

FLORIDA DEPARTMENT OF Environmental Protection

South District Branch Office 2796 Overseas Highway, Suite 221 Marathon, FL 33050 SouthDistrict@FloridaDEP.gov Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Interim Secretary Shawn Hamilton

June 21, 2021

Arbor Tree and Land Inc William D. Hodges, President P.O. Box 1387 Boynton Beach, FL 33425 <u>bhodges@atldiversified.com</u>

 Re: Consent Order OGC Case No. 21-0520
 Site No. 384502 / Project No. 394698
 Indian Key Channel, Lignumvitae Aquatic Preserve, Lignumvitae State Park, Class III Outstanding Florida Waters
 Parcel No. 00097221-000000 – Sec/Twp/Rng 12/64/36 Indian Key Fill
 Monroe County – SLERC

Dear Mr. Hodges,

Enclosed is the signed and entered Consent Order, OGC No. 21-0520, to resolve this case. This copy is for your records. Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

If you have any questions, please contact Mckenzie Fraley by email at <u>Mckenzie.Fraley@FloridaDEP.gov</u> or by phone at 305-289-7079. Your cooperation in resolving this case is appreciated.

Sincerely,

Jon M. Iglehart Director of District Management

JMI/mf

- Enclosures: Consent Order Attachment I (Corrective Actions) Attachment II (Parks Assessment) Exhibit A (Restoration Plan)
- cc: Lea Crandall, Agency Clerk [<u>agency_clerk@dep.state.fl.us</u>] <u>zhodges@atldiversified.com</u> <u>Janice.Duquesnel@dep.state.fl.us</u> <u>andrew.engelmeyer@islamorada.fl.us</u>

Arbor Tree and Land Inc / William Hodges Site No. 384502/ Project No. 394698 Consent Order OGC Case No. 21-0520 Page 2 of 2

> Lu.Dodson@FloridaDEP.gov Brian.Addison@dep.state.fl.us Stephen.Werndli@noaa.gov Nicholas.Parr@FloridaDEP.gov david.dipre@MYFWC.com Jonathan.C.Pempek@usace.army.mil Maria.I.Bezanilla@usace.army.mil Maria.Bassett@islamorada.fl.us roget.bryan@islamorada.fl.us peter.frezza@islamorada.fl.us chodges@atldiversified.com greg.corning@woodplc.com Kevin.Jones@FloridaDEP.gov Ernest.Cowan@FloridaDEP.gov ffernandez@atldiversified.com jcaderas@sfwmd.gov

BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL PROTECTION,)
and THE BOARD OF TRUSTEES OF THE)
INTERNAL IMPROVEMENT TRUST)
FUND,)
Complainants))
VS.)
ARBOR TREE AND LAND, INC. and	
WILLIAM D. HODGES,)
)

IN THE OFFICE OF THE SOUTH DISTRICT

OGC FILE NO. 21-0520

Respondents.

CONSENT ORDER

)

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department"), The Board of Trustees of the Internal Improvement Trust Fund ("Board"), Arbor Tree and Land, Inc., and William D. Hodges (collectively, "Respondents") to reach settlement of certain matters at issue between the Department, the Board, and Respondents.

The Department and the Board find and the Respondents admit the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.

2. The Board is responsible for overseeing state owned lands and ensuring they are managed in trust for the citizens of the State of Florida pursuant to Chapter 253, Florida Statutes, and the rules promulgated and authorized thereunder, Florida Administrative Code Title 18. The Department has the duty to perform all staff duties and functions related to the administration of state lands as provided in Section 253.002, Florida Statutes.

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page **2** of **9**

3. The Respondents are a person within the meaning of Section 253.04 and 373.019(15), F.S.

4. Respondent Arbor Tree and Land, Inc. is a licensed general contractor specializing in disaster response and recovery services, general contracting services, and arborist and marine environmental services, and is located at 7089 Hemstreet Place, West Palm Beach, FL 33413. Respondent Arbor Tree and Land, Inc. is a Florida Profit Corporation registered to conduct business in the state of Florida. Respondent William D. Hodges is the president of Arbor Tree and Land, Inc. for cleaning up sediment from residential canals and conducting boat ramp repairs at Indian Key Fill.

5. The Department finds that the Respondents violated of Sections 373.430(1), and 253.77, 253, Florida Statutes (F.S.), and Rule(s) 62-330.020(2), 18-20, and 18-21, Florida Administrative Code (F.A.C.) which require a permit and sovereignty submerged lands authorization from the Department prior to conducting dredging activities. Respondents dredged approximately 150 square feet of sovereignty submerged lands while trying to launch a vessel at the Indian Key Fill boat ramp, without a valid permit from the Department and without a valid letter of consent or sovereignty submerged lands authorization from the Board to use Sovereign Lands. The dredging activities are described and detailed in a Florida State Parks Report dated 02/09/2021 ("Attachment I"), attached and incorporated by reference. The dredging activity occurred in, at, and around Parcel No. 00097221-000000 – Sec/Twp/Rng 12/64/36, Indian Key Fill, Lignumvitae State Park, within the landward extent of Indian Key Channel, Lignumvitae Aquatic Preserve, Class III Outstanding Florida Waters, as defined by Florida Law.

Having reached a resolution of the matter, Respondents, the Department and the Board mutually agree, and it is,

ORDERED:

6. Within 30 days of the effective date of this Consent Order, Respondents shall pay the Department \$5,000.00 in settlement of the regulatory matters addressed in this Consent Order. This amount includes \$4,500.00 for administrative penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Respondent shall make all payments required by this Consent Order by cashier's check, money order or online payment. Cashier's check or money order shall

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page **3** of **9**

be made payable to the *Department of Environmental Protection*, mailed to Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549, and shall include both the OGC number assigned to this Consent Order, which is OGC No. 21-0520, and the notation "Water Quality Assurance Trust Fund." Online e-check payment can be made by going to the DEP Business Portal at <u>http://www.fldepportal.com/go/pay/</u>. It will take a number of days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

7. Respondents shall implement the Corrective Actions attached hereto and incorporated herein as Attachment II in the manner and within the time frames specified therein.

8. With the exception of the activities described in this Consent Order, effective immediately and henceforth, Respondents shall not conduct any dredging, filling, mangrove trimming, mangrove alteration, mangrove removal, or construction activities on or within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements; nor shall Respondents conduct any activities on state owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.

9. Respondents agree to pay the Department stipulated penalties in the of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 7 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the *Department of Environmental Protection* by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order, which is OGC No. 21-0520, and the notation "Water Quality Assurance Trust Fund." The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 6 of this Consent Order.

10. If any event, including administrative or judicial challenges by third parties unrelated to the Respondents, occurs which causes delay or the reasonable likelihood of delay, in complying

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page **4** of **9**

with the requirements of this Consent Order, Respondents shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondents and could not have been or cannot be overcome by Respondents' due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondents, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as 'contractor') to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondents, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondents shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondents intend to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondents, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondents to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondents' rights to request an extension of time for compliance with the requirements of this Consent Order.

11. Entry of this Consent Order does not relieve Respondents of the need to comply with applicable federal, state or local laws, regulations or ordinances.

12. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 253.04, and 373.129, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 253.04 and 373.430, Florida Statutes.

13. Respondents are fully aware that a violation of the terms of this Consent Order may subject Respondents to judicial imposition of damages, civil penalties of up to \$10,000 per day per violation and criminal penalties.

14. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida

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Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this Notice. A copy of the Petition must also be mailed at the time of filing to the District Office named about at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) The name, address and telephone number of each 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;
- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) A statement of all material facts disputed by petitioner, if any;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this Notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57,

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page 6 of 9

Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses and telephone numbers of any persons who may attend the mediation;
- (b) The name, address and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement

clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all Parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this Notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the Notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

15. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

16. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order.

17. Respondents acknowledge and waive their right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges their right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, and waive that right upon signing this Consent Order.

18. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondents and the Department.

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page 8 of 9

19. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549. Online e-check payment can be made by going to the DEP Business Portal at <u>http://www.fldepportal.com/go/pay/.</u>

20. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

21. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

6/18/21

6/18/21

ARBOR TREE AND LAND, INC.

