

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: CA-2019-01969
Application Name: Horizon 880-HPAB
Control No./Name: 1994-00010 (Contractor Storage Yard)
Applicant: Solid Waste Authority of Palm Beach County
 Horizon 880 LLC
Owners: Solid Waste Authority of Palm Beach County
Agent: Land Research Management, Inc. - Kevin McGinley
Telephone No.: (561) 686-2481
Project Manager: Ryan Vandenburg, Senior Site Planner

TITLE: a Class A Conditional Use **REQUEST:** to allow an Equestrian Waste Management Facility.

APPLICATION SUMMARY: Proposed is a Class A Conditional Use for the Horizon 880-HPAB development. The 5.25-acre site was previously approved by the Board of County Commissioners (BCC) for a rezoning from Light Industrial to the General Industrial Zoning District.

The Applicant is requesting a Class A Conditional Use to allow for the development of a 1-story, 48,000 square foot (sq. ft.) Equestrian Waste Management Facility. The Preliminary Site Plan (PSP) indicates 15 parking spaces and 3 loading spaces. Further, the PSP indicates there will be no outdoor storage of equestrian waste, including overnight parking of loading trucks and trailers at this facility. Access to the subject site will be through the property to the east, utilizing an existing access point on Pike Road. The existing access to the subject site from Benoist Farms Road will be limited to emergency access only.

This application is the subject of a concurrent request for a Development Order Abandonment (ABN-2020-01284), to abandon previously approved Voluntary Commitments that were part of the aforementioned rezoning.

This application was reviewed for compliance with Unified Land Development Code (ULDC) Ord. 2003-067, Supplement 27.

SITE DATA:

Location:	East side of Benoist Farms Road, approximately 0.3 miles north of Southern Blvd.
Property Control Number(s):	00-42-43-27-05-006-1901
Existing Future Land Use Designation:	Industrial (IND)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	General Industrial (IG)
Proposed Zoning District:	No Change
Total Acreage:	5.25 acres
Affected Acreage:	5.25 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Royal Palm Beach
Future Annexation Area	Haverhill, West Palm Beach

RECOMMENDATION: Staff recommends approval of the request subject to the Conditions of Approval as indicated in Exhibit C.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received 133 emails and Courtesy Notice responses from the public regarding this request.

Concerns with the proposal include but are not limited to:

- Environmental concerns, including soil and water contamination;
- Air quality and odor concerns;
- Distance of the proposed use to residential communities, schools, daycares, etc.;
- Pest control; and,
- Traffic and related odors from the transportation of the material.

Staff received a letter from the Breakers community in opposition to the application, citing concerns related to fairness, hours of operation, traffic, technical and economic feasibility, emissions, as well as stating that this use will not solve the ongoing equestrian waste management issue.

Staff have also received a letter from Mr. Keith James, Mayor of the City of West Palm Beach, in opposition to the proposed facility, which noted concerns including but not limited to: potential for soil contamination, odor affecting residential development within a three-mile radius, and potential groundwater contamination. In addition, the City adopted a resolution in opposition to the proposal.

POSTPONEMENT: This application was originally scheduled to proceed to the September 3, 2020 ZC Hearing, and the September 24, 2020 BCC Hearing; however, the Applicant requested a 30 day postponement to allow this application to run concurrently with an Abandonment application (ABN-2020-01284). The Applicant followed up with an additional request for a postponement to the November hearings, to provide sufficient time to meet with neighboring communities that had raised concerns about the proposed use. At time of publication of the Staff report, the Applicant was in the process of setting up meetings with the Breakers West, Whisper Oaks and Baywinds communities.

NOVEMBER 5, 2020 ZONING COMMISSION: This item was on the Regular Agenda. The Agent, Mr. Kevin McGinley, provided a presentation on the application, including a brief history on Equestrian Waste Management within the County (further outlined below), as well as a detailed overview of how the processing of the waste materials would occur on-site. Following Mr. McGinley, Staff provided a presentation on the request, and provided a recommendation of approval for the Class A Conditional Use.

Following the Applicant and Staff presentations, 10 comment cards in opposition to the request were read into the record by Commissioner Scarborough, for members of the public that did not wish to speak to the application. Concerns raised included increased traffic, odor concerns, environmental impacts, pest concerns, as well as a concern related to the lack of engineering information of the proposed use. An additional concern was that the type of processing being proposed for the equestrian waste has never been done.

The Chair then recognized several attendees who wished to speak, with the first being Ms. Tiffany David, a representative for City of West Palm Beach Mayor Keith James, who spoke in opposition to the application. Ms. David stated that she not only represented the City, but over 3,000 residents that could be impacted by the approval of the application. Ms. David stated that the Applicant had failed to engage with the community, and also noted potential impacts to residential and commercial developments within the vicinity, including but not limited to soil, groundwater and odor impacts. She also noted that not only would the Baywinds community which is within the jurisdiction of the City of West Palm Beach be possibly impacted, but also the communities of Adros Isles and Riverwalk, which are located on the north side of Okeechobee Blvd.

Following Ms. David, 7 members of the public spoke in opposition to the application. Concerns raised were similar to the concerns outlined in the aforementioned comment cards. Further, there were concerns about monitoring of the use itself, and who would be making sure that the control measures to maintain adequate odor control, soil and groundwater contamination would be maintained to adequate health and safety standards. Lastly, residents voiced concerns on why this development was required in this location so close to residential development within the County, and not closer to where the waste is coming from, or elsewhere further from residential development.

Mr. Josh Long also spoke in opposition to the application, indicating he was representing the Property Owner directly to the west of the subject site (U-Pull-&-Pay). Mr. Long stated that the Applicant and himself, on behalf of the Owner, had worked diligently on the concerns stemming from the proposal and that between the Zoning Commission and the Board of County Commissioners meeting additional Conditions of Approval would be requested to address their concerns, which Mr. McGinley stated they are fully supportive of.

Further to all public comments, the Zoning Commission discussed several concerns and provided comments on the request, as follows:

Commissioner Sowards outlined that he did have concerns that this is a pilot project, as this type of facility does not exist within the Country. He noted that if there are issues with the system, residential development could be impacted by odors. Further, he identified that if the use wasn't appropriate in another area, he contemplated why it should be supported in this location. The Commissioner stated that he would like a Condition related to monitoring of the use. Commissioner Kern asked about the types of trucks that would be used to transport the material, noting that there could be runoff from the trucks, which may generate odors. Mr. McGinley responded by stating these trucks have been in operation throughout the County for years, and Code Enforcement would be monitoring these concerns, if any. Mr. McGinley also noted his community outreach, outlining his meetings with the Baywinds and Breakers communities, his outreach to the Whispering Oaks community, with the property's immediate neighbors, and also stated that he spoke with a representative with Riverwalk, that did not see a need for a presentation on the proposal. Commissioner Kern also noted he had some concerns with the close proximity to the L-5 Canal, and potential run-off. Mr. McGinley responded by stating that the only liquid they process goes through the filtration system, and any other fluids would be through the sewer system.

Commissioner Beatty outlined his understanding that US Sugar lands have previously been accepting this waste, will no longer be doing so come next year, and there will be an issue forthcoming on where the waste would go if this facility isn't approved. The Commissioner identified a concern on cleaning the facility and the trucks entering it and where the excess water would go, in which Mr. McGinley stated it would be recycled on-site. The Commissioner also identified a concern for secondary containment for outside tanks if one failed, in which the Agent stated that could be accommodated. The Commissioner asked about future expansion, in which the Agent stated that this is simply the first hurdle, and no expansion was considered at this time. Lastly, he asked about backup power, and Mr. McGinley stated there is a backup generator that would be available if there was an unforeseen power outage. Mr. McGinley also spoke to the Waste Transfer Station that exists to the south of the Breakers West Community on Belvedere Road, noting that there are no odor control measures for the facility, and that SWA had informed him that there was no Code Enforcement issues with the Transfer Station. Commissioner Brumfield stated he has concerns about community outreach, but also noted that there were no environmental concerns with this application as there was with previous proposals in the Glades tier.

Ms. Lisa Amara, Principal Planner with the Planning Division, gave a brief history on the difference between previous applications for Equestrian Waste Management, and this application, noting how this application would be fully indoors where previous proposals would have outdoor uses, and that the concerns from farmers were issues that could not be resolved.

Commissioner Kanel had concerns related to the engineering of the equipment, and the degrading of the equipment used for the processing of the waste. He also noted the trucks being a concern, and the need for a backup generator. He also noted there wasn't an environmental study, which was noted by the Applicant that it isn't a requirement of the application. Commissioner Burke stated she was confident with the proposal and the information provided.

Mr. Jon MacGillis, Zoning Director, noted that regarding odors and nuisances, Code Enforcement could handle these concerns, but also identified that a Condition could be imposed in which the Applicant/third party provide a monitoring report 1 year from the Certificate of Occupancy, outlining compliance and any issues with the operation, to be submitted to the BCC, which the Commissioners supported. Staff agreed to working with the Applicant on additional Conditions of Approval to address the concerns to the neighbor to the west. Further, Staff affirmed they would add Conditions related to backup power, and secondary containment on all tanks and the use of non-corrosive materials.

Commissioner Beatty made a motion to recommend approval of the Class A Conditional Use for an Equestrian Waste Management Facility, subject the Conditions of Approval and additional Conditions as noted above, seconded by Commissioner Kanel. The motion carried by a vote of 7-0-0.

CONDITIONS OF APPROVAL: Subject to comments made by the Zoning Commission, staff have added three additional Conditions of Approval, as follows:

- To require a permanent generator be maintained on site;
- Requirement for a monitoring report to be completed by a third-party consultant within 1 year of the issuance of the certificate of occupancy, to confirm that all federal, state and county regulations are being adhered to; and,
- Lastly, requiring that at time of Building Permit that the owner provide secondary containment and the use of non-corrosive materials for all tanks.

As previously noted, the Applicant has indicated they are working with the neighboring Property Owner to the west of the subject site (across Benoist Farms Road) on additional Conditions of Approval. At the time of publication, staff had not yet received the requested Conditions from the Applicant.

PROJECT HISTORY: The subject site was previously approved by the BCC on July 28, 1994, for a rezoning from Light Industrial to the General Industrial Zoning District. As previously noted, a standalone Development Order Abandonment is being requested concurrently, in which the Applicant is requesting to abandon the Voluntary Commitments (Conditions of Approval) that were part of rezoning application (Resolution R-1994-0951).

EQUESTRIAN WASTE MANAGEMENT USE HISTORY: Formal discussions on the need for Equestrian Waste Management Facilities began in early 2013 with a workshop that was hosted by the Village of Wellington. At that time, this use was classified as a Recycling Plant, which was limited to Industrial districts with a minimum of 5 acres unless entirely located within an enclosed structure, or the Public Ownership district. In early 2015, a Privately Initiated Amendment (PIA) to the ULDC was requested to be commenced to allow for the use to be located within the Agricultural Residential (AR) and Agricultural Production (AP) Zoning districts. In late 2015 and early 2016, the BCC chose to forgo initiating the requested amendment, and directed County Staff to research the Equestrian Waste Management Use, and work towards a long-term solution to Equestrian Waste Management issues. Further, the Commission directed Staff complete due diligence on research of the use, and meet with all players to develop a long term solution to the issue.

In the fall of 2016, the County moved forward with a Comprehensive Plan amendment to establish an Equestrian Waste Pilot Project within the AP district, with associated changes to the ULDC. This Pilot Project was adopted by the BCC, and would have allowed for the processing of a 31.60 acre privately proposed future land use (FLU) amendment called Horizon Composting (LGA 2017-012), utilizing the program in the Everglades Agriculture Area (EAA). The Pilot Program was later repealed and the Horizon applications withdrawn due to issues regarding food safety in the EAA, raised by Glades Area representatives and agricultural interests. With the repeal of the Pilot Program in 2017, the free-standing Equestrian Waste Management Facility use is limited to lands within Industrial or Public Ownership Zoning.

