

Solid Waste Authority of Palm Beach County

Board Meeting: April 13, 2022



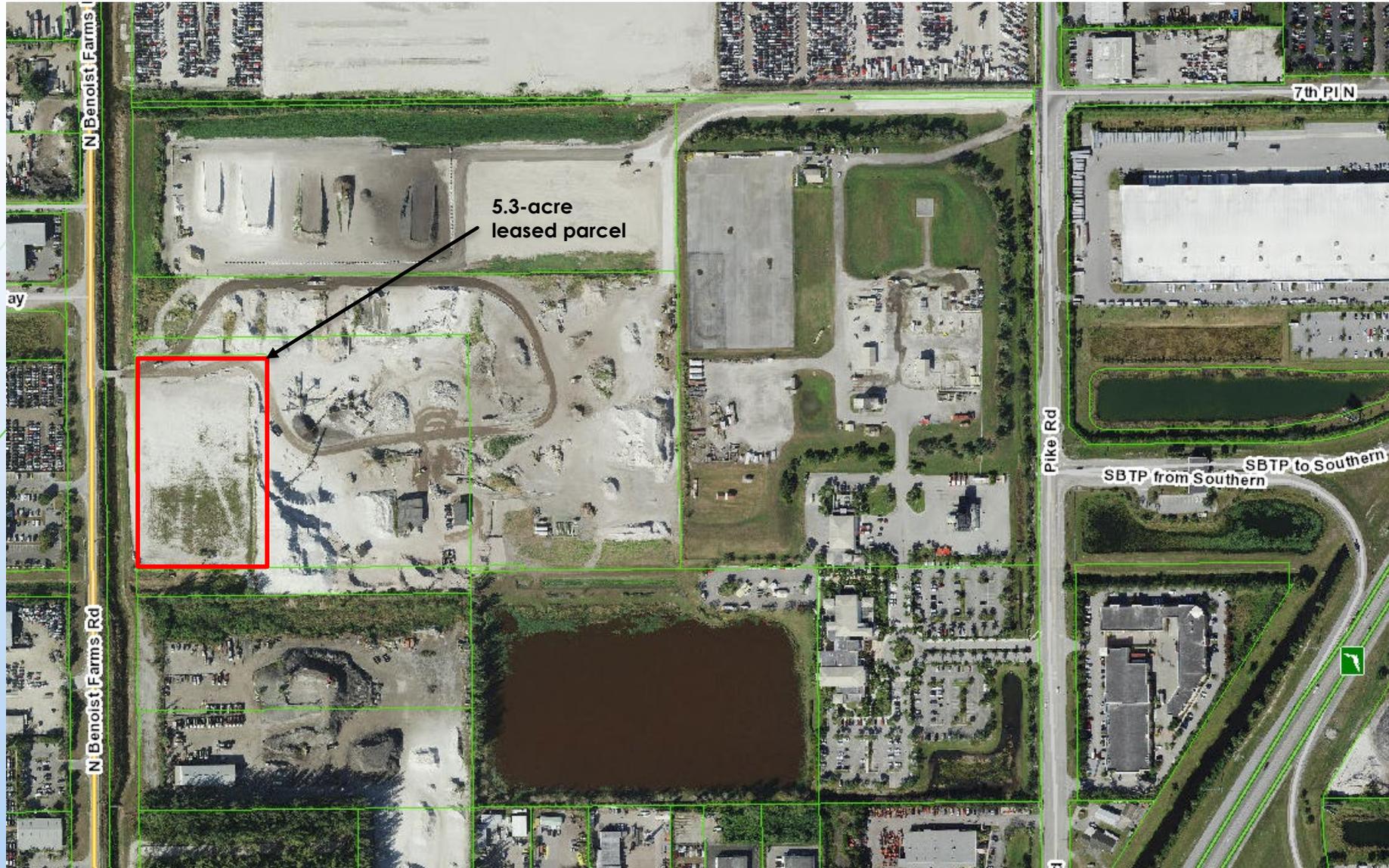
Item 9.E.1

HiPoint Agro Bedding Florida LLC. Lease Agreement

Seeking Board Direction

Site Location

2



Background

- **October 2018:** Board directed staff to solicit proposals for the potential use of a 5.3-acre parcel at the Cross State property on Benoist Farms Road.
- **November 2018:** RFP issued. Horizon 880 was the sole proposer.
- **June 2019:** Board approved the 20-year lease. Required Horizon 880 to obtain all permits within 18 months (Permit deadline: December 2020).
- **Spring 2020:** Authority relocated PBC Roadway & Bridge (tenant) to a different location (\$253,000).
- **Summer 2020:** Authority and PBC Engineering signed an ILA to improve the Pike Road intersection for better site access (\$118,000/ 50-50 cost share).
- **Fall 2020:** Authority widened and improved internal site roads (\$169,000).
- **December 2020:** Horizon 880 paid the first lease payment of \$74,600.
- **February 2021:** Board approved the lease assignment to HiPoint.
- **June 2021:** HiPoint executed the lease assignment.
- **October 2021:** Board approved the deferral of the December 2021 lease payment with specific conditions and deadlines.
- **December 2021:** Amendment 1 to the Lease was executed to include the conditions from the October 2021 Board meeting.

Deferral of Lease Payment

CONDITIONS OF APPROVAL:

- ▶ In October 2021, the Board approved the deferral of the December 2021 lease payment subject to the following conditions:
 - ▶ The December 2021 Lease payment of \$79,150.60 shall be paid in full by December 18, 2023;
 - ▶ A 2% annual finance charge will be assessed on the above deferred amount;
 - ▶ HiPoint shall obtain all permits for the construction of the proposed facility by March 31, 2022;
 - ▶ HiPoint to provide a letter from a bonding company by March 31, 2022, indicating their intent to issue the bond for this project; and
 - ▶ HiPoint to pay the taxes (\$9,982.50) by March 31, 2022.

Current Status

- ▶ On February 25, 2022, HiPoint provided the following:
 - ▶ Previous investor is no longer involved in financing this project.
 - ▶ Scope & scale of this project is changing due to lack of finances and material cost increases.
 - ▶ No discussions were held with local utility providers for the proposed project.
 - ▶ No design plans were submitted to the agencies for permitting.
 - ▶ Potential new investors.
 - ▶ No problems anticipated in modifying the zoning permit if the project scope changes.
 - ▶ No issues with obtaining a bonding commitment.
- ▶ On March 31, 2022, HiPoint's letter request for time extension:
 - ▶ Unable to meet all the requirements set forth by the Board in October 2021.
 - ▶ Requested a 120-150 day extension for the "new funders" to complete their due diligence
 - ▶ Unable to obtain a bonding commitment.
- ▶ Above letter did not provide a clear plan or a schedule for financing, permitting, and construction.

OPTIONS

- ▶ **OPTION 1:** Declare the Lessee in default for its failure to satisfy the conditions of Amendment 1 to the Lease (October 2021 Board approval) and authorize the Executive Director to pursue the Authority's remedies as they accrue under the Lease, up to and including Termination and Eviction.

- ▶ **OPTION 2:** Grant the Lessee thirty (30) days from today to:
 - ▶ Pay the December 2021 lease payment of \$79,150.60 plus the 2% finance charge; and
 - ▶ Provide a letter from the bonding company confirming their commitment to this project as required in Amendment 1.
 - ▶ If OPTION 2 is approved, and the Lessee fails to meet any of the above milestones for OPTION 2 by May 13, 2022, the Executive Director shall be authorized to pursue the remedies in OPTION 1 above.
 - ▶