William D. Hodges, President

FOR THE RESPONDENT:

FOR THE RESPONDENT: WILLIAM D. HODGES

liam D. Hodges, President

THIS PORTION INTENTIONALLY LEFT BLANK

Arbor Tree and Land, Inc. and William D. Hodges OGC No. 21-0520 Page 9 of 9

Please do not write below this line. For DEP use only.

DONE AND ORDERED this 21st day of June , 2021 , in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart Director of District Management South Florida District P.O. Box 2549 Fort Myers, Florida 33902-2549 Telephone: (239) 344-5600

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

retheraux CLER

June 21, 2021

DATE

cc: Lea Crandall, Agency Clerk (Mail Station 35)



FLORIDA DEPARTMENT OF Environmental Protection

Division of Recreation and Parks Bureau of Parks District 5 13798 SE Federal Highway Hobe Sound, Florida, 33455 Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Noah Valenstein Secretary

Attachment I OGC No. 21-0520 pg. 1 of 5

Memorandum

TO:	Lu Dodson, Park Manager Islamorada Area State Parks Florida Keys Overseas Heritage Trail
FROM:	Janice Duquesnel, Environmental Specialist II Bureau of Parks District 5 Administration
SUBJECT:	Indian Key Fill Boat Ramp Damage
DATE:	February 9, 2021

On February 9, 2021, Park Biologist Becky Collins and I conducted an assessment at the Indian Key Fill boat ramp. According to the information you provided, on Friday February 5, 2021, the contractor for the Village of Islamorada attempted to haul out their 40' barge at the Indian Key Fill boat ramp, and because this vessel exceeds the capacity of this unimproved boat ramp, the vessel became stuck. The contractor then proceeded to excavate the submerged resources in order to remove the vessel. The dredged material was left along the shoreline.

Damage to the substrate was observed along the edge of the shoreline and into the submerged resources. The excavated hole begins at 6.3ft from the shoreline and extends 23ft for a total length of 16.7ft. Width measurements were taken at several points along the excavated hole:

11.6ft 10.0ft 5.0ft

Depth was measured at several locations to the grade of the surrounding submerged resources:

3ft 3.6ft 3.3ft

Penicillus capitatus was the only submerged aquatic vegetation observed.

My recommendation is to fill in the excavated hole with 0.25" native pea gravel. I recommend that the dredged material along the shoreline be moved to other areas in the parking lot and spread out above MHW to minimize or eliminate the potential for it being redistributed back into the nearshore waters, creating turbidity, sedimentation, and water quality issues. Permits from the South Florida Water Management District as well as the Army Corp of Engineers will need to be obtained prior to this work. Although we have current permits from both of these agencies, this activity does not fall within the purview of our permits since it is not seagrass restoration.



Attachment I OGC No. 21-0520 pg. 2 of 5

Boat ramp has been temporarily blocked. Dredged material in the foreground and to the right of the equipment



Dredged material and ruts from use of the boat ramp over the weekend



Attachment I OGC No. 21-0520 pg. 3 of 5

Dredged material with the excavated hole visible in the submerged resources



Edge of excavated hole



Edge of excavated hole



Tracks from excavation activity



Edge of excavated hole



Edge of excavated hole

Attachment I OGC No. 21-0520 pg. 4 of 5



Attachment I OGC No. 21-0520 pg. 5 of 5

Damage from undercutting

Please let me know if you have any questions.

/JAD

cc: Ernie Cowan Becky Collins file

ATTACHMENT II OGC Case No. 21-0520 CORRECTIVE ACTIONS

RESTORATION OF DREDGED AREA

- 1. Within 60 days of the effective date of this Consent Order, Respondents shall complete the restoration on the Property in accordance with the plans and specifics detailed in the attached Exhibit A (Restoration Plan).
- 2. Should the terms in the attached <u>Exhibit A</u> (Restoration Plan) conflict with any terms of the Consent Order and Attachment II, the terms within the Consent Order and Attachment II shall prevail.

MONITORING & SUCCESS CRITERIA:

- 3. Respondents shall submit a "Baseline" Monitoring Report within 15 days of the effective date of this Consent Order and shall include the following:
 - a. The "OGC Case No. 21-0520" and name of Respondent exactly as it appears on the first page of this Order;
 - b. Dates of all work completed;
 - c. Color photographs to provide an accurate representation of the dredged area. The photographs shall be taken from fixed reference points and directions which are shown on a scaled plan-view of the site; and
 - d. A water quality report showing the daily turbidity levels for the dredged area and immediately surrounding waters within 25ft.
- 4. Restoration of the dredged area shall be deemed successful when the following criteria has been met following submission of the baseline report:
 - a. A licensed surveyor has confirmed completion of work prior to demobilization to demonstrate that significant compaction, migration of sediment or sand into the pore space of the fill, or the collapse of voids has not occurred. The survey shall demonstrate that the final elevation is within at least 0.25 feet of the design grade on average for the fill area.
 - b. The water quality report shows turbidity levels do not exceed 0 NTU's above background.
- 5. If it is determined by the Department, based on visual inspection and/or review of the monitoring report, that the area is not meeting the success criteria (described in paragraph 4 above) after 1 year, Respondents shall submit an alternative Restoration Plan to the Department for review and approval, which shall meet the following requirements:
 - a. Respondents shall submit the plan within 30 days of notification by the Department of failure to meet the performance criteria;
 - b. The Revised Restoration Plan shall include a plan, including time schedule for filling the dredged Area with enough material approved by the Department in advance to meet the success criteria. The revised plan shall also include maintenance and monitoring schedule to ensure that the filling is successful.
 - c. Respondents shall implement the alternative restoration plan, including any changes required by the Department, no later than 90 days after receiving Department approval.

Attachment II OGC Case No. 21-0520 Page 2 of 3

GENERAL CONDITIONS:

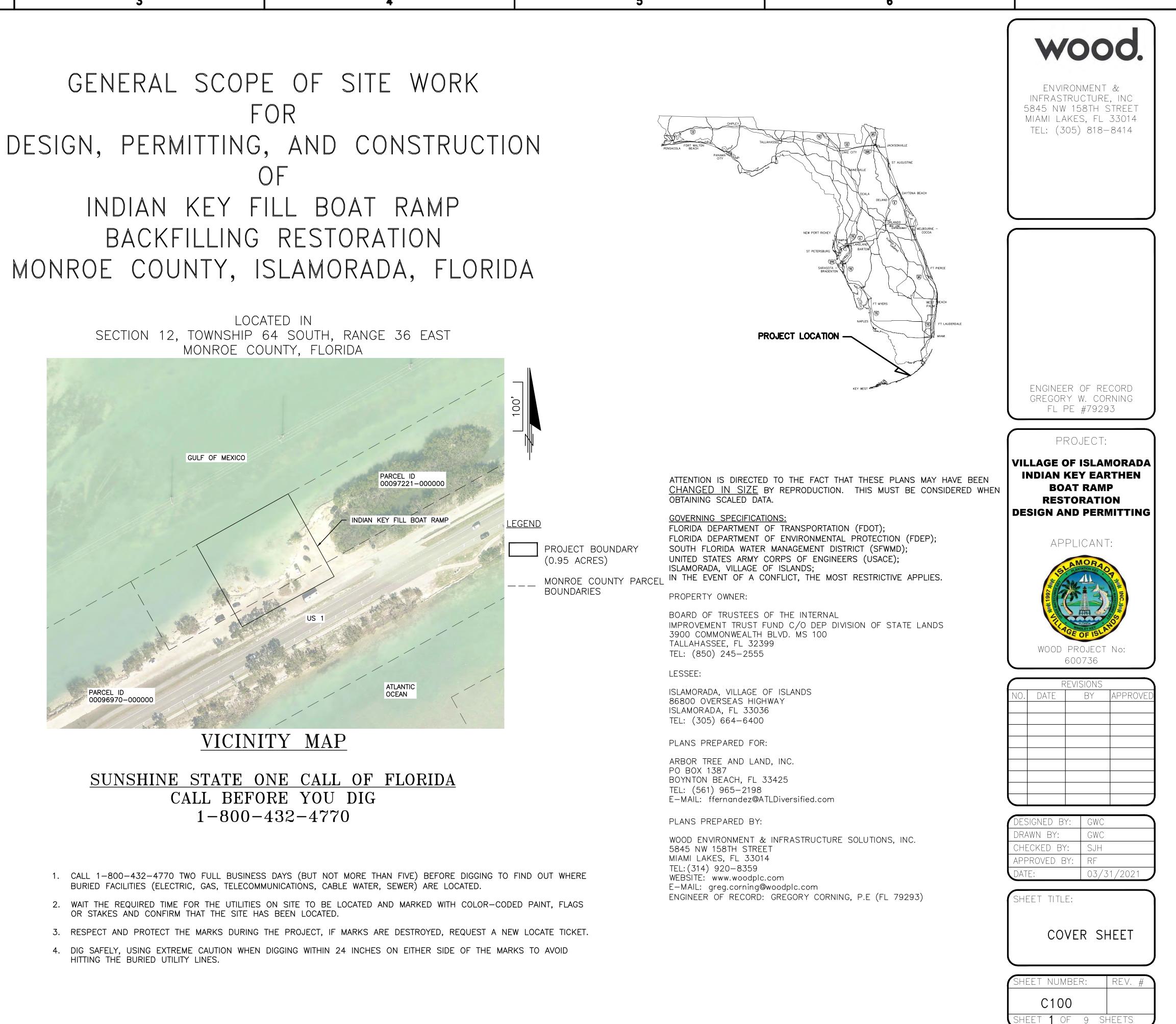
- 6. This Consent Order or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the ordered activity. The complete Consent Order shall be available for review at the work site upon request by the Department staff. The Respondent shall require the contractor to review the complete Consent Order prior to commencement of the activity authorized by this Consent Order.
- 7. Activities approved by this Consent Order shall be conducted in a manner, which does not cause violations of state water quality standards. The Respondent shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the ordered work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized, and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sedimentation Control Inspectors Manual, FDEP (2008), available on the Department's website at http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf unless a project-specific erosion and sediment control plan is approved as part of this Order. Thereafter the Respondent shall be responsible for the removal of the barriers. The Respondent shall correct any erosion or shoaling that causes adverse impacts to the water resources.
- 8. Should any other regulatory agency require changes to the herein authorized act, the Respondent shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a Consent Order modification is required.
- 9. This Consent Order does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this Consent Order. This Consent Order does not convey to the Respondent or create in the Respondent any property right or any interest in real property, nor does it authorize any entrance upon or activities on property, which is not owned or controlled by the Respondent, or convey any rights or privileges other than those specified in the Consent Order and Chapter 62-330, F.A.C.
- 10. The Respondent shall hold and save the Department harmless from any and all damages, claims, or liabilities, which may arise by reason of the ordered activities, authorized by this Consent Order.
- 11. If historical or archaeological artifacts are discovered at any time on the project site, the Respondent shall immediately notify the Department's South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.
- 12. The Respondent shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.
- 13. The Respondent is hereby advised that Department authorization is required for all dredging and filling activities in wetlands or surface waters and for mangrove trimming, alteration and/or removal, pursuant to Chapters 403 and 373, Florida Statutes (F.S.). In addition, water quality

Attachment II OGC Case No. 21-0520 Page 3 of 3

standards, as stipulated in Chapter 62-302, F.A.C., shall be upheld. Respondent shall not commence any excavation, construction, or other activity within any wetland areas until Respondent has received from the Department (or the appropriate Water Management District) the required permit authorizing the activity. Pursuant to Chapter 373.129 and 403.141, if such work is done without authorization, the Department may levy civil penalties of up to \$10,000 per offense. Each date during which such violation occurs may constitute a separate offense.

- 14. The project shall comply with applicable State Water Quality Standards, namely:
 - a. Rule 62-302.500, F.A.C. Surface Waters: Minimum Criteria, General Criteria;
 - b. Rule 62-302.530, F.A.C. Table: Surface Water Quality Criteria Class III Waters;
 - c. Rule 62-302.700, F.A.C. Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters; and
 - d. Rule 62-4.242, F.A.C. Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters.

OGC NO. 21-0520 EXHIBIT A PG 1 OF 9



SHEET INDEX

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C100	COVER SHEET
C110	GENERAL NOTES
C210	EXISTING SITE PLAN
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C240	PROPOSED MAINTENANCE OF TRAFFIC PLAN
C310	CROSS SECTION LOCATION PLAN
C311	CROSS SECTION DETAILS
C410	DESIGN DETAILS I

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B

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A. CONSTRUCTION NOTES

- 1. PROJECT LOCATION: LAT: 24.889433 LONG: -80.677326
- 2. DESCRIPTION: ON FEBRUARY 5, 2021, THE CONTRACTOR FOR THE VILLAGE OF ISLAMORADA TRIED TO BRING THEIR 40' BARGE OUT OF THE WATER USING THE INDIAN KEY FILL BOAT RAMP. IT THEN BECAME STUCK AS IT EXCEEDED THE CAPACITY OF THE BOAT RAMP. TO REMOVE THE VESSEL SUBMERGED RESOURCES WERE DREDGED FROM THE BAY BOTTOM, AND THE MATERIAL WAS PLACED ALONG THE SHORELINE. THE PROJECT WILL RESTORE THE DREDGED BAY BOTTOM TO EXISTING CONDITIONS AND RESTORE FUNCTION OF THE RAMP.
- 3. SEQUENCE OF MAJOR ACTIVITIES:
 - (1) INSTALL TEMPORARY EROSION AND SEDIMENTATION CONTROLS AND MAINTAIN THROUGHOUT PROJECT
 - (2) CONSTRUCT BACKFILL STAGING AREA
 - (3) FILL AREA ACCORDING TO PLANS
 - (4) OBTAIN FINAL APPROVAL, REMOVE EROSION AND SEDIMENTATION CONTROLS AND STABILIZE ANY AREA DISTURBED BY THEIR REMOVAL.
- 4. AREA ESTIMATES: PROJECT BOUNDARY = 0.95 ACRES ; 41,382 SQ FT
- 5. THE CONTRACTOR SHALL HAVE A PRE-CONSTRUCTION MEETING WITH STAKEHOLDERS TO DISCUSS THE COMPLEXITY AND POTENTIAL PUBLIC CONCERNS WITH THE PROJECT.
- 6. ANY HAZARDOUS MATERIALS BROUGHT ONSITE (FUELS, HYDRAULIC FLUIDS, CLEANING SOLUTIONS, ETC.) MUST BE STORED WITHIN SPILL CONTAINMENT PROVIDED BY THE CONTRACTOR AND ONLY IN AREAS PRE-DESIGNATED BY PARK MANAGER. EQUIPMENT SHOULD ALSO HAVE ABSORBENT PADS AVAILABLE FOR ANY LEAKS THAT DEVELOP DURING USE. ANY SPILLS NEED TO BE REPORTED TO MANAGER (OR DESIGNEE) AS SOON AS POSSIBLE, CONTAINED, AND MINIMIZED. WORK WITH THAT EQUIPMENT SHOULD CEASE UNTIL CORRECTED.
- 7. ANY TRAFFIC CONTROL NEEDED DURING THE REPAIR PROCESS SHALL BE PROVIDED BY CONTRACTOR AT NO EXPENSE TO THE VILLAGE OR FDEP.
- 8. COORDINATES AND ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN DATUM OF 1983, 2011 ADJUSTMENT, PROJECTED IN THE FLORIDA STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE 901, US SURVEY FEET, AND; THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) BASED ON GLOBAL POSITIONING SYSTEM (GPS) MEASUREMENTS TO THE NATIONAL GEODETIC SURVEY (NGS) CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS) NETWORK. THE POSITIONS OF THE PROJECT CONTROL STATIONS SHOWN HEREON HAVE A CALCULATED POSITIONAL ACCURACY OF 2 CM OR BETTER BASED UPON THE NGS OPUS ADJUSTMENT REPORT AND ARE BASED ON MEASUREMENTS TO THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM (NSRS) GEODETIC CONTROL MONUMENT:

DESIGNATION: N 666 PID: DR3376 NORTHING: 201829.07 (\pm 3 METERS) EASTING: 762591.86 $(\pm 3 \text{ METERS})$ ELEVATION: 9.84

DESIGNATION: 872 3828 G TIDAL PID: AA0847 NORTHING: 205340.11 EASTING: 769115.39 ELEVATION: 11.46

OGC NO. 21-0520

EXHIBIT A

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B. TEMPORARY EROSION AND SEDIMENT CONTROL

- 1. CONTRACTOR SHALL INSTALL PRIOR TO AND MAINTAIN DURING CONSTRUCTION ALL SEDIMENT CONTROL MEASURES AS REQUIRED TO RETAIN ALL SEDIMENTS ON THE SITE. IMPROPER SEDIMENT CONTROL MEASURES MAY RESULT IN CODE ENFORCEMENT VIOLATIONS.
- 2. ALL SILT FENCES AND TURBIDITY BARRIERS MUST BE PLACED AS ACCESS IS OBTAINED DURING CLEARING. NO GRADING SHALL BE DONE UNTIL SILT FENCE AND TURBIDITY BARRIERS ARE INSTALLED.
- SILT FENCE AND TURBIDITY BARRIERS ARE TO BE PLACED AS SHOWN AND/OR DIRECTED BY ENGINEER.
- 4. EROSION CONTROL MEASURES WILL BE INSPECTED AT LEAST DAILY, AFTER EACH RAIN AND REPAIRED BY THE GENERAL CONTRACTOR. CLEAN OUT OF SEDIMENT CONTROL STRUCTURES WILL BE PERFORMED BY THE CONTRACTOR WHEN SEDIMENT HAS ACCUMULATED TO ONE-HALF (1/2) FULL FOR SILT FENCE, TURBIDITY BARRIERS, AND SOIL TRACKING PREVENTION DEVICES.
- THE CONTRACTOR IS RESPONSIBLE FOR LOCATING SEDIMENT AND EROSION CONTROL MEASURES TO PROVIDE OPTIMUM SEDIMENT AND EROSION CONTROL SEDIMENT AND EROSION CONTROL MEASURES SHALL COMPLY WITH CHAPTER 6 OF THE FLORIDA DEVELOPMENT MANUAL.
- ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE INSTALLED IF DEEMED NECESSARY BY ON-SITE INSPECTION OF MONROE COUNTY DESIGNATED REPRESENTATIVE.
- 7. THE CONTRACTOR SHALL PROTECT ANY EXISTING DITCHES, WETLAND VEGETATION, STORM DRAIN PIPES, AND INLETS IN THE VICINITY OF WORK TO BE PERFORMED FROM DAMAGE OR SILTATION, WHETHER OR NOT SPECIFICALLY IDENTIFIED IN THE PLANS.
- CONSTRUCTION EXITS SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOW OF MUD INTO PUBLIC STREETS. IF TRACKING OR FLOW OF MUD OCCURS, CONTRACTOR SHALL CONSTRUCT A SOIL TRACKING PREVENTION DEVICE IN ACCORDANCES WITH FDOT DESIGN STANDARDS.
- TEMPORARY PROTECTION DEVICES MUST BE MAINTAINED UNTIL PROJECT COMPLETION OR VEGETATION MEASURES ARE ESTABLISHED.
- 10. REMOVE ALL TEMPORARY EROSION CONTROL MEASURES UPON ESTABLISHMENT OF PERMANENT VEGETATION OR PROJECT COMPLETION
- 11. SILT FENCE AND TURBIDITY BARRIERS SHALL MEET THE REQUIREMENTS OF FDOT DESIGN STANDARDS.
- 12. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR CONTROL OF EROSION WITHIN THE WORK SITE AND PREVENTION OF SEDIMENTATION OF ANY ADJACENT OR DOWNSTREAM WATERWAYS. THE EROSION AND SEDIMENTATION CONTROL MEASURES SHOWN ON THE PLANS ARE THE MINIMUM REQUIREMENTS. THE CONTRACTOR'S METHODS OF OPERATION MAY DICTATE ADDITIONAL EROSION AND SEDIMENTATION CONTROL MEASURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING AND INSTALLING ADDITIONAL MEASURES.
- 13. EROSION CONTROL MEASURES WILL BE MAINTAINED AT ALL TIMES. IF FULL IMPLEMENTATION OF THE APPROVED PLAN DOES NOT PROVIDE FOR EFFECTIVE EROSION CONTROL, ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IMPLEMENTED TO CONTROL OR TREAT THE SEDIMENT SOURCE.
- 14. THE CONTRACTOR SHALL BE SOLEY RESPONSIBLE FOR ENSURING ALL PERMIT REQUIREMENTS FOR TURBIDITY ARE MET. THE TURBIDITY LEVELS WITHIN THE PROJECT AREA SHALL NOT EXCEED 29 NTU'S ABOVE BACKGROUND AND THE LEVELS OUTSIDE THE PROJECT AREA (OUTSTANDING FLORIDA WATERS) SHALL NOT EXCEED O NTU'S ABOVE BACKGROUND. THE TURBIDITY MONITORING SHALL BE LOGGED DAILY WITH A METER AND DATA SHALL BE KEPT ONSITE THROUGHOUT CONSTRUCTION.
- C. EXISTING INFRASTRUCTURE
- 1. THE CONTRACTOR IS RESPONSIBLE FOR REPLACING EXISTING INFRASTRUCTURE THAT IS IMPACTED DURING CONSTRUCTION TO MATCH EXISTING CONDITIONS.
- D. EXISTING UTILITIES
- 1. THE CONTRACTOR IS RESPONSIBLE FOR NOTIFYING ALL PERTINENT UTILITIES COMPANIES 48 HOURS PRIOR TO CONSTRUCTION FOR LOCATION OF UNDERGROUND UTILITY LINES.
- 2. IN THE EVENT THE UTILITIES ARE DAMAGED, THE CONTRACTOR SHALL RESTORE TO MATCH EXISTING CONDITIONS AND NOTIFY THE PERTINENT UTILITY COMPANY IMMEDIATELY.

E. BACKFILL METHODOLOGY AND MATERIAL SPECIFICATIONS

- TO SURROUNDING OUTSTANDING FLORIDA WATERS.
- AGGREGATE.
- TURBIDITY AND REMOVE CONTAMINANTS.
- IDENTIFIED IN THE SURVEY TO THE FINAL ELEVATION SPECIFIED IN THE CONSTRUCTION DRAWINGS.
- RUTTING ANTICIPATED TO OCCUR OVER THE LIFE OF THE RAMP
- EROSION DURING SUCH EVENT.

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1. THE BACKFILL MATERIAL SHALL BE DELIVERED VIA TRUCK AND PLACED INTO THE WATER VIA MECHANICAL METHODS FROM THE UPLAND SHORE TO PREVENT IMPACTS