As part of previous Staff presentations on the use to the BCC, Staff identified one of the larger areas of industrially designated land in unincorporated Palm Beach County was generally located west of Jog Road, south of Belvedere Road, north of Southern Boulevard, and east of Royal Palm Beach. This area was identified as a possible location for an Equestrian Waste Management facility due to proximity to equestrian uses in central Palm Beach County, access from multiple Arterial roadways, and the existing heavy industrial uses in this area, as well as the separation from residential and agricultural uses.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Industrial (IND)
 Zoning District: General Industrial (IG)
 Supporting: Industrial (Contractor Storage Yard, Control No. 1994-00010)

SOUTH (across unnamed street and LWDD R-O-W):

FLU Designation: Industrial (IND)
 Zoning District: General Industrial (IG)
 Supporting: Industrial (Community Asphalt, Control No. N/A)

EAST:

FLU Designation: Industrial (IND)
Zoning District: General Industrial (IG)
Supporting: Industrial (Contractor Storage Yard, Control No. 1994-00010)

WEST (across LWDD E-2 Canal R-O-W and Benoist Farms Road):

FLU Designation: Industrial (IND)
Zoning District: General Industrial (IG)
Supporting: Industrial (Recycling Center of Palm Beach County, Control No. 1994-00081)

FINDINGS:

Class A Conditional Use: When considering a Development Order application for a Conditional Use, or a Development Order Amendment, the BCC and ZC shall consider Standards a – h listed in ULDC Article 2.B.7.B.2, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use or Development Order Amendment that fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

○ *Consistency with the Comprehensive Plan:* The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ *Intensity:* The maximum Floor Area Ratio (FAR) of .45 is allowed for a non-residential project with a IND FLU designation in the Urban Suburban Tier (228,686 surveyed sq. ft. 5.25 acres x .45 maximum FAR = 102,908.7 sq. ft. maximum). The request for a total of 48,000 square feet equates to a FAR of approximately 0.21 (48,000 / 228,686 surveyed sq. ft. or 5.25 acres = 0.21).

○ *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The subject site is not located in a Special Overlay District/ Neighborhood Plan/Planning Study Area.

b. Consistency with the Code - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

○ *Property Development Regulations:* The Applicant requested through the review of this application that, although the principal access to the subject site is from Pike Road, that the property frontage be taken from Benoist Farms Road. The Zoning Director agreed that in this particular case this can be granted. Although the access will be from Pike Road, the affected area is adjacent to Benoist Farms Road. By utilizing Benoist Farms Road as the project frontage and where front setbacks are applied, the required mechanical equipment for the structure such as the generator, water tanks and cooling system can be located behind the building (east side) where it will have little to no impact on the adjacent lands, whereas significant screening would be required if this equipment was on the west side of the structure adjacent to the roadway. There is an emergency access that will be retained to Benoist Farms Road over the LWDD canal, but will be gated otherwise. The affected area meets all minimum setback requirements per Table 3.D.1.A., Property Development Regulations.

○ *Separation Distance:* The proposed facility is not within 1,000 feet of a food processing or packing plant.

○ *Collocated Use:* The Applicant is not proposing any Collocated Uses with the facility.

○ *Storage or Waste Processing Areas:* The proposed site is located within the Urban/Suburban Tier and therefore, Outdoor Storage is prohibited.

○ *Architectural Review:* This use will be required to comply with the Architectural Guidelines specified in Article 5.C, Design Standards, due to being visible from a public street (Benoist Farms Road). No Architectural elevations have been provided at this time. The Applicant has indicated they

intend to obtain Architectural review approval at time of application for Building Permits for the proposed structure.

- *Parking:* The PSP indicates a total of 14 parking spaces, which includes two handicap spaces, one on the north side of the structure, and one on the south. Further there are total of 3 loading spaces being provided on the south side of the building. The Applicant is providing a 12 foot high wall on the west side of the loading areas, to provide screening to Benoist Farms Road, as required by Art. 6.E.4.A.3, Screening. Foundation plantings are provided on the outside of the screening wall.

- *Landscape/Buffering:* The subject site will be providing a 7.5 foot R-O-W buffer along Benoist Farms Road. Per Art. 7.C.2.A.3.a. Width Reduction, the site is permitted to reduce the required 15 foot R-O-W Buffer by 50 percent, where a project is separated from a R-O-W by a canal with a minimum width of 80 feet. The Lake Worth Drainage District (LWDD) E-2 Canal R-O-W/Easement (O.R.B. 4317, g. 66) that runs parallel to Benoist Farms Road is approximately 100 feet in width. As such, the Applicant is permitted to utilize the R-O-W width reduction. The quantity of required trees, palms, or pines required shall not be reduced because of the width reduction of the buffer.

Along the north and west limits of the affected area, the PSP indicates an 8 ft. Compatibility buffer. Further, a 10 foot R-O-W Buffer is provided along the south property limits. In addition to Landscape Buffers, Foundation Plantings have been provided for the structure along the west side of the structure, adjacent to Benoist Farms Road. Foundation plantings are provided along the west side of the proposed structure, which provides additional landscaping along the Benoist Farms Road frontage.

Per Art. 4.B.5.C.4.f, Landscaping Adjacent to Residential, as the subject site is not located within 250 feet of a Residential Use or FLU, a Type 3 Incompatibility Buffer is not required.

- *Signs:* The Applicant has submitted a Preliminary Master Sign Plan (PMSP-1), which is provided in Figure 5. The Applicant proposes one freestanding sign along Pike Road, to identify the use on the affected area. The proposed freestanding sign is part of the overall property owned by the Solid Waste Authority of Palm Beach County. Further, the Applicant is proposing three wall signs. All signage is consistent with Art. 8 requirements.

c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The proposed use will be compatible with surrounding uses. All lands surrounding the subject site are zoned Industrial, primarily Heavy Industrial (IG), and Public Ownership (PO), and support Industrial uses. To the west across Benoist Farms Road is a self-service auto parts recycler (Recycling Center of Palm Beach County, Control No. 1994-0081). To the south across an unnamed R-O-W and an LWDD R-O-W, is the Community Asphalt Corp. To the east and north are lands owned of the Solid Waste Authority of Palm Beach County, which is also an Owner of the subject site, and is the lessor of the lands. Access to the subject site will be from Pike Road, and will pass through the lands to the east. As described under Consistency with the Code, the site will provide landscape buffers around the affected area to provide visual buffering from Benoist Farm Road and neighboring uses.

d. Design Minimizes Adverse Impact – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

As previously noted, the proposed development is adjacent to Benoist Farms Road, but will have its primary access from Pike Road to the east, through the Solid Waste Authority lands. Although Pike Road provides the primary access, the subject property is located adjacent to Benoist Farms Road, across the existing LWDD E-2 Canal. Generally, front setbacks for the structure are based on the location of the primary access. In this specific case, as Pike Road is approximately 2,200 feet from the building, and the property has frontage and emergency access to Benoist Farms Road, front setbacks are measured from Benoist. Further, required foundation planting is provided on the west side of the proposed structure along the building frontage. Minimum side foundation plantings are also provided on the north and south side of the building. With the frontage of the building being oriented towards Benoist Farms Road, the required mechanical equipment to service the facility will be located on the east side of the structure, minimizing visual impacts to the roadway as it will be

located behind the structure. As previously noted, the Applicant is providing code compliant Landscape buffers around the affected area.

Based on the aforementioned, the proposed development will limit adverse impacts to adjacent lands.

- e. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The site is cleared.

WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

As part of the Lease Agreement between Horizon 880 and the SWA (see Exhibit E, SWA Lease Agreement), Section 4.06 Hazardous Substance/Pollutants outlines requirements for the disposal of hazardous materials, as well as requirements for storage containers.

- f. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The overall area surrounding the subject lands are designated for industrial uses. As noted in the Applicants Justification Statement, the development patterns along both Benoist Farms Road and Pike Road are generally industrial, with the overall area containing some of the most industrial uses in Palm Beach County. The proposed Equestrian Waste Management Facility is an appropriate use based on both the designated Land Uses in the general vicinity, and the existing uses surrounding the subject site.

- g. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2, F, Concurrency.*

ENGINEERING COMMENTS:

The proposed equestrian waste management facility is expected to generate 96 net daily, 17 net AM peak, and 12 net PM peak hour tips. The build out of the project is assumed to be by 2022.

There are no improvements to the roadway system required for compliance with the Traffic Performance Standards, because this project will have insignificant impact on roadways. The project, though being on Benoist Farms Rd., will have access from Pike Rd. when it starts operation.

Segment: Pike Rd from Turnpike Access to Belvedere Rd

Existing count: Northbound=306, Southbound=320

Background growth: Northbound=57, Southbound=60

Project Trips: Northbound=3, Southbound=3

Total Traffic: Northbound=366, Southbound=383

Present laneage: 1 in each direction

Assured laneage: 1 in each direction

LOS "D" capacity: 810 per direction (assured lanes)

Projected level of service: LOS D or better in both directions.

PALM BEACH COUNTY HEALTH DEPARTMENT: This project meets the Florida Department of Health's requirements.

FIRE PROTECTION: Fire protection has no concerns.

SCHOOL IMPACTS: This is a nonresidential project, therefore ULDC standards do not apply.

PARKS AND RECREATION: This is a nonresidential project, therefore Park and Recreation Department ULDC standards do not apply.

- h. Changed Conditions or Circumstances** – *There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification.*

The Applicant has indicated in their Justification Statement that there are no Equestrian Waste Management Facilities that are available to service Palm Beach County. The Agent has outlined how there is a significant need for a facility such as this to dispose of manure and horse bedding waste, and proving one within an already established industrial area is the best suited location for a facility such as this. This is further reinforced by County participation over the past several years with the equestrian industry, the Village of Wellington, PBC Solid Waste Authority, equestrian waste haulers, and other interested parties, in an effort to address longstanding issues with equestrian waste within the region. While current waste removal efforts typically comply with State requirements for Best Management Practices for the disposal of equestrian waste, there have been ongoing environmental concerns that will be partially addressed by the proposed facility. The Agent for this application had previously worked with Zoning Staff on a Privately Initiated Amendment to the ULDC to allow for this use within Rural or Agricultural areas, which Staff did not support due to concerns with impacts to residential uses, and preference that the use be located within Industrial areas in closer proximity to those areas of the County having the highest need for equestrian waste removal. The subject site was specifically cited in numerous Staff presentations regarding preferred locations for this use. Subsequently, the ULDC was amended in 2017 to recognize this use. The Agent is coordinating with the County to establish this use on County owned lands, and this new facility will address a long identified need that recognizes the County's efforts to further support equestrian uses within Palm Beach County.

CONCLUSION: Staff have evaluated the standards listed under Article 2.B. and determined that there is a balance between the need of change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the request, subject to the Conditions of Approval in Exhibit C.

