	Seagrape & Pothos Spider Lily	Epipremnum aureum Hymenocallis sp.	\	\	2.5	
	136	Travelers Tree	Ravenala madagascariensis	2	2	\	
	137	Travelers Tree	Ravenala madagascariensis	3	4	<u>\</u>	
	138	Mother Inlaw Tongues	Sansevieria trifasciata	\	\	3	
	139	Scaveola sp.	Scaveola sp.	\	\	11	
	140	Mother Inlaw Tongues Scaveola sp.	Sansevieria trifasciata Scaveola sp.	\			
	141	Manila Palm	Veitchia merrillii	5	20	12	
	142	Manila Palm	Veitchia merrillii	6	20	12	
	144	Commonn Screw Pine	Pandanus utilis	5	20	11	
	145	Commonn Screw Pine	Pandanus utilis	1	5	2.5	
	T		APP. NO:			CLIENT:	
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FL. REG. 55910





GENERAL NOTES:

- 1. HYDROGRAPHIC & TOPOGRAPHIC DATA COLLECTED BY MARTINEZ AND MARTINEZ ENTERPRISES, INC. AND COASTAL SYSTEMS INTERNATIONAL INC. ON APRIL 2, 2013.
- 2. UNDERGROUND AND SUBAQUEOUS IMPROVEMENTS AND/OR UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY AND SHOULD BE FIELD VERIFIED PRIOR TO ANY MARINE CONSTRUCTION.
- 3. HORIZONTAL COORDINATES ARE IN FEET AND BASED ON FLORIDA STATE PLANE EAST., NAD 83.
- 4. ELEVATIONS ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88). REFER TO VERTICAL DATUM DIAGRAM THIS SHEET.
- 5. THE INFORMATION DEPICTED ON THE SURVEY REPRESENTS THE RESULTS OF THE SURVEY ON THE DATES INDICATED AND CAN ONLY BE CONSIDERED AS AN INDICATION OF THE GENERAL CONDITIONS EXISTING AT THAT TIME.
- 6. THESE DRAWINGS ARE "PERMIT SKETCHES" INTENDED TO PROVIDE SUFFICIENT DATA FOR REVIEW AND EVALUATIONS BY REGULATORY AGENCIES. THESE DRAWINGS ARE NOT INTENDED FOR CONSTRUCTION.
- 7. CONSTRUCTION WILL NOT REQUIRE WATER-BASED EQUIPMENT.
- 8. UPLAND VEGETATION SURVEY COMPLETED BY COASTAL SYSTEMS ON APRIL 2, 2013.
- 9. TOTAL LENTH OF NEW WALL AND RIP RAP: 237 LF
- NEW SHEETPILE WALL 159 LF
- NEW RIPRAP REVETMENT 78 LF
- 10. CONSTRUCTION WILL OCCUR PRIOR TO THE REMOVAL OF THE EXISTING WALL TO THE EXTENT POSSIBLE. DOUBLE TURBIDITY CURTAINS WILL BE USED AT THE KAYAK RAMP AND RIP-RAP REVETMENT AREAS.