2. THE MATERIAL SHALL CONFORM TO FDOT SPECIFICATION SECTION 901 FOR COARSE

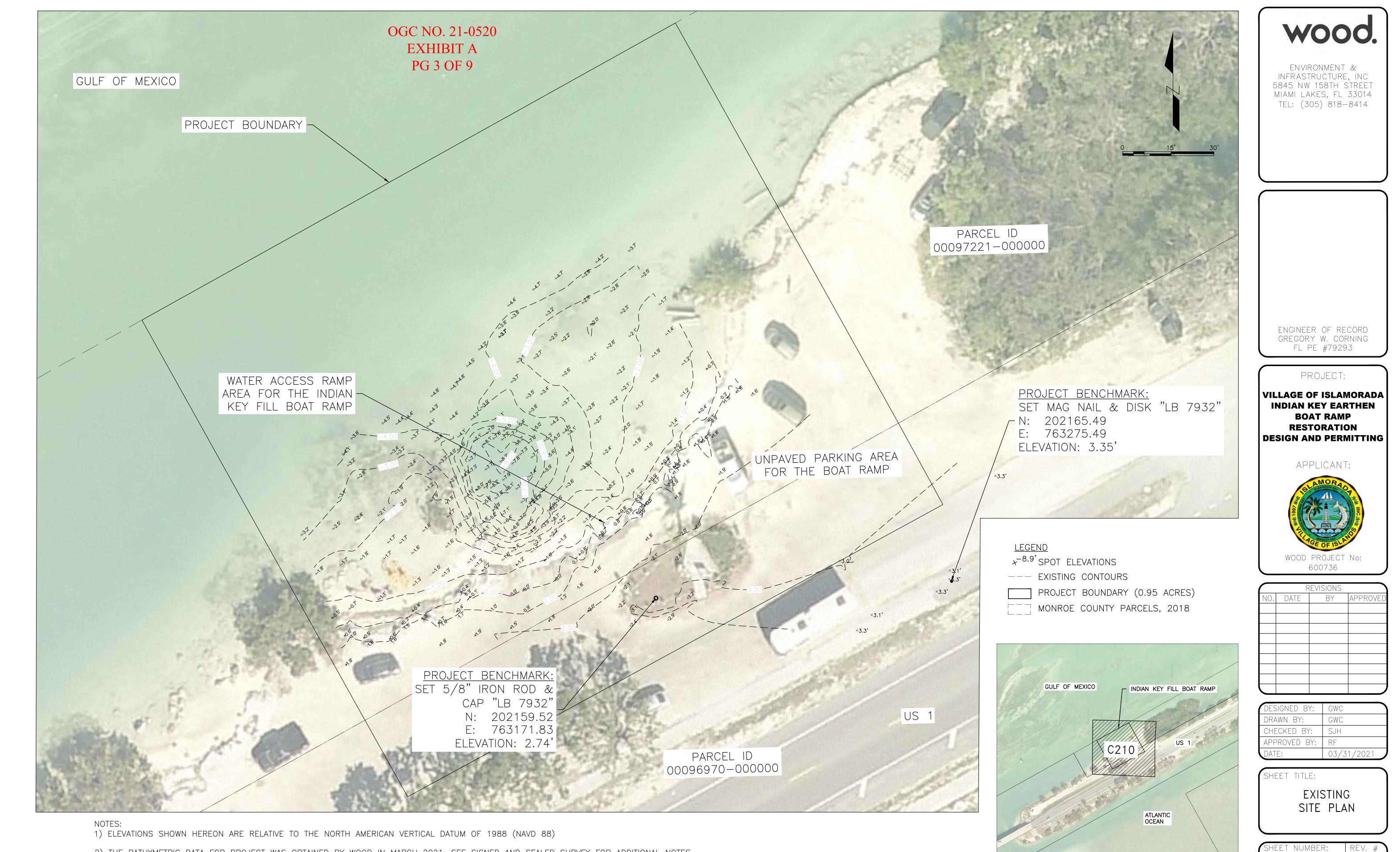
THE MATERIAL SHALL BE RINSED OFFSITE PRIOR TO ARRIVAL ONSITE TO MINIMIZE

BASED ON DESIGN CALCULATIONS, SETTLEMENT IS ANTICIPATED TO BE MINIMAL THEREFORE THE ON COMPLETION OF THE BACKFILLING, THE CONTRACTOR SHALL ENGAGE A LICENSED SURVEYOR TO CONFIRM COMPLETION OF WORK PRIOR TO DEMOBILIZATION TO DEMONSTRATE THAT SIGNIFICANT COMPACTION, MIGRATION OF SEDIMENT OR SAND INTO THE PORE SPACE OF THE FILL, OR THE COLLAPSE OF VOIDS HAS NOT OCCURRED. THE SURVEY SHALL DEMONSTRATE THAT THE FINAL ELEVATION IS WITHIN AT LEAST 0.25 FEET OF THE DESIGN GRADE ON AVERAGE FOR THE FILL AREA; OTHERWISE THE CONTRACTOR SHALL FILL THE LOW SPOTS

5. THE FILL MATERIAL FOR THE RAMP DOES NOT MITIGATE FOR LOSS OF MATERIAL FROM POTENTIAL POWER LOADING OF VESSELS FOR THE USE OF THE RAMP. THEREFOR POTENTIAL MAINTENANCE ACTIVITIES WILL BE REQUIRED TO MITIGATE FOR

THE PROJECT IS LOCATED WITHIN A VE ZONE WITH A WAVE HEIGHT OF 3 FEET FOR EROSION DURING A 100 YEAR STORM EVENT. THE LEVEL OF SERVICE FOR THIS RAMP DOES NOT MEET THOSE REQUIREMENTS AND MAY POTENTIALLY HAVE





2) THE BATHYMETRIC DATA FOR PROJECT WAS OBTAINED BY WOOD IN MARCH 2021, SEE SIGNED AND SEALED SURVEY FOR ADDITIONAL NOTES.

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3) THE CONTRACTOR SHALL LOCATE AND IDENTIFY ALL UNDER GROUND AND ABOVE GROUND UTILITIES WITHIN THE PROJECT BOUNDARY. IN THE EVENT, THE UTILITIES ARE IMPACTED THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANY AND ISLAMORADA IMMEDIATELY AND REPLACE TO MATCH EXISTING CONDITIONS.

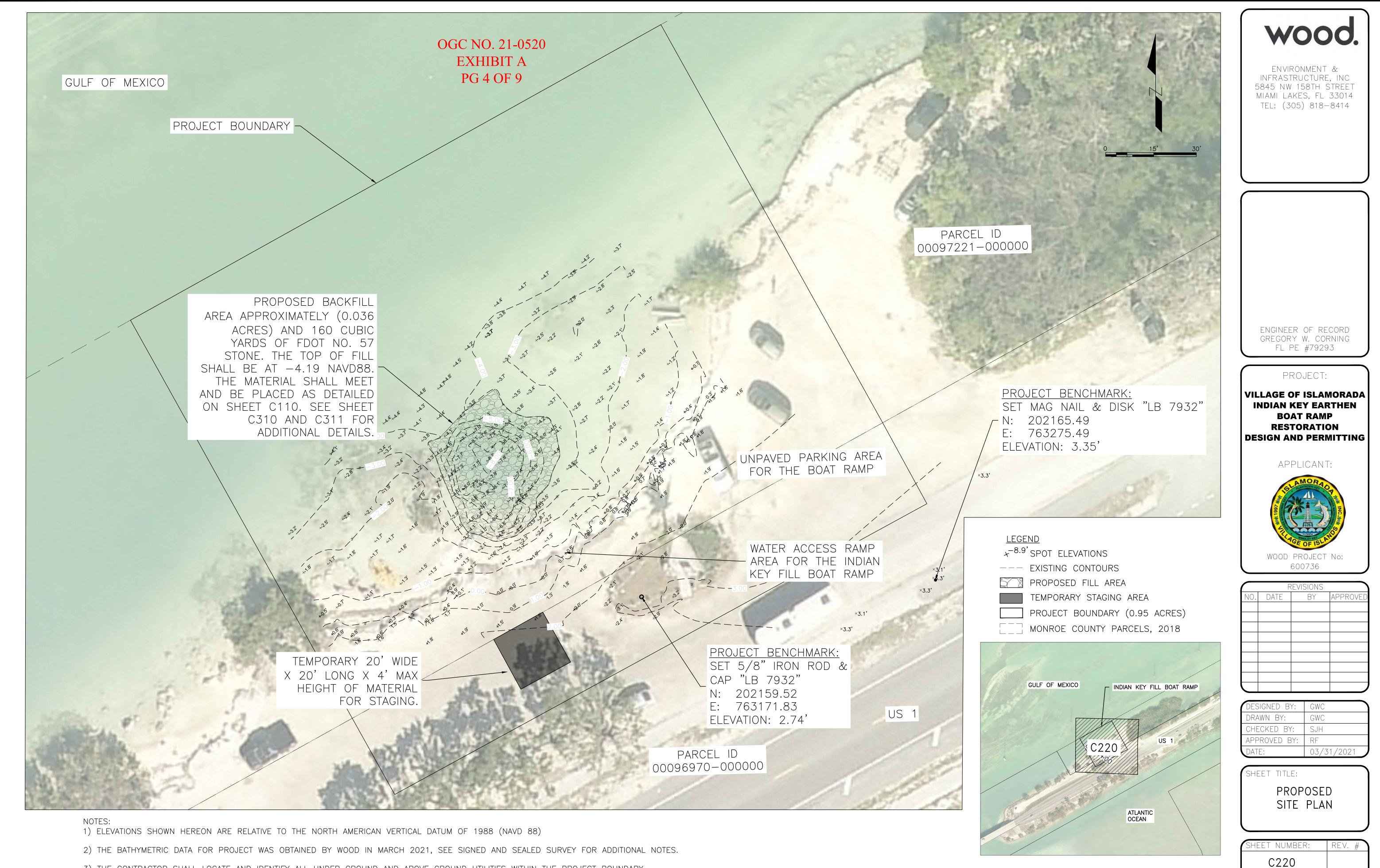
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<u>SITE MAP KEY</u>

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HEET **3** OF 9 SHEETS



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3) THE CONTRACTOR SHALL LOCATE AND IDENTIFY ALL UNDER GROUND AND ABOVE GROUND UTILITIES WITHIN THE PROJECT BOUNDARY. IN THE EVENT, THE UTILITIES ARE IMPACTED THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANY AND ISLAMORADA IMMEDIATELY AND REPLACE TO MATCH EXISTING CONDITIONS.

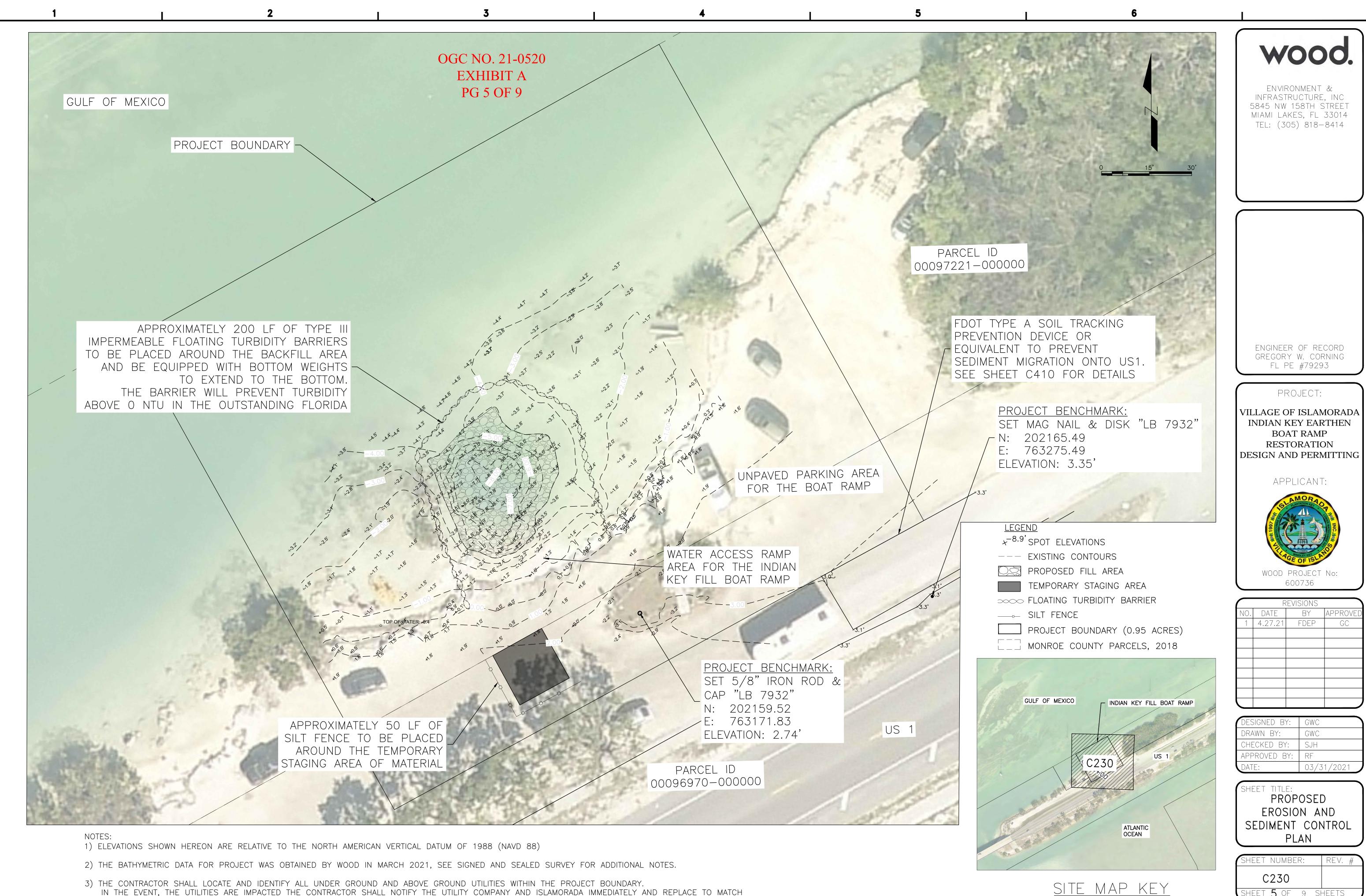
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<u>SITE MAP KEY</u>

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HEET **4** OF 9 SHEETS



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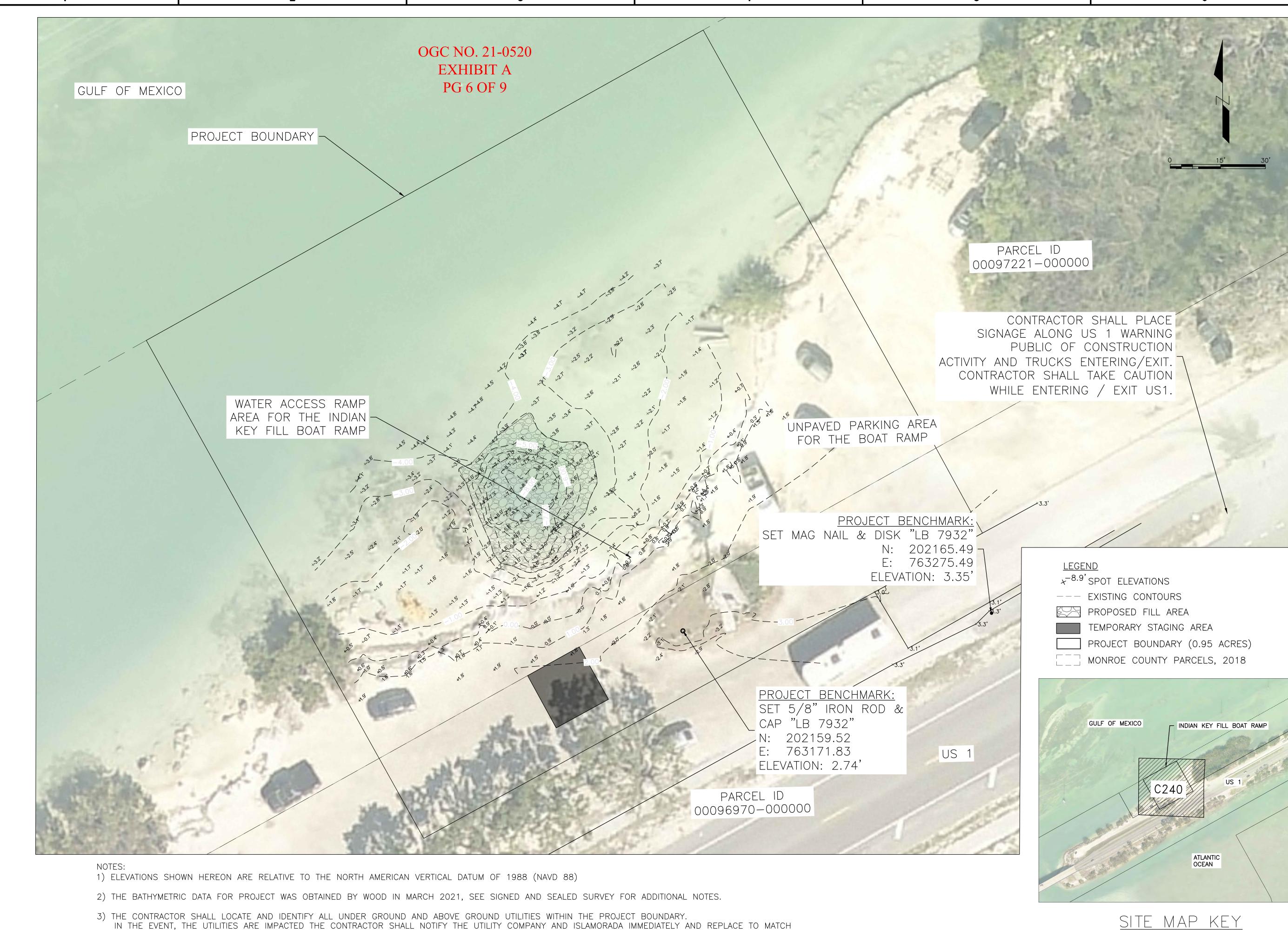
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DATE:	03/31/2021
SHEET TITLE: PROP	OSED
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C230 SHEET 5 OF 9 SHEETS



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3) THE CONTRACTOR SHALL LOCATE AND IDENTIFY ALL UNDER GROUND AND ABOVE GROUND UTILITIES WITHIN THE PROJECT BOUNDARY. IN THE EVENT, THE UTILITIES ARE IMPACTED THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANY AND ISLAMORADA IMMEDIATELY AND REPLACE TO MATCH EXISTING CONDITIONS.

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wood.

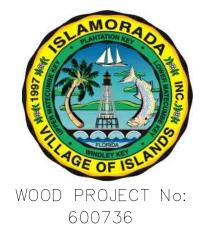
ENVIRONMENT & INFRASTRUCTURE, INC 5845 NW 158TH STREET MIAMI LAKES, FL 33014 TEL: (305) 818-8414

ENGINEER OF RECORD GREGORY W. CORNING FL PE #79293

PROJECT:

VILLAGE OF ISLAMORADA INDIAN KEY EARTHEN **BOAT RAMP** RESTORATION DESIGN AND PERMITTING

APPLICANT:



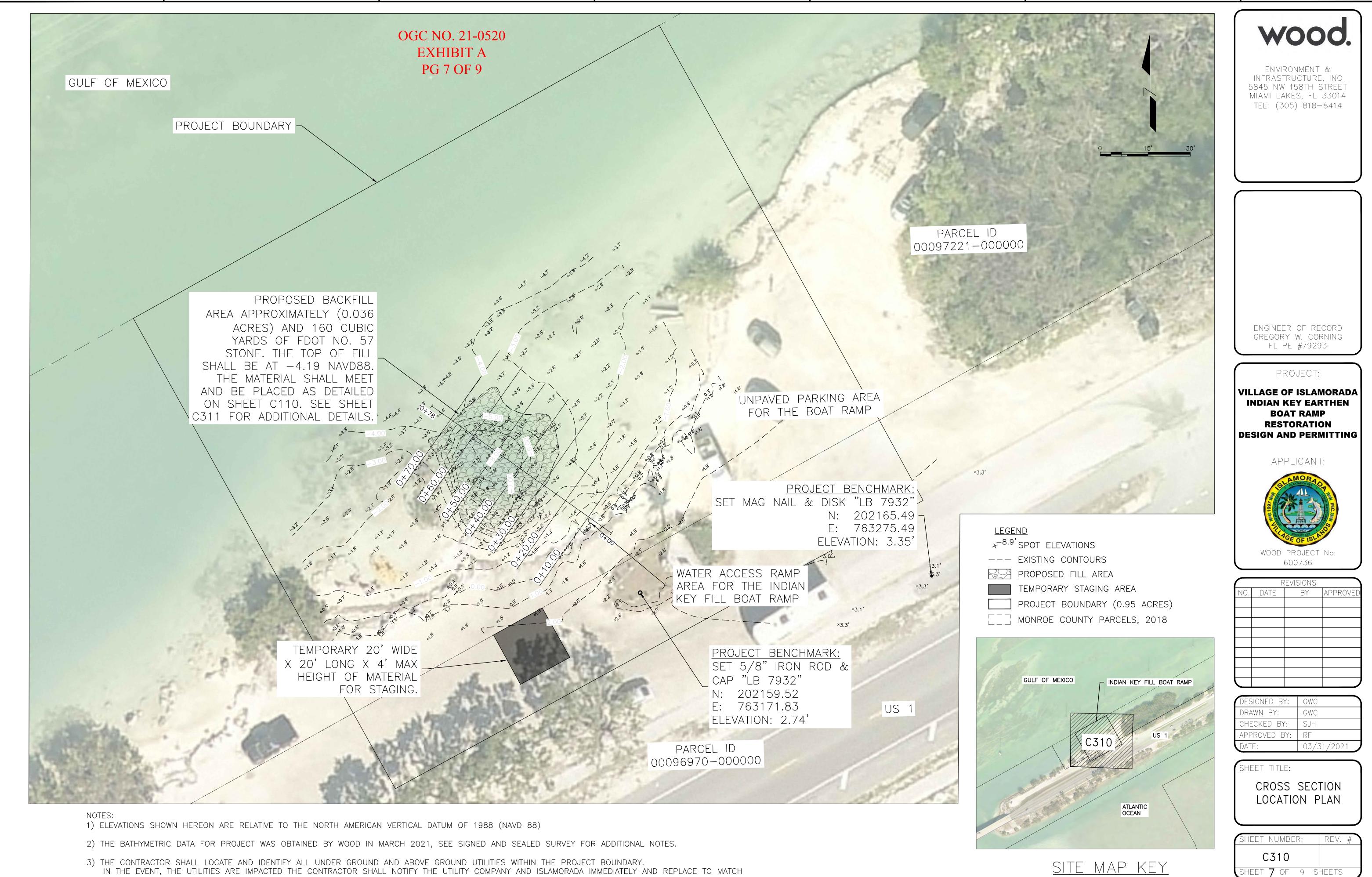
REVISIONS DATE BY APPROV

DESIGNED BY:	GWC
DRAWN BY:	GWC
CHECKED BY:	SJH
APPROVED BY:	RF
DATE:	03/31/2021

SHEET TITLE: PROPOSED MAINTENANCE OF TRAFFIC PLAN

SHEET NUMBER: REV.

C240 HEET 6 OF 9 SHEETS



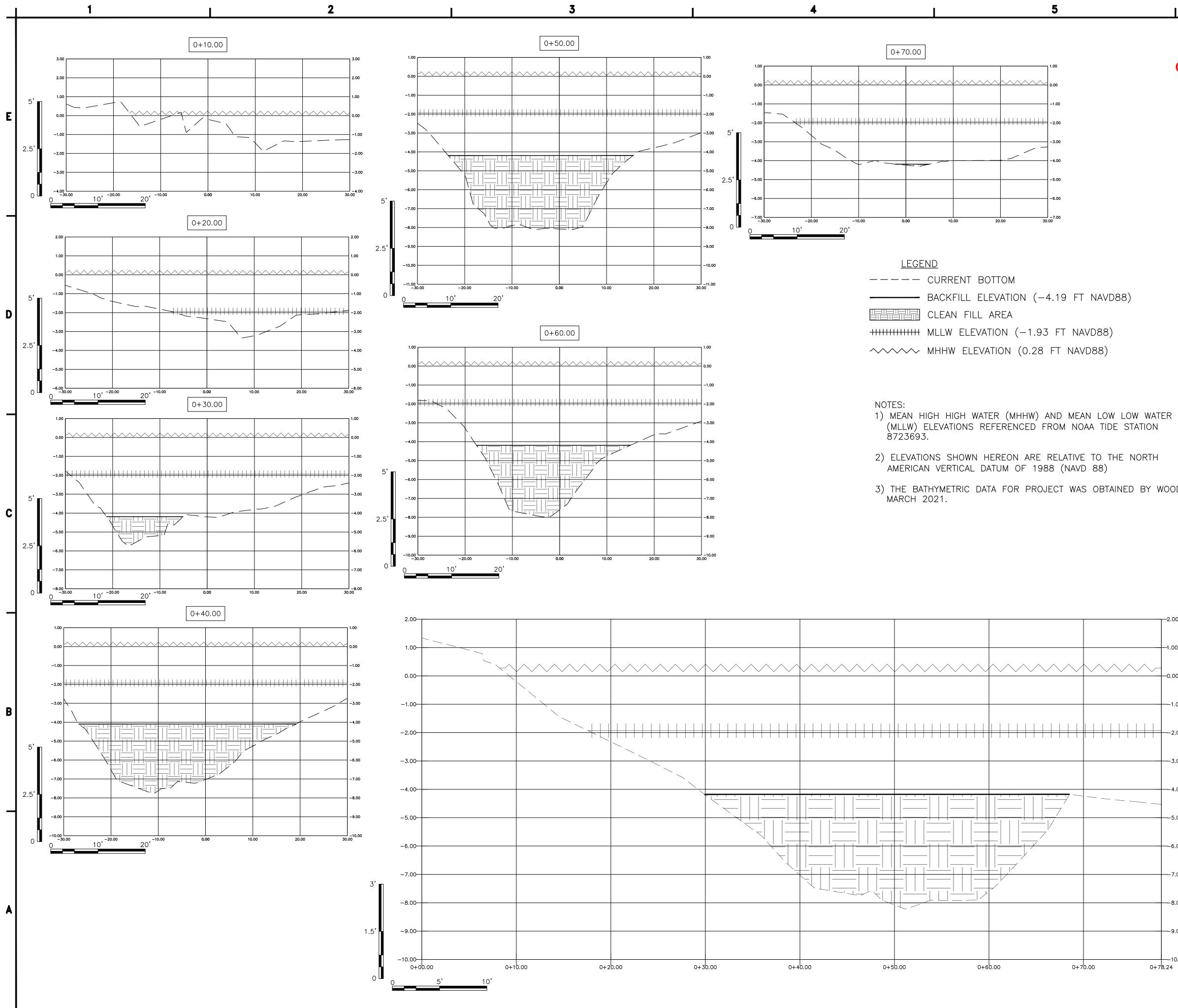
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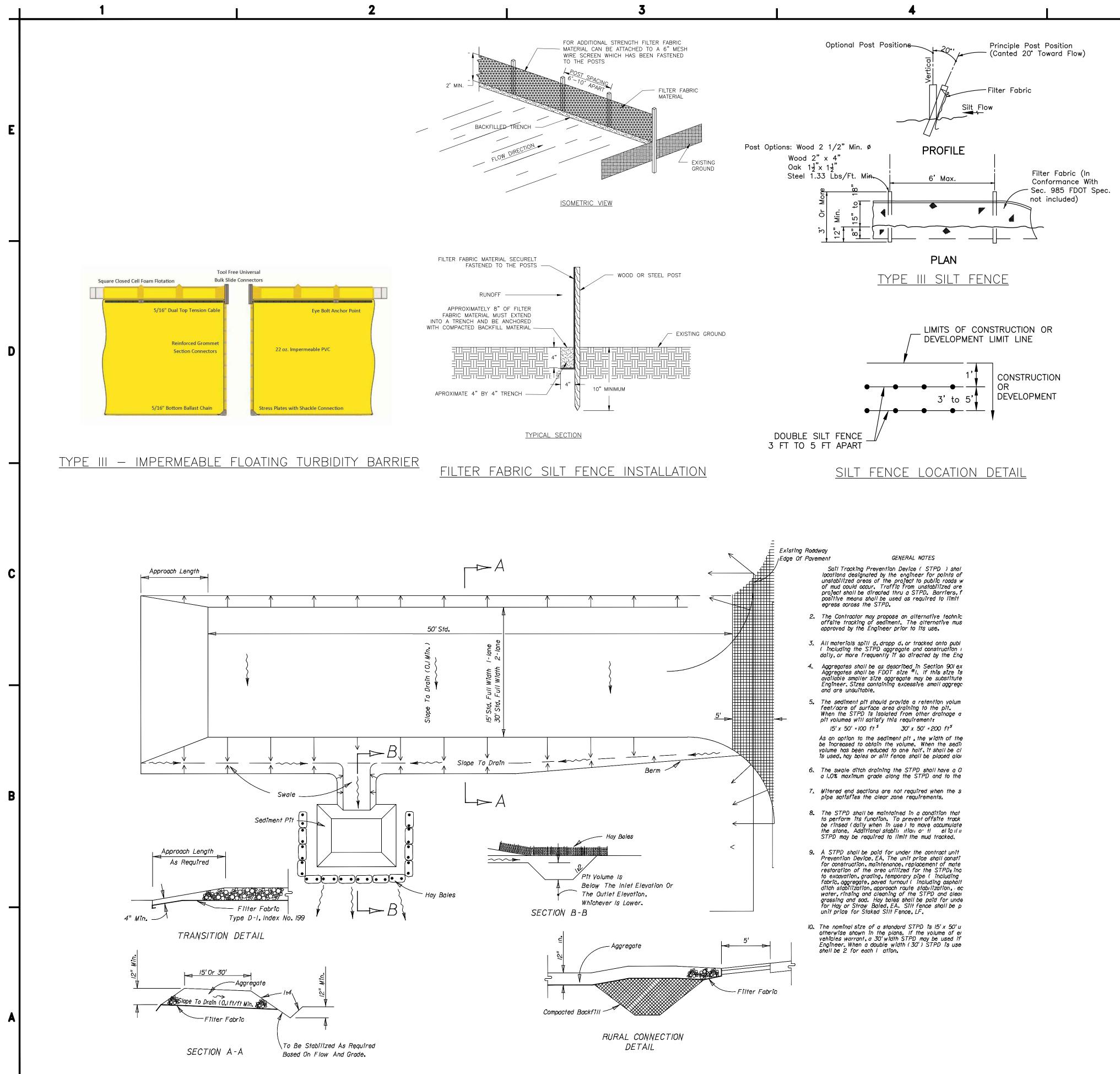
EXISTING CONDITIONS.

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OGC NO. 21-0520 EXHIBIT A PG 8 OF 9	ENVIRONMENT & INFRASTRUCTURE, INC 5845 NW 158TH STREET MIAMI LAKES, FL 33014 TEL: (305) 818–8414
	ENGINEER OF RECORD GREGORY W. CORNING FL PE #79293
२	PROJECT:
2.00	VILLAGE OF ISLAMORADA INDIAN KEY EARTHEN BOAT RAMP RESTORATION DESIGN AND PERMITTING APPLICANT:
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-1.00	
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-3.00	
-4.00	DESIGNED BY: GWC
-5.00	DRAWN BY: GWC CHECKED BY: SJH
-6.00	APPROVED BY: RF DATE: 03/31/2021
-7.00	SHEET TITLE:
-8.00	CROSS SECTION
	DETAILS I
-9.00	
-10.00	SHEET NUMBER: REV. #
	C311 Sheet 8 of 9 Sheets
6	



SOIL TRACKING PREVENTION DEVICE "TYPE A"

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OGC NO. 21-0520 **EXHIBIT A** PG 9 OF 9



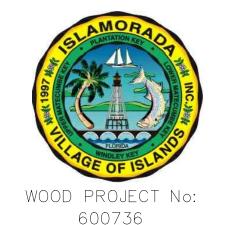
ENVIRONMENT & INFRASTRUCTURE, INC 5845 NW 158TH STREET MIAMI LAKES, FL 33014 TEL: (305) 818-8414

ENGINEER OF RECORD GREGORY W. CORNING FL PE #79293

PROJECT:

VILLAGE OF ISLAMORADA INDIAN KEY EARTHEN BOAT RAMP RESTORATION DESIGN AND PERMITTING

APPLICANT:



REVISIONS D. DATE ΒY IAPPROV

DESIGNED BY:	GWC
DRAWN BY:	GWC
CHECKED BY:	SJH
APPROVED BY:	RF
DATE:	03/31/2021

SHEET TITLE:

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HEET NUMBER: REV.

C410

HEET **9** OF 9 SHEETS