CONDITIONS OF APPROVAL

Exhibit C: Class A Conditional Use (Equestrian Waste Management Facility)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated July 13, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ALL PETITIONS - MONITORING REPORT TO THE BCC

2. Within one year of the issuance of the Certificate of Occupancy for the use, PZB - Planning Staff shall prepare a Monitoring Report to the BCC. The Property Owner shall submit to staff a third party consultant report that confirms the operation is in compliance with all Federal, State and County regulations for the use. The report shall also confirm if any Code Enforcement violations have been issued and the status of each shall be included as part of the report. (ONGOING: MONITORING – Zoning)

BUILDING

1. At time of submittal of the building permits for any structures shown on the Final Site Plan, documentation shall be submitted by the Owner that demonstrates to Building staff that the necessary redundancy measures are in place for secondary containment of all tanks, and the use of non-corrosive materials for all containment tanks. (BLDGPM: BUILDING DIVISION - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2022, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to issuance of the first Certificate of Occupancy or prior to October 1, 2021, whichever occurs first, the property owner shall either design, permit and construct a new access bridge to Benoist Farms Rd that complies with the minimum bridge standards in Article 11 of the Unified Land Development Code, OR design, permit and construct a new access road to Pike Rd that aligns with 7th PI N, or is located at least 175 feet south of the intersection with 7th PI N or as approved by the County Engineer. (BLDGPM/CO/DATE/ONGOING: MONITORING - Engineering)

3. Instead of reconstructing the Benoist Farms Rd bridge, and prior to the issuance of the first Certificate of Occupancy or prior to October 1, 2021, whichever occurs first, a new access to Pike Road may be designed, permitted, and constructed by, or as authorized by, the property owner. This new access must also include, as part of this design, permitting, and construction process, a left turn lane South approach on Pike Road at the new driveway access connection. The costs associated with this process, construction, and completion of this project shall include, but are not limited to, utility relocations and acquisition of additional right-of-way, if required to complete the project as designed. The existing bridge on Benoist Farms Road shall remain open for emergency access. (BLDGPM/CO/DATE/ONGOING: MONITORING - Engineering)

4. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

HEALTH

1. Owners and operators of facilities that generate hazardous, industrial, or toxic wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Florida Department of Health (FDH), and the agency responsible for the sanitary sewage system are used. (ONGOING: CODE ENF - Health Department)

SITE DESIGN

1. A permanent generator shall be maintained on-site. (ONGOING: MONITORING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Figure 1: Future Land Use Map

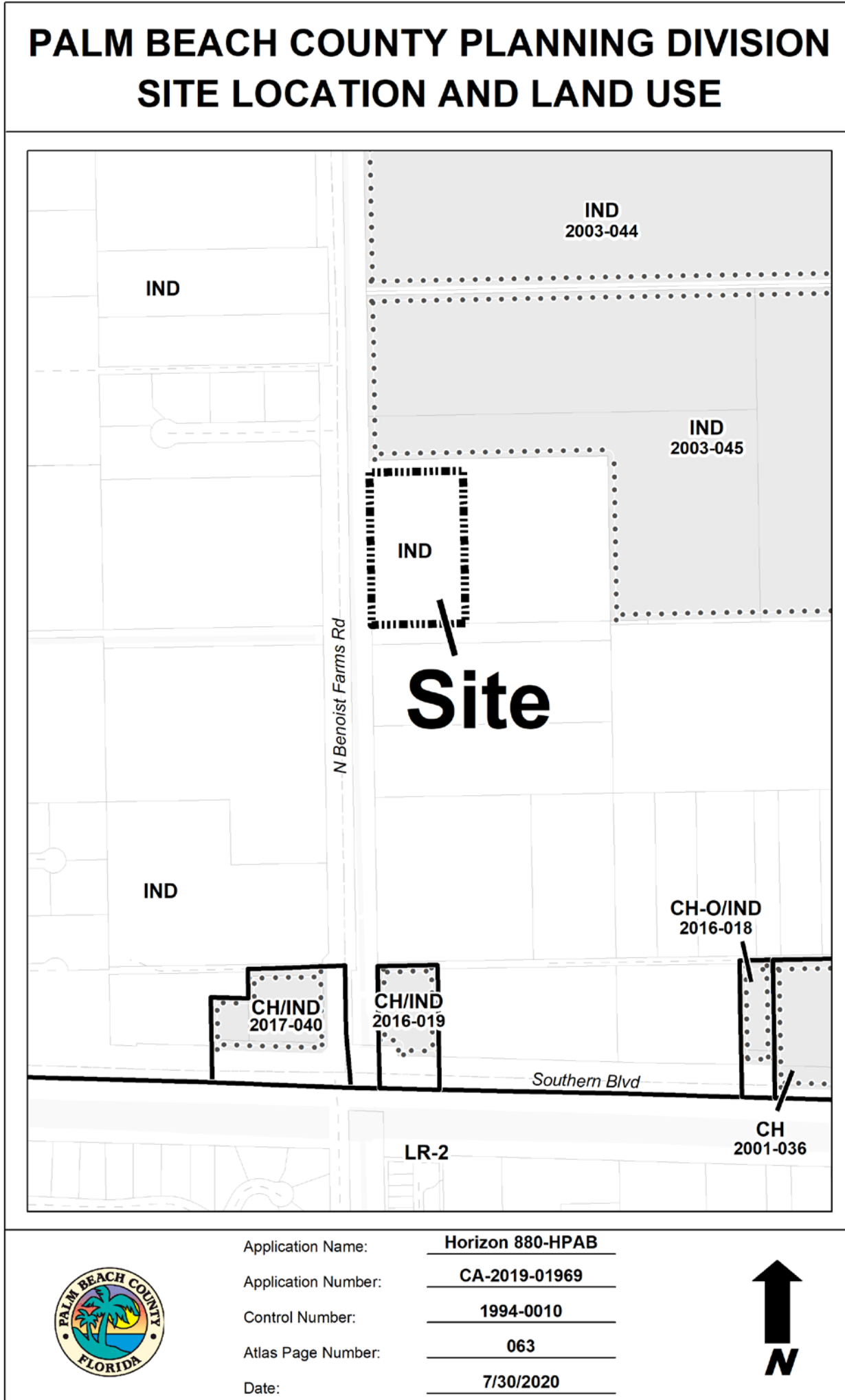


Figure 2: Zoning Map

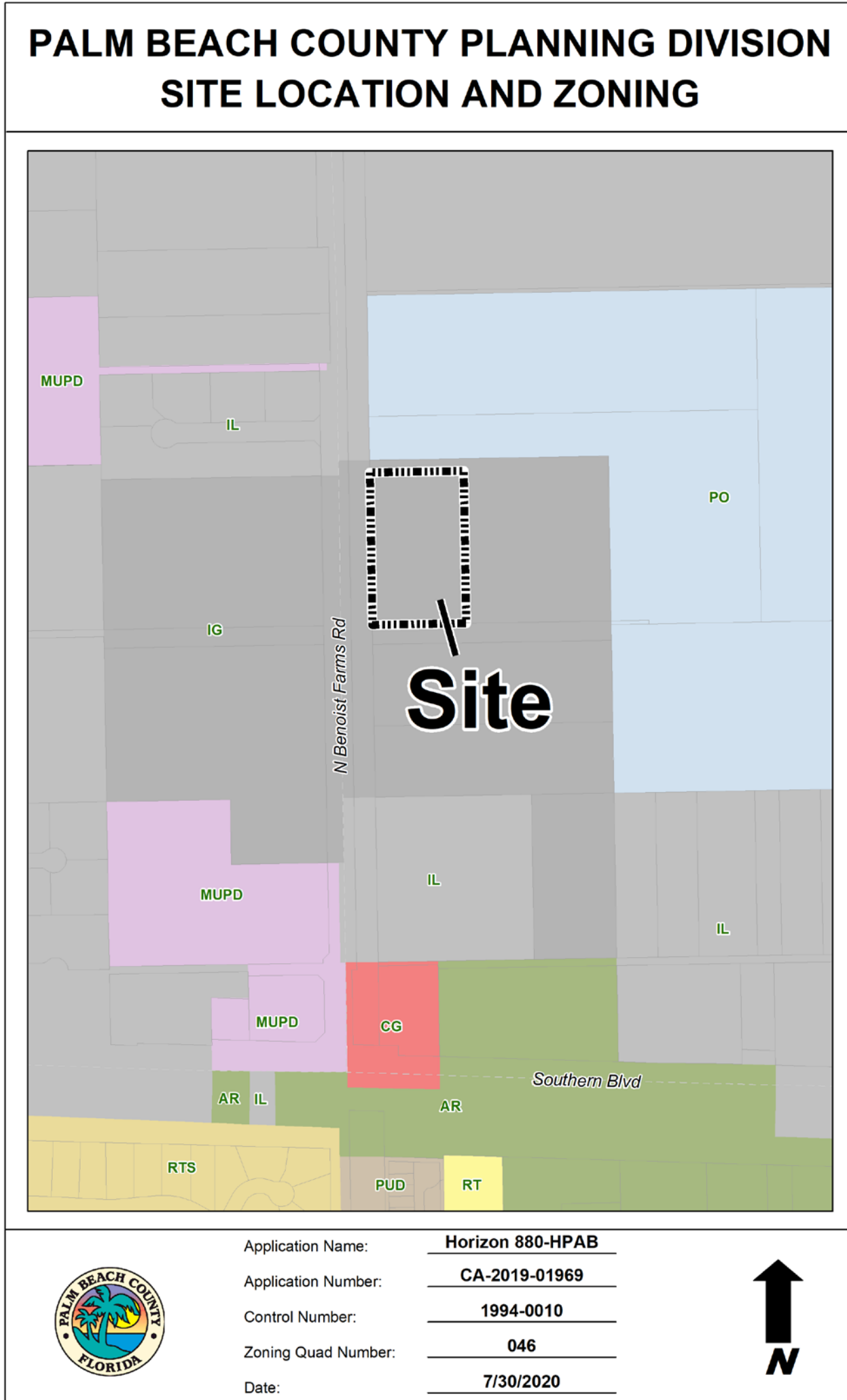


Figure 3: Aerial

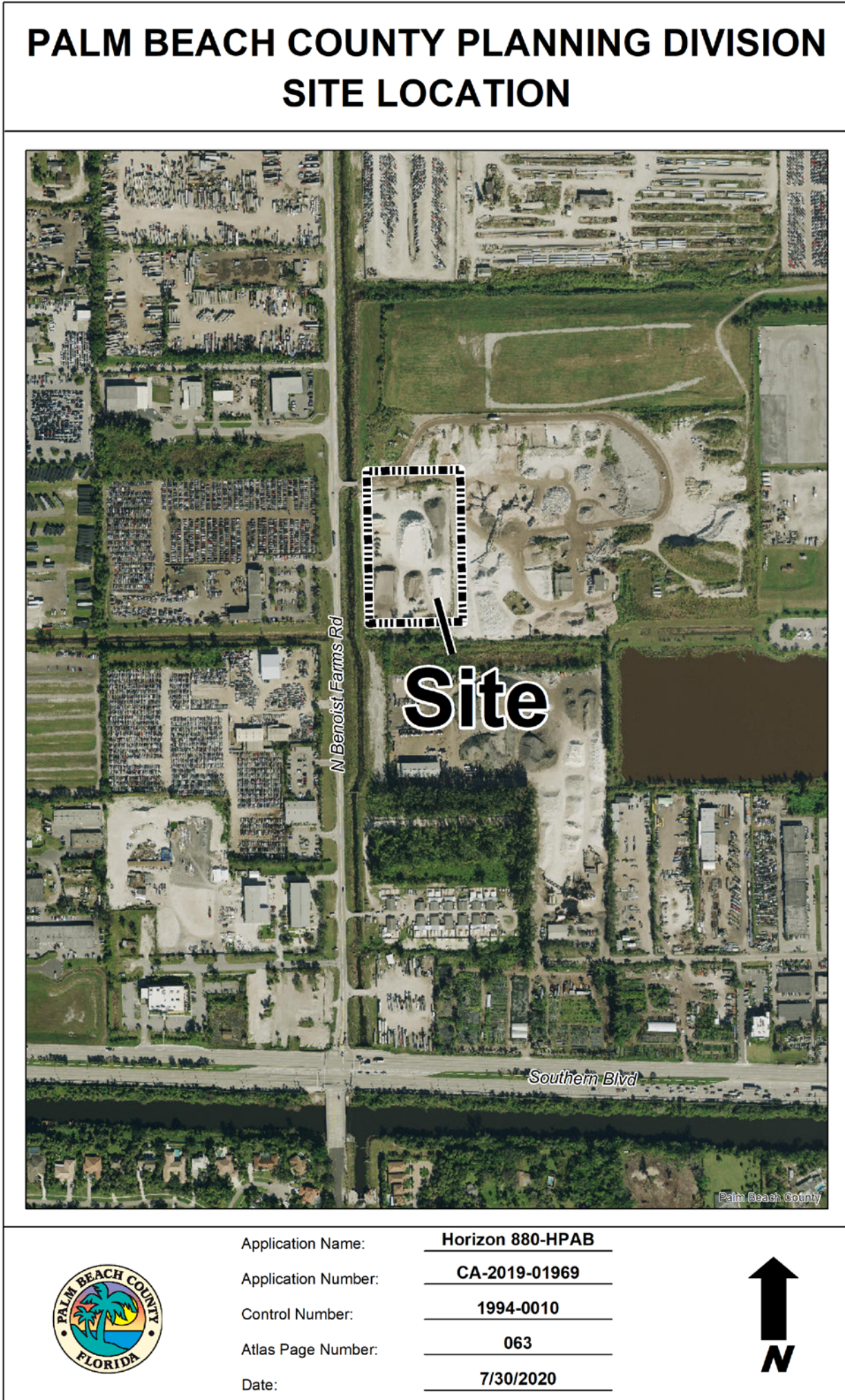


Figure 4: Preliminary Site Plan (PSP-1), dated July 13, 2020

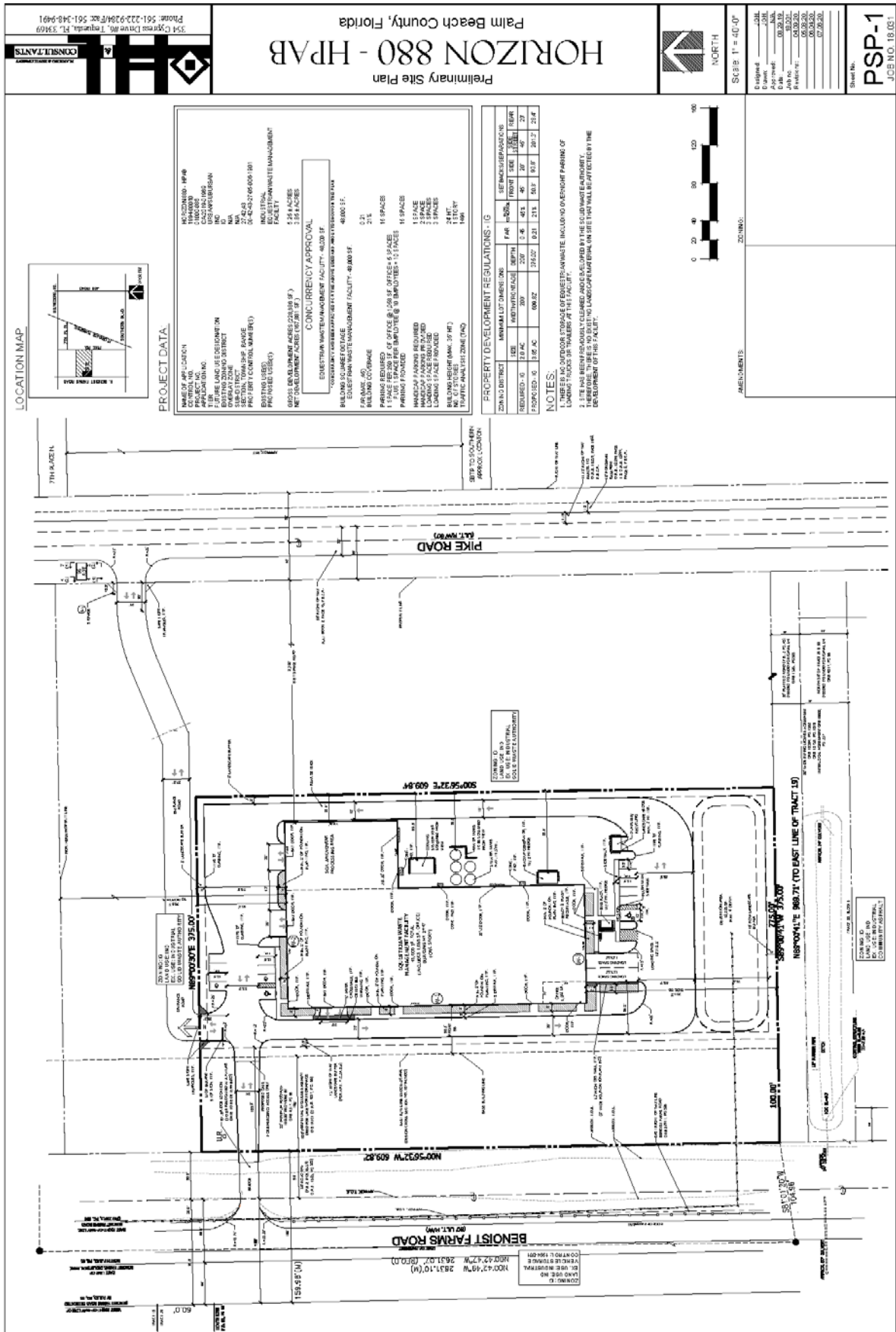


Figure 5: Preliminary Master Sign Plan (PMSP-1), dated July 13, 2020

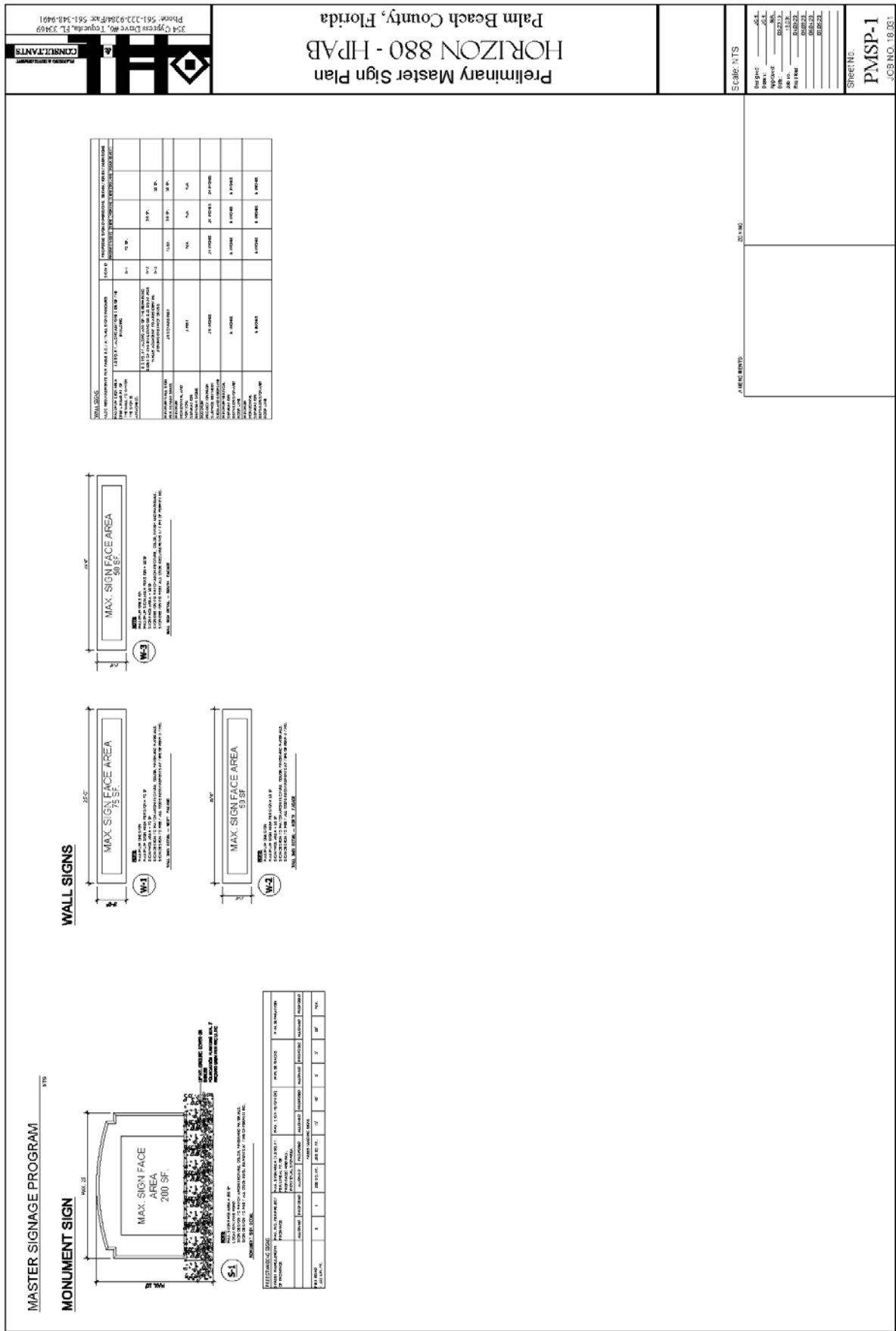


Exhibit D: Disclosures (Applicant)

PALM BEACH COUNTY - ZONING DIVISION

FORM # 08

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

(TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY)

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

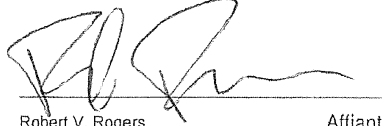
BEFORE ME, the undersigned authority, this day personally appeared Robert V. Rogers, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Manager *[position—e.g., president, partner, trustee]* of Horizon 880 LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]*, (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 58610 Van Dyke Washington MI 48094
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

Disclosure of Beneficial Interest - Applicant form
Page 1 of 4

Revised 06/25/2011
Web Format 2011

FURTHER AFFIANT SAYETH NAUGHT.



 Robert V. Rogers, Affiant
 (Print Affiant Name)

The foregoing instrument was acknowledged before me this 4th day of OCTOBER,
 20 19, by ROBERT V. ROGERS, [who is personally
 known to me or [] who has produced _____
 as identification and who did take an oath.

Carol A. Hurley

 Notary Public

CAROL A. HURLEY

 (Print Notary Name)

NOTARY PUBLIC
 State of ~~Florida~~ MICHIGAN at Large
 My Commission Expires: 12/17/2019

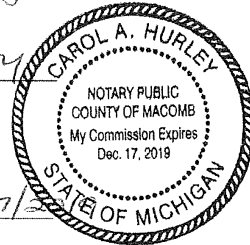


EXHIBIT "A"
PROPERTY

LEGAL DESCRIPTION

BEING A PORTION OF LAND IN TRACT 19, BLOCK 6, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A FOUND 4" X 4" PALM BEACH COUNTY CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF SAID TRACT 19, THENCE NORTH 00°56'10" WEST ALONG THE WEST LINE OF SAID TRACT 19, A DISTANCE OF 609.74 FEET TO A POINT; THENCE NORTH 89°00'34" EAST ALONG A LINE BEING 50.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 19, A DISTANCE OF 375.00 FEET TO A POINT; THENCE SOUTH 00°56'10" EAST ALONG A LINE BEING 375.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACT 19, A DISTANCE OF 609.75 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 19; THENCE SOUTH 89°00'36" WEST ALONG SAID SOUTH LINE, SAID SOUTH LINE BEING THE BEARING BASIS FOR THIS DESCRIPTION, A DISTANCE OF 375.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.249 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name Address

100% ROBERT V. ROGER 58610 VANDYKE WASHINGTON, MI 48094

Horizontal lines for listing additional ownership interests.

Exhibit D: Disclosures (Property Owner)

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Mr. Daniel Pellowitz, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Executive Director _____ [position - e.g., president, partner, trustee] of Palm Beach County SWA [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.

2. Affiant's address is: 7601 N Jog Road, West Palm Beach, FL 33412

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

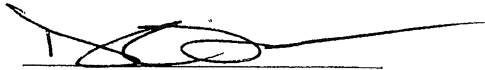
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

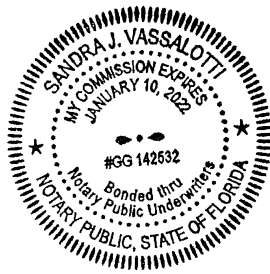
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

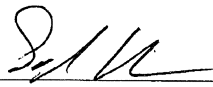
FURTHER AFFIANT SAYETH NAUGHT.



Daniel Pellowitz, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 2nd day of October, 2019, by Daniel J. Pellowitz, who is personally known to me or [] who has produced _____ as identification and who did take an oath.





Notary Public
Sandra J. Vassalotti
(Print Notary Name)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 01/10/2022

EXHIBIT "A"

PROPERTY

LEGAL DESCRIPTION

BEING A PORTION OF LAND IN TRACT 19, BLOCK 6, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 5.249 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
NA	

Exhibit E: SWA Lease Agreement



LEASE AGREEMENT

between

**SOLID WASTE AUTHORITY
OF PALM BEACH COUNTY
A DEPENDENT SPECIAL DISTRICT**

(Authority)

and

HORIZON 880, LLC

(Tenant)

LEASE AGREEMENT

THIS LEASE, made and entered into on JUNE 19, 2019, by and between the SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, a dependent special district created pursuant to Chapter 2001-331, Laws of Florida, as amended, hereinafter referred to as the "Authority" and HORIZON 880, a limited liability company, (EIN: # 46-3142511), hereinafter referred to as "Tenant".

WITNESSETH:

WHEREAS, the Authority is the owner of certain real property as more specifically described hereinafter which Tenant desires to lease from the Authority; and

WHEREAS, the Authority is willing to lease such property to Tenant for the use set forth hereinafter;

NOW THEREFORE, in consideration of the rents, covenants, and agreements hereinafter reserved and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I
BASIC LEASE PROVISIONS**

Section 1.01 Premises.

In consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the Tenant to be observed and performed, the Authority demises and leases to the Tenant, and Tenant rents from the Authority, the real property legally described in Exhibit "A" attached hereto and made a part hereof, together with all improvements located thereon (the "Premises").

Section 1.02 Length of Term and Commencement Date.

The term of this Lease shall commence on the first day of the month following the Tenant's receipt of all necessary and required regulatory approvals, but no longer than 18 months from the execution of the lease document and shall hereinafter be referred to as the "Commencement Date". In the event that the tenant does not receive all necessary and required regulatory approvals within the 18 month from the date of execution and provided Tenant has exercised diligent commercially reasonable effort in good faith to obtain such approvals, Tenant shall have the right to terminate. Tenant shall have the right to terminate this Lease within (30) days written notice prior to the commencement date. In the event of such termination all parties, including personal guarantor, will be relieved of any and all responsibility hereunder arising subsequent to such lease termination. The term of this Lease shall be for a period of twenty (20) years thereafter, subject to further extension by mutual agreement of the parties (the "Term"), unless sooner terminated pursuant to the provisions of this Lease.

Page 2 of 26

 Horizon 880
 SWA

**ARTICLE II
RENT**

Section 2.01 Annual Rent.

Tenant shall pay the Authority an annual net rent of \$74,600 (the "Annual Rent"), payable in advance without notice on the Commencement Date and each subsequent anniversary thereof. Rent shall be made payable to the Solid Waste Authority of Palm Beach County and shall be delivered to the Authority's Finance Department located at 7501 North Jog Road, West Palm Beach, Florida 33412. This Lease shall be what is commonly referred to as "triple net" to the Authority, it being understood by the parties that the Authority shall receive the Rent payable hereunder free and clear of any and all impositions, taxes, liens, charges, and expense of any nature whatsoever relating to ownership or operation of the Premises, including without limitation those relating to taxes, if any, insurance, repair, maintenance, use, care, or operation.

Section 2.02 Additional Rent.

Any and all sums of money or charges required to be paid by Tenant under this Lease other than the Annual Rent shall be considered "Additional Rent", whether or not the same is specifically so designated, and the Authority shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to the Authority with regards to Annual Rent.

Section 2.03 Sales, Use, and Rent Taxes, Assessments, Ad Valorem, Real and Personal Property Taxes.

Tenant shall pay all sales, use, or rent taxes assessed by any governmental authority against the Annual Rent and/or Additional Rent, if any, even if such tax is intended to be imposed against the Authority. Tenant shall pay before delinquency all ad valorem and non-ad valorem taxes and assessments, whether general or special, and all tangible or intangible personal property taxes and assessments of any kind or nature which may be levied by any governmental authority against the Premises, Tenant's leasehold interest in the Premises, Tenant's Alterations, or personal property located on the Premises.

Section 2.04 Unpaid Fees, Holdover.

In the event Tenant fails to make timely payment of any rentals, fees, charges, and payments due and payable in accordance with the Terms of this Lease within thirty (30) days after same shall become due and payable, interest at the rate of one and one-half percent (1½ %) per month (or the highest rate permitted by law, if lower) shall accrue against the delinquent payment(s) from the date due until the date payment is received by the Authority. Such interest shall constitute Additional Rent. Notwithstanding the foregoing, the Authority shall not be prevented from terminating this Lease for default in the payment of rentals, fees, charges, and payments due to the Authority pursuant to this Lease or from enforcing any other provisions contained herein or implied by law, unless the subject default has been remedied within sixty (60) days of notice of same to Tenant. In the event Tenant shall holdover, refuse, or fail to relinquish possession of the Premises at the expiration or termination of this Lease, Tenant shall be liable to the Authority for any and all damages, and in addition thereto, Tenant shall also be strictly liable to pay to the Authority during the entire period of such holdover, double rental, as provided for in

Page 3 of 26

 Horizon 880

 SWA

Chapter 83.06, Florida Statutes.

Section 2.05 Accord and Satisfaction.

In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. The Authority may accept any check or payment without prejudice to the Authority's right to recover the balance due or to pursue any other remedy available to the Authority pursuant to this Lease or under the law.

**ARTICLE III
CONDITION OF LEASED PREMISES, ALTERATIONS**

Section 3.01 Acceptance of Premises by Tenant.

Tenant is responsible for doing its own due diligence prior to acceptance of the Premises and before any improvements are undertaken by Tenant to determine a baseline of existing condition(s) on the Premises. Tenant shall provide a copy of its baseline report to the Authority promptly after its completion. The Tenant shall not be responsible for any existing or documented past conditions that existed prior to the Commencement Date of this Lease as evidenced in the baseline report. However, the Tenant shall be solely responsible for any and all new monitoring requirements imposed by any regulatory agency relating to any condition that did not exist on the Commencement Date of this lease. Upon the Commencement Date of this lease, Tenant certifies that it has inspected the Premises and accepts same in its existing condition and subject to all easements, encumbrances, restrictions, and matters of record. Tenant further acknowledges that the Authority has made no warranties or representations of any nature whatsoever regarding the Premises including, without limitation, any relating to the physical condition of the Premises or any improvements or equipment located thereon, or the suitability of the Premises or any improvements for Tenant's intended use of the Premises. No repair work, alterations, or remodeling of the Premises is required to be done by the Authority as a condition of this Lease. Tenant agrees to perform any and all work at its own cost and expense, including the placement and permitting of signage, which is necessary to fully equip and maintain the Premises for the lawful use of the Premises by Tenant as specified in Section 4.01 of this Lease. The Authority agrees that it shall be solely responsible for the cost and expense, including placement and permitting of any signage of the Premises that it may require, if any.

Section 3.02 Construction of Project.

Except for the replacement of necessary existing infrastructure, Tenant shall be solely responsible for any and all improvements, repairs, alterations, or other work necessary to render the Premises suitable for Tenant's intended use. Tenant shall design and construct such improvements at Tenant's sole cost and expense, in accordance with the requirements of this Lease and in full compliance with applicable building codes and zoning regulations. All of Tenant's construction and improvements shall be made and performed in a good and workmanlike manner and shall be diligently performed to completion.

Section 3.03 Alterations.

Tenant shall not make any improvements, additions, modifications, or alterations to the

 Horizon 880
 SWA

Premises costing in excess of \$25,000 (hereinafter collectively referred to as "Alterations"), without the prior written consent of the Authority in each instance, which consent shall not be unreasonably withheld. Tenant shall submit detailed plans and specifications for all such Alterations to the Authority for the Authority's written approval prior to commencing work on same. Tenant agrees and acknowledges that all work performed to the Premises, whether pursuant to this Section or otherwise, shall be performed and accomplished solely for the benefit of Tenant and not for the benefit of the Authority, such work being nevertheless subject to each and every provision of this Lease. All work done by Tenant shall be done in a good and workmanlike manner and shall be diligently prosecuted to completion strictly in accordance with the approved plans and specifications therefor. Upon surrender of the Premises, title to any and all remaining improvements, Alterations, or property within the Premises shall vest in the Authority unless otherwise agreed to in writing by the parties prior to termination or expiration of this Lease.

Section 3.04 Construction Bonds.

Tenant shall ensure that all improvements are constructed to completion in accordance with the approved plans therefor and that all persons or entities performing work or providing materials relating to such improvements, including, without limitation, all contractors, subcontractors, sub-subcontractors, laborers, materialmen, suppliers, and professionals, are paid in full for such services and materials. Tenant, at Tenant's sole cost and expense, shall cause to be made, executed, and delivered to the Authority, prior to commencement of any improvements to the Premises, a bond, drawn in a form and issued by a company approved by the Authority, guaranteeing compliance by Tenant with its obligations arising hereunder.

Section 3.05 Contractor Requirements.

Tenant shall also require contractors to furnish for the benefit of the Authority a payment and performance bond to the Authority equal to the cost of the improvements and in the form required under Section 255.05, Florida Statutes. Tenant shall also require contractors to furnish satisfactory evidence of statutory Workers' Compensation insurance, comprehensive general liability insurance, comprehensive automobile insurance, and physical damage insurance on a Builder's Risk form with the interest of the Authority endorsed thereon, in such amounts and in such manner as the Authority may reasonably require. The Authority may require additional insurance for any Alterations or improvements approved hereunder, in such amount as the Authority reasonably determines to be necessary.

Section 3.06 No Liens.

Tenant covenants and agrees that nothing contained in this Lease shall be construed as consent by the Authority to subject the estate of the Authority to liability under the Construction Lien Law of the State of Florida, it being expressly understood that the Authority's estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Tenant, of this provision of this Lease. If so requested by the Authority, Tenant shall file a notice satisfactory to the Authority in the Public Records of Palm Beach County, Florida stating that the Authority's interest shall not be subject to liens for improvements made by Tenant. In the event that a construction lien is filed against the Premises or other Authority property in connection with any work performed by or on behalf of Tenant, Tenant shall satisfy such claim, or transfer same to security, within thirty (30) days from

the date of filing. In the event that Tenant fails to satisfy or transfer such claim within said thirty (30) day period, the Authority may do so and thereafter charge Tenant, and Tenant shall promptly pay to the Authority upon demand, as Additional Rent, all costs incurred by the Authority in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, Tenant agrees to indemnify, defend, and save the Authority harmless from and against any damage or loss incurred by the Authority as a result of any such construction lien.

**ARTICLE IV
CONDUCT OF BUSINESS AND USE OF PREMISES BY TENANT**

Section 4.01 Use.

Tenant shall use and occupy the Premises solely and exclusively for processing of equine residuals. Tenant shall not use, permit, or suffer the use of the Premises for any other use, business, or purpose whatsoever without the prior written consent of the Authority, which consent may be granted or withheld in the Authority's sole discretion.

Section 4.02 Waste or Nuisance.

Tenant shall not commit or suffer to be committed any waste upon the Premises, commit or permit the maintenance or commission of any nuisance, or other act or thing which may result in damage or depreciation of value of the Premises or which may affect the Authority's fee interest in the Premises or which results in an unsightly condition. All refuse is to be removed from the Premises at Tenant's sole cost and expense, and Tenant will keep such refuse in proper fireproof containers on the interior of the Premises until removed. Tenant will keep the access to the Premises, the parking areas, and other contiguous areas to the Premises free and clear of obstruction. Tenant, at Tenant's sole cost and expense, will keep the Premises free of rodents, vermin, and other pests.

Section 4.03 Governmental Regulations.

Tenant shall, at Tenant's sole cost and expense, comply with all ordinances, laws, statutes, and regulations promulgated thereunder of all County, municipal, state, federal, and other applicable governmental authorities now in force, or which may hereafter be in force, pertaining to Tenant or Tenant's use of the Premises or the Premises generally. Tenant shall indemnify, defend, and save the Authority harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Tenant's failure to perform its obligations in this Section.

Section 4.04 Nondiscrimination.

Tenant shall assure and certify that it will comply with Title VI of the Civil Rights Act of 1964, as amended, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information with respect to any activity occurring on the Premises or conducted pursuant to this Lease. Tenant warrants that, in the event the facilities constructed or operated upon the Premises are public facilities, the same shall be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis as to residents of the municipality in which the Premises are located.

Further, the Authority's current Commercial Nondiscrimination Policy contained in Section 6.3 of its Purchasing Manual is attached hereto as Exhibit "B" and shall be adhered to in all respects while this Lease remains in effect.

Section 4.05 Surrender of Premises and Authority Option.

Ninety (90) days prior to the termination or expiration of this Lease, the Authority shall provide notice to the Tenant of whether or not it intends to exercise its Option to purchase, at fair market value determined as of the date the Option is exercised, any or all of the Tenant's personal property, removable fixtures, buildings, and any other improvements made by the Tenant during the Term of this Lease or any extensions hereto. The Authority's Option set forth in this paragraph shall remain open for the Term of this Lease. The Parties agree that this Option is supported by \$10.00 and other good and valuable consideration, deemed fair and adequate, the receipt of which is acknowledged by each. If the Authority chooses to exercise its Option, upon surrender of the Premises by the Tenant, or such other date as mutually agreed upon by the parties, title to any and all remaining improvements, Alterations, or property within the Premises shall vest in the Authority. If the Authority, in its sole discretion, decides to not exercise its Right of First Refusal under this Lease, the Tenant shall be solely responsible to remove each and every referenced item at its own cost and expense. The parties may also dispose of all items referenced in this Section by mutual agreement of the parties.

Section 4.06 Hazardous Substance/Pollutants.

For purposes of this Lease, "Pollutant" shall mean any hazardous or toxic substance, material, or waste of any kind or contaminant, pollutant, petroleum, petroleum product, or petroleum by-product as defined or regulated by environmental laws. "Disposal" shall mean the release, storage, use, handling, discharge, or disposal of such Pollutants. "Environmental Laws" shall mean any applicable federal, state, or local laws, statutes, ordinances, rules, regulations, or other governmental restriction. Tenant shall not cause or permit the Disposal of any Pollutants upon the Premises or upon any adjacent lands. Tenant shall operate and occupy the Premises in compliance with all Environmental Laws.

Any Disposal of such materials, whether caused by Tenant or any third party, shall be reported to the Authority immediately upon the knowledge thereof by Tenant. Tenant shall be solely responsible for the entire cost of remediation and clean-up of any Pollutants disposed of or discovered upon the Premises or emanating from the Premises onto adjacent lands as a result of the use and occupancy of the Premises or surrounding lands by Tenant or Tenant's agents, licensees, invitees, subcontractors, or employees.

Tenant hereby agrees to indemnify, defend, and hold harmless the Authority from and against any and all claims, suits, judgments, loss, damage, fines, costs, or liability which may be incurred by the Authority, including, but not limited to, reasonable attorney's fees and costs which may arise directly, indirectly, or proximately as a result of the Disposal of any Pollutants by Tenant upon the Premises during the Lease Term which affects the Premises or emanate from the Premises to adjacent lands. Phase I and/or Phase II Environmental Assessment conducted in conformance with the appropriate ASTM standard will be the method used to discover whether actions by

Tenant have resulted in the Disposal of Pollutants as defined herein. If the Environmental Assessment identifies Pollutants on the surface of the Premises, or occurring in or emanating from the material placed by Tenant on the Premises, those Pollutants are presumed to be the responsibility of Tenant. This responsibility shall continue to be in effect and apply to any violation hereof, whether the same is discovered during the Term hereof or after the date of expiration or termination of this Lease. While this provision establishes contractual liability for Tenant regarding pollution of the Premises, it shall not be deemed to alter or diminish any statutory or common law liability of Tenant.

In addition to the provisions and requirements of the above paragraph, Tenant shall be required to store all tanks, drums, and other storage containers on an impervious surface with secondary containment with equivalent protections to prevent Disposal. Furthermore, if Pollutants are to be stored on site, Tenant shall have a spill prevention and contingency plan, including, but not limited to, an emergency response contractor to respond to containing and cleaning up any Disposal.

Tenant acknowledges that the Authority would not have entered into this Lease without the indemnification contained herein and acknowledges the receipt and sufficiency of separate good and valuable consideration for such indemnification. This provision shall survive expiration or termination of this Lease.

**ARTICLE V
REPAIRS AND MAINTENANCE OF PREMISES**

Section 5.01 Responsibility of Authority and Tenant.

The Authority shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Premises. Tenant shall keep and maintain all portions of the Premises, and all Alterations or improvements currently existing or constructed hereinafter on or about the Premises, in good condition and repair, at Tenant's sole cost and expense.

Section 5.02 Authority's Right to Inspect.

The Authority or Authority's agents shall have the right, upon reasonable prior notice to Tenant (except that no notice need be given in case of emergency), to enter the Premises for the purpose of inspection of the Premises and the improvements located thereon. Any such entrance into the Premises shall be conducted by the Authority in a manner calculated to minimize interference with, or disruption of, Tenant's operations within the Premises.

**ARTICLE VI
UTILITIES**

Tenant shall be solely responsible for, and promptly pay, all costs and expenses relating to utility service to the Premises, including, without limitation, construction and connection charges and shall pay directly to the utility company or the provider of such service all charges and assessments for any utility services provided, including, without limitation, water, sewer, gas,

electricity, trash collection and removal, or any other utility used or consumed on the Premises. In no event shall the Authority be liable for an interruption or failure in the supply of any such utility to the Premises.

ARTICLE VII INSURANCE

Unless otherwise specified in this Lease, Tenant shall maintain, at Tenant's sole cost and expense, in full force and effect at all times during the life of this Lease or the performance of work hereunder, insurance limits, coverages, or endorsements required herein. Tenant hereby agrees the requirements contained herein, as well as the Authority's review or acceptance of insurance, is not intended to, and shall not in any manner, limit nor qualify Tenant's liabilities and obligations under this Lease.

Section 7.01 Commercial General Liability.

Tenant shall maintain Commercial General Liability with limits of liability not less than \$1,000,000 Each Occurrence, including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury, and Cross Liability; Fire Legal Liability with a limit not less than \$100,000; and Medical Payments (when available) with a limit not less than \$5,000. Tenant shall ensure such coverage is provided on a primary basis.

Section 7.02 Business Auto Liability.

Tenant shall maintain Business Automobile Liability with limits of liability not less than \$500,000 Each Occurrence for owned, non-owned, and hired automobiles. In the event Tenant has no owned automobiles, this requirement shall be to maintain only Hired & Non-Owned Auto Liability. This amended coverage may be satisfied by way of endorsement to the Commercial General Liability or separate Business Auto Liability. Tenant shall ensure such coverage is provided on a primary basis.

Section 7.03 Workers' Compensation & Employer's Liability.

Tenant shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440, Florida Statutes and applicable Federal Acts. Tenant shall ensure such coverage is provided on a primary basis.

Section 7.04 Additional Insured Endorsement.

Tenant shall cause each liability insurance policy required to be maintained by Tenant to be endorsed to add the Authority as an Additional Insured on, except for Workers' Compensation and Business Auto Liability. The CG 2011 Additional Insured - Managers or Lessors of Premises or CG 2026 Additional Insured - Designated Person or Organization endorsements, or their equivalent, shall be used to endorse the Commercial General Liability policy. The standard Additional Insured endorsement offered by the insurer shall be used to endorse the other policies, when required. Tenant shall ensure the Additional Insured endorsements provide coverage on a primary basis. The Additional Insured endorsement shall read "Solid Waste Authority of Palm Beach County, its Officers, Employees, and Agents", 7501 North Jog Road, West Palm Beach, FL

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Section 7.05 Certificate of Insurance.

Tenant will deliver to the Risk Management Department at the Authority a certificate of insurance with respect to each required policy to be provided by the Tenant under this Section. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate.

Submit certificates of insurance to:

Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, FL 33412
ATTN: Risk Management
Phone: (561) 640-4000
Fax: (561) 640-3400

Subsequently, Tenant shall, during the Term of the Lease and prior to each renewal thereof, provide such evidence to the Authority. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or not renewed during the life of this Lease, Tenant shall furnish thirty (30) days prior to, but in no case later than, the expiration of such insurance a new certificate of insurance evidencing replacement coverage. Should Tenant fail to maintain the insurance required herein, the Authority shall have the right, but not the obligation, to purchase or maintain said insurance, and Tenant shall promptly pay as Additional Rent, upon demand from the Authority, all premiums and expenses incurred by the Authority.

Section 7.06 Waiver of Subrogation.

Tenant hereby agrees to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Tenant shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition prohibiting such an endorsement or voiding coverage should Tenant enter into such an agreement on a pre-loss basis.

Section 7.07 Premiums and Proceeds.

Tenant shall not keep, use, sell, or offer for sale in or upon the Premises any article which may be prohibited by any condition, provision, or limitation of the property, flood, or wind insurance policies. Tenant shall be responsible for all premiums, including increases, for all insurance policies required by this Lease. All property, flood, or windstorm insurance proceeds as a result of a loss shall be made available for use to promptly replace, repair, or rebuild the buildings, betterments, and improvements, including those made by or on behalf of Tenant, in order to ensure a replacement cost settlement and avoid policy cancellation.

Section 7.08 Deductibles, Coinsurance & Self-Insured Retention.

Tenant shall be fully and solely responsible for any deductible, coinsurance penalty, or self-insured retention, including any losses, damages, or expenses not covered due to an exhaustion of limits or failure to comply with the policy terms.

Section 7.09 Right to Review, Reject or Adjust Insurance.

The Authority's Risk Management Department shall have the right, but not the obligation, to review, adjust, reject, or accept insurance policies, limits, coverages, or endorsements throughout the life of this Lease. The Authority reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or by way of illegal operation. The Authority shall provide Tenant written notice of such action, and Tenant shall agree to cure or comply with such action within thirty (30) days receipt thereof.

Section 7.10 No Representation of Coverage Adequacy.

The limits, coverages, or endorsements identified herein primarily transfer risk and minimize liability for the Authority, and Tenant agrees not to rely upon such requirements when assessing risk or determining appropriate types or limits of coverage to protect Tenant against any loss exposures, whether as a result of this Lease or otherwise.

Section 7.11 Insurance for Special Events and Outside Persons/Groups.

Excluding the Authority or its affiliates, when Tenant permits or schedules the use of the Premises for a special event or outside persons/groups, Tenant shall require the special event or outside person/group to maintain Commercial General Liability, as described in Section 7.01, with limits of liability not less than \$1,000,000. Tenant shall ensure that the Authority and Tenant are named as Additional Insured under such policy, as described in Section 7.04. Tenant shall obtain and, when requested by the Authority, furnish copies of certificates of insurance evidencing such coverage for the special event or outside person/group.

Section 7.12 Property, Wind & Flood Insurance.

Tenant shall maintain (1) Property Insurance in an amount not less than 100% of the total replacement cost of any buildings, additions, betterments, and improvements to the property, including those made by or on behalf of Tenant, as well as Tenant's personal property and contents located on the Premises. The settlement clause shall be on a Replacement Cost basis. Coverage shall be written with a Special Cause of Loss (All-Risk) form and include an endorsement for Ordinance & Law in an amount not less than 25% of the property insurance limit; (2) Flood Insurance, regardless of the flood zone, in an amount not less than 100% of the total replacement cost of any buildings, additions, betterments, and improvements to the property, including those made by or on behalf of Tenant, as well as Tenant's personal property and contents located on the Premises, or the maximum amount available from the National Flood Insurance Program, whichever is less; and (3) Windstorm Insurance, unless included as a covered peril in the property insurance, in an amount not less than 100% of the total replacement cost of any buildings, additions, betterments, and improvements to the property, including those made by or on behalf of Tenant, as well as Tenant's personal property and contents located on the Premises, or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is

less. Tenant shall ensure such coverage is provided on a primary basis.

Section 7.13 Loss Payee Endorsement.

Tenant shall cause the Property, Flood, and Windstorm Insurance policies to be endorsed to add the Authority as a Loss Payee. Tenant shall ensure the Loss Payee endorsement provides coverage on a primary basis. The Loss Payee endorsement shall read "Solid Waste Authority of Palm Beach County", 7501 North Jog Road, West Palm Beach, FL 33412.

**ARTICLE VIII
INDEMNIFICATION**

Tenant shall indemnify, defend, and save harmless the Authority from and against any and all claims, suits, actions, damages, and/or causes of action arising during the Term of this Lease for any personal injury, loss of life, environmental contamination, and/or damage to property sustained in or about the Premises by reason, during, or as a result of the use and occupancy of the Premises by the Tenant, its agents, employees, licensees, invitees, any subtenant, and the general public, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses, and liabilities incurred in and about the defense of any such claim at trial or on appeal. In addition and without limiting the forgoing, Tenant shall indemnify, defend and save harmless the Authority from and against any and all claims, suits, actions, damages and/or causes of action relating to intellectual property, including, without limitation, patent, trade secrets, copyright and confidential information, and from and against any orders, judgments, and/or decrees which may be incurred in and about the defense of any such claim at trial and on appeal.

In the event the Authority shall be made a party to any litigation commenced against Tenant or by Tenant against any third party, then Tenant shall protect and hold the Authority harmless and pay all costs and attorney's fees incurred by the Authority in connection with such litigation and any appeals thereof. Tenant recognizes the broad nature of this indemnification provision and specifically acknowledges that the Authority would not have entered into this Lease without Tenant's agreement to indemnify the Authority and further acknowledges the receipt of good and valuable separate consideration provided by the Authority in support hereof in accordance with the laws of the State of Florida. This provision shall survive expiration or termination of this Lease.

**ARTICLE IX
DESTRUCTION OF PREMISES**

In the event the Premises shall be destroyed or so damaged or injured by fire or other casualty during the Term of this Lease or any extension thereof, whereby the same shall be rendered untenable in whole or in part, then the Tenant, after Tenant's receipt of any insurance proceeds, shall, commence restoration thereof within sixty (60) days and thereafter diligently pursue the restoration to completion, if the tenant does not pursue restoration within the prescribed time than he will be in default of this Lease.

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**ARTICLE X
ASSIGNMENT AND SUBLETTING**

Tenant may not assign, mortgage, pledge, or encumber this Lease in whole or in part, nor sublet or rent all or any portion of the Premises, nor grant any easements affecting the Premises without prior written consent of the Authority, which consent shall not be unreasonably withheld. Any attempted assignment, mortgage, pledge, encumbrance, or subletting without such consent shall be null and void, without legal effect, and shall constitute a breach of this Lease. This provision shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance, or sublease by operation of law, legal process, receivership, bankruptcy, otherwise, whether voluntary or involuntary.

**ARTICLE XI
DEFAULT**

Section 11.01 Default by Tenant.

The occurrence of any one or more of the following shall constitute an Event of Default by Tenant under this Lease: (i) Tenant's failure to pay any sum due hereunder within thirty (30) days after the same shall become due; (ii) Tenant's failure to perform or observe any of the agreements, covenants, or conditions contained in this Lease on Tenant's part to be performed or observed if such failure continues for more than sixty (60) days after notice from the Authority; (iii) Tenant's vacating or abandoning the Premises; or (iv) Tenant's leasehold estate being taken by execution, attachment, or process of law or being subjected to any bankruptcy proceeding. If any Event of Default occurs, then at any time thereafter while the Event of Default continues, the Authority shall have the right to pursue such remedies as may be available to the Authority under the law, including, without limitation, the right to give Tenant notice that the Authority intends to terminate this Lease upon a specified date not less than fifteen (15) days after the date notice is received by Tenant, in which event this Lease shall then expire on the date specified as if that date had been originally fixed as the expiration date of the Term of this Lease. If, however, the default is cured within the fifteen (15) day period and the Authority is so notified, this Lease will continue.

Section 11.02 Default by Authority.

The Authority shall not be in default unless the Authority fails to perform obligations required of the Authority within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to the Authority, specifying wherein the Authority has failed to perform such obligations; provided, however, that if the nature of the Authority's obligations is such that more than thirty (30) days are required for performance, then the Authority shall not be in default if the Authority commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

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**ARTICLE XII
QUIET ENJOYMENT**

Upon payment by the Tenant of the Annual Rent, Additional Rent, and other charges herein provided, and upon the observance and performance of all the covenants, terms, and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term hereby demised without hindrance or interruption by the Authority or any other person or persons lawfully or equitably claiming by, through, or under the Authority, subject, nevertheless, to the terms and conditions of this Lease.

**ARTICLE XIII
GUARANTY**

The payment of all rents and charges, and the performance of all covenants, terms, and obligations of Concessionaire, required by this Agreement are guaranteed pursuant to that Guaranty Agreement, a copy of which is attached hereto as Exhibit "C" and made a part hereof. This requirement may be waived by the Authority at its sole and absolute discretion.

**ARTICLE XIV
MISCELLANEOUS**

Section 14.01 Entire Agreement.

This Lease and any exhibits attached hereto, including all bid documents related to the RFP for the development of an equine residuals processing facility, including any exhibits thereto, are incorporated by specific reference into this lease and constitute all agreements, conditions, and understandings between the Authority and Tenant concerning the Premises. All prior representations, either oral or written, shall be deemed to be merged into this Lease. Except as herein otherwise provided, no subsequent alteration, waiver, change, or addition to this Lease shall be binding upon the Authority or Tenant unless reduced to writing and signed by them.

Section 14.02 Notices.

All notices, consents, approvals, and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service (provided in each case a receipt is obtained), telecopied, faxed, or emailed, or alternatively, shall be sent by United States Certified Mail with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if telecopied, faxed, or emailed if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute

binding notice given to such party:

- (a) If to the Authority at:
Attention: Executive Director
Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412
Telephone: (561) 640-4000
Fax: (561) 640-3400

with a copy to:
Attention: Engineering
Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412
Telephone: (561) 640-4000
Fax: (561) 640-3400

- (b) If to the Tenant at:
Mr. Bob Rogers
Horizon 880
58610 Van Dyke Avenue
Washington, MI 48094
Telephone: (586) 781-7070
Email: email@horizon880.com
Fax: (586) 781-7078

Any party may from time to time change the address at which notice under this Lease shall be given to such party upon three (3) day's prior written notice to the other parties.

Section 14.03 Disclosure of Beneficial Interest.

Tenant represents that simultaneously with Tenant's execution of this Lease, Tenant has executed and delivered to the Authority the Tenant's Disclosure of Beneficial Interests attached hereto as Exhibit "D" and made a part hereof (the "Disclosure") disclosing the name and address of every person or entity having a 5% or greater beneficial interest in the ownership of the Tenant. Tenant warrants that in the event there are any changes to the names and addresses of the persons or entities having a 5% or greater beneficial interest in the ownership of the Tenant between the date of execution of the Disclosure and the Commencement Date of the Lease, Tenant shall immediately, and in every instance, provide written notification of such change to the Authority pursuant to Section 14.02 of this Lease.

Section 14.04 Severability.

If any Term of this Lease, or the application thereof to any person or circumstances, shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder

of this Lease, or the application of such Term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each Term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 14.05 Broker's Commission.

Tenant represents and warrants that Tenant has not dealt with any real estate salesperson, agent, finder, or broker in connection with this Lease and that no commission or fees of any type or description are due and owing, and Tenant further agrees to indemnify, defend, and hold harmless the Authority from and against any claims or demands of any such salesperson, agent, finder, or broker claiming to have dealt with Tenant, if any. The foregoing indemnification shall include all costs, expenses, and fees, including reasonable attorney's fees at trial and all appellate levels, expended or incurred in the defense of any such claim or demand.

Section 14.06 Recording.

Tenant shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of the Authority, which may be granted or withheld at the Authority's sole discretion.

Section 14.07 Waiver of Jury Trial.

THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTERCLAIMS BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN CONNECTION WITH THIS LEASE.

Section 14.08 Governing Law and Venue.

This Lease shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Lease will be held in a state court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 14.09 Radon.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the Authority's public health unit.

Section 14.10 Time of Essence.

Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

Section 14.11 Waiver, Accord & Satisfaction.

Waiver by the Authority of any default of any term, condition, or covenant herein contained



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shall not be a waiver of such term, condition, or covenant, or any subsequent default of the same or any other term, condition, or covenant herein contained. The consent or approval by the Authority to, or of, any act by Tenant requiring the Authority's consent or approval shall not be deemed to waive or render unnecessary the Authority's consent to, or approval of, any subsequent similar act by Tenant.

Section 14.12 Non-Exclusivity of Remedies.

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 14.13 Construction.

No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the Terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

Section 14.14 Survival.

Notwithstanding any early termination of this Lease, Tenant shall remain obligated hereunder to perform any duty, covenant, or obligation imposed upon Tenant hereunder arising prior to the date of such termination.

Section 14.15 No Third Party Beneficiary.

No provision of this Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease.

Section 14.16 Palm Beach County Office of the Inspector General Audit Requirements.

Palm Beach County has established the Office of the Inspector General (OIG), Ordinance No. 2009-049, which is authorized and empowered to review past, present, and proposed County contracts, transactions, accounts, and records. The Authority has entered into an Interlocal Agreement (ILA) for Inspector General Services. This Agreement provides for the Inspector General to provide services to the Authority in accordance with the authority, functions, and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the Authority and receiving Authority funds shall fully cooperate with the Inspector General, including providing access to records relating to this Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the TENANT, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering or impeding any investigation shall be in violation of Ordinance 2009-049 and punished pursuant to Section

125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 14.17 Effective Date of Lease.

This Lease is expressly contingent upon the approval of the Authority Board and shall become effective only when signed by all parties and approved by the Authority Board.

Section 14.18 Public Entity Crimes.

As provided in Section 287.132-133, Florida Statutes, a person or affiliate who has been placed on the State of Florida convicted vendor list following a conviction for a public entity crime may not submit a bid for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

Section 14.19 Headings.

The paragraph headings or captions appearing in this Lease are for convenience only, are not part of this Lease, and are not to be considered in interpreting this Lease.

Section 14.20 Publicity


Prior to engaging in any discussion with the news media pertaining to this Lease, Tenant shall notify the Authority's Executive Director. This includes news releases, media requests for interviews, feature articles, fact sheets, or similar promotional materials.

Section 14.21 Annual Rent Adjustments

Commencing on the first anniversary of the of the rental Commencement Date, and on the commencement of each subsequent one (1) year period thereafter during the term of this Agreement or any extension thereof (hereinafter referred to as an "Adjustment Date"), the Annual Rent as in 2.01 of this Lease Agreement shall be adjusted as hereinafter set forth in accordance with any increase in the Consumer Price Index for all Urban Consumers All Items, U.S. City average (1982-1984=100) issued by the Bureau of Statistics of the U.S. Department of Labor (hereinafter referred to as "CPI"). On each Adjustment Date, the Annual Rent shall be adjusted by multiplying the Annual Rent for the immediately preceding one (1) year period by a fraction, the numerator of which shall be the CPI value for three (3) months preceding the applicable Adjustment Date and the denominator of which shall be the CPI value for the same month of the prior year. In the event that during the Term of this Agreement, the CPI ceases to be published, or if a substantial change is made in the method of establishing or computing the CPI, then the determination of the adjustment in the Annual Rent shall be made with the use of such conversion factor, formula, or table as may be published by the Bureau of Labor Statistics or, if none is available, by any other nationally recognized publisher or similar information chosen by the Authority. In no event shall the Annual Rent be lower than in the immediately preceding year.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

Signed and delivered in the presence of:

ATTEST:

By: 
Sandra Vassalotti, Clerk to the Board

SOLID WASTE AUTHORITY OF
PALM BEACH COUNTY


By: 
Dan Pellowitz, Executive Director

(SEAL)

APPROVE AS TO LEGAL SUFFICIENCY

By: 
Howard J. Falcon, III
General Counsel

APPROVE AS TO TERMS AND CONDITIONS

By: 
Signature
RAMANA KARI
Print Name
CHIEF ENGINEER
Title

WITNESSES:


Witness Signature

Heather J. Miramonti
Print Witness Name


Witness Signature

Joan P. Zarbaugh
Print Witness Name

TENANT

By: 
Signature

ROBERT V. ROGERS
Print Name

MANAGING MEMBER
Title

(SEAL)

EXHIBIT "A"
THE PREMISES

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LEGAL DESCRIPTION

BEING A PORTION OF LAND IN TRACT 19, BLOCK 6 OF PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

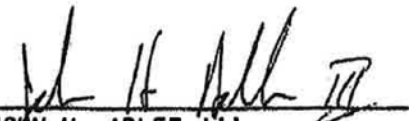
BEGIN AT A FOUND 4"x4" PALM BEACH COUNTY CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF SAID TRACT 19; THENCE NORTH 00°56'10" WEST ALONG THE WEST LINE OF SAID TRACT 19, A DISTANCE OF 609.74 FEET TO A POINT; THENCE NORTH 89°00'34" EAST ALONG A LINE BEING 50.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 19, A DISTANCE OF 375.00 FEET TO A POINT; THENCE SOUTH 00°56'10" EAST ALONG A LINE BEING 375.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACT 19, A DISTANCE OF 609.75 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 19; THENCE SOUTH 89°00'36" WEST ALONG SAID SOUTH LINE, SAID SOUTH LINE BEING THE BEARING BASIS FOR THIS LEGAL DESCRIPTION, A DISTANCE OF 375.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.249 ACRES, MORE OR LESS.

LEGEND


C.I.R. CAPPED IRON ROD
 (C) CALCULATED
 C.M. CONCRETE MONUMENT
 (D) DEED
 FD. FOUND
 L.B. LICENSED BUSINESS
 NO. NUMBER
 O.R.B. OFFICIAL RECORD BOOK
 PG(S). PAGE(S)
 P.B.CO. PALM BEACH COUNTY
 (P) PLAT
 P.B. PLAT BOOK
 ± PLUS OR MINUS
 POB POINT OF BEGINNING
 R/W RIGHT OF WAY
 W/ WITH

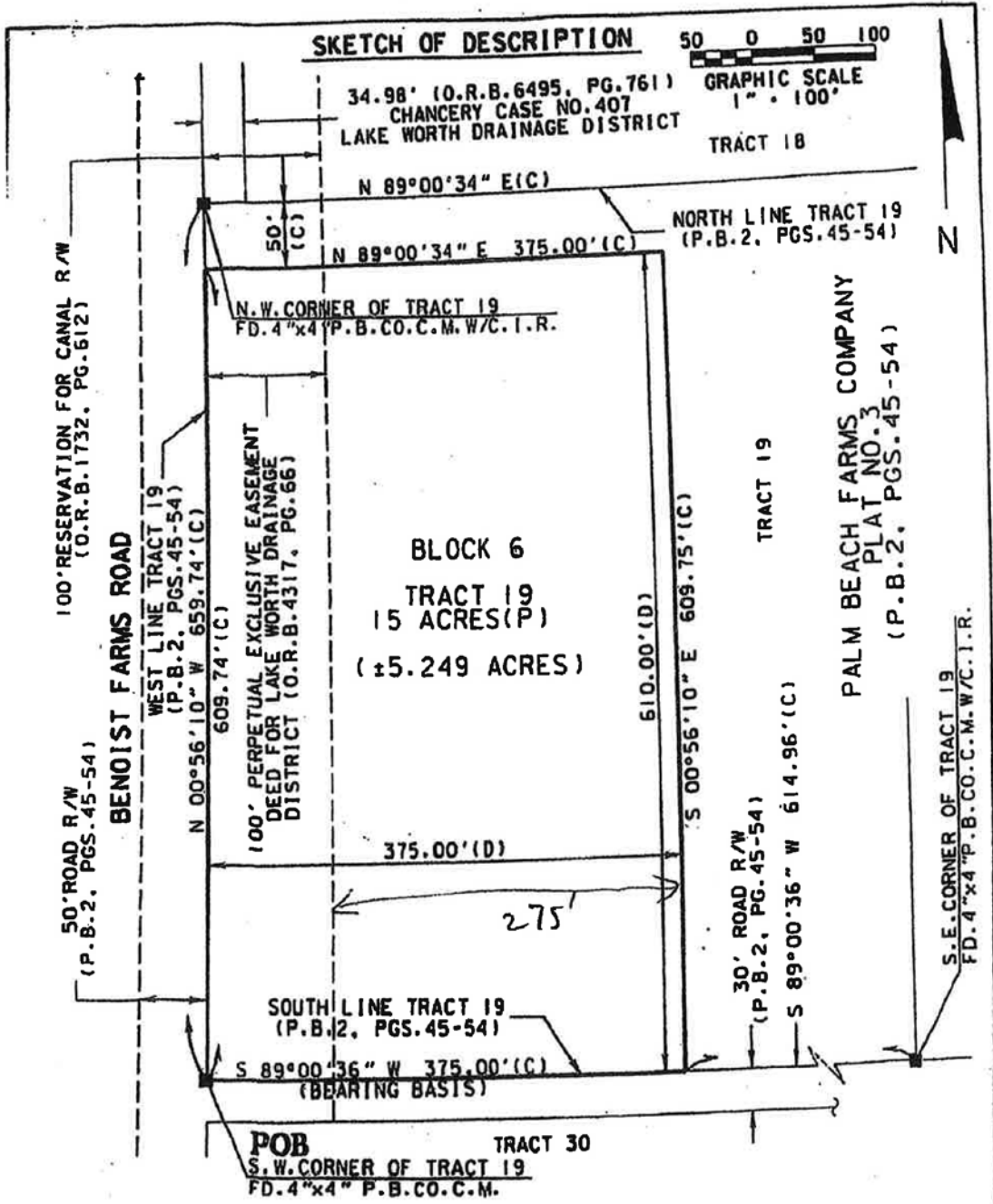
DATE OF SIGNATURE:
APRIL 1, 2003


 JOHN H. ADLER III
 PROFESSIONAL LAND SURVEYOR
 CERTIFICATE NO. 4693

NOT A SURVEY

NOT VALID UNLESS ACCOMPANIED BY SKETCH OF DESCRIPTION (SHEET 2 OF 2) © LATEST DATE SHOWN HEREON

N/A  GREENHORNE & O'MARA, INC. LEGAL DESCRIPTION AND SKETCH FOR: MAR. 2003



ARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF TRACT 19. SAID LINE BEARS SOUTH 89°00'36" WEST.

NOT A SURVEY

VALID UNLESS ACCOMPANIED BY LEGAL DESCRIPTION (SHEET 1 OF 2) © LATEST DATE SHOWN HEREON
 GREENHORNE & O'MARA, INC. LEGAL DESCRIPTION AND SKETCH FOR MAR. 2003

EXHIBIT "B"
NONDISCRIMINATION POLICY

"As a condition of entering into this agreement, the company represents and warrants that it will comply with the Authority's Commercial Nondiscrimination Policy as described under Section 6.3 of the Authority's Purchasing Manual. As part of such compliance, the company shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Authority's relevant marketplace in Palm Beach County. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification, or debarment of the company from participating in Authority contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party."

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EXHIBIT "C"
TO THE CONCESSIONAIRE LEASE AGREEMENT
GUARANTY AGREEMENT

THIS IS A GUARANTY AGREEMENT made and executed on _____
_____ by the undersigned (hereinafter called the "Guarantor").

WITNESSETH

WHEREAS, _____ (herein called "Concessionaire") and the SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, a dependent special district created pursuant to Chapter 2001-331 of the State of Florida, (herein called the "Authority") have entered into a certain Concessionaire Lease Agreement, dated _____ (herein called the "Agreement"); and

WHEREAS, in order to induce the Authority to enter into the Agreement, the undersigned Guarantor has agreed to guarantee the payment of all rents and charges, and the performance of all of Concessionaire's obligations, under the Agreement.

NOW, THEREFORE, in consideration of the execution and delivery of the Agreement by the Authority, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees as follows:

1. The undersigned Guarantor does hereby guarantee to the Authority the due and punctual payment of all Guaranteed Annual Rent, Additional Rent and other sums due and payable under the Agreement, and each and every installment thereof, as well as the full and prompt and complete performance by the Concessionaire of each and every covenant, condition, provision, and obligation of the Concessionaire in the Agreement for the full Term of the Agreement and any extension thereof, as permitted by the Agreement, with no less force and effect than if the undersigned were named as the Concessionaire in the Agreement, and the undersigned will forthwith on demand pay all amounts at any time in arrears, and will make good any and all defaults occurring under the Agreement.

2. This Guaranty Agreement shall be an absolute, continuing, irrevocable, unconditional, and unlimited guaranty of payment, and the Authority shall not be required to take any proceedings against the Concessionaire, or give any notice to the undersigned before the Authority has the right to demand payment or performance by the undersigned upon default by the Concessionaire. This Guaranty Agreement and the liability of the undersigned hereunder shall in no way be impaired or affected by any assignment which may be made of the Agreement, or any subletting thereunder, or by any extension(s) of the payment of any rental or any other sums provided to be paid by Concessionaire, or by any forbearance or delay in enforcing any of the terms, conditions, covenants or provisions of the Agreement or any amendment, modification, or revision of the Agreement.

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3. No action or proceeding brought or instituted under this Guaranty Agreement against the undersigned, and no recovery had in pursuance thereof shall be a bar or defense to any further action or proceeding which may be brought under this Guaranty Agreement by reason of any further default or defaults of Concessionaire.

4. The liability of the Guarantor shall not be deemed to be waived, released, discharged, impaired or affected by reason of the release or discharge of the Concessionaire by any creditors, receivership, bankruptcy (or reorganization proceedings under the Bankruptcy Act) or other proceedings, or the rejection or disaffirmance of the Agreement in any proceedings.

5. There shall be no modification of the provisions of this Guaranty Agreement unless the same is in writing and signed by the undersigned and the Authority.

6. All of the terms, agreements, and conditions of this Guaranty Agreement shall extend to and be binding upon the undersigned, their heirs, personal representatives, administrators, and assigns, and shall inure to the benefit of the Authority, its successors, and assigns, and to any future owner of the fee of the Premises referred to in the Agreement. Terms not defined herein shall have the same meaning as in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of:

WITNESSES:

Heather J. Miramonte
Witness Signature

Heather J. Miramonte
Print Witness Name

GUARANTOR:

Signature
ROBERT V. ROGERS
Print Name

EXHIBIT "D"
TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS

TO: SOLID WASTE AUTHORITY OF PALM BEACH COUNTY EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared ROBERT V. ROGERS, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the MANAGING MEMBER (position - i.e. president, partner, trustee) of _____ (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Tenant") which entity is the lessee of the real property legally described on the attached Exhibit "A" (the "Premises").

2. Affiant's address is: 58610 VAN DYKE RD
WASHINGTON, MI 48094

3. Attached hereto, and made a part hereof, is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Tenant and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by the Solid Waste Authority of Palm Beach County relating to its lease of the Property.

FURTHER AFFIANT SAYETH NAUGHT.
_____, Affiant

Print Affiant Name: ROBERT V. ROGERS

The foregoing instrument was sworn to, subscribed and acknowledged before me this 12TH day of JUNE, 2019, by ROBERT V. ROGERS, MANAGING MEMBER [] who is personally known to me or [] who has produced _____ as identification and who did take an oath.



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Carol A. Hurley
Notary Public

CAROL A. HURLEY
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 12/17/2019

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**SCHEDULE TO BENEFICIAL
INTERESTS IN PROPERTY**

Tenant is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Tenant must identify individual owners. If, by way of example, Tenant is wholly or partially owned by another entity, such as a corporation, Tenant must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

NAME	ADDRESS	PERCENTAGE OF INTEREST
Robert V. Rogers	58610 Van Dyke Rd. Washington, MI 48094	100%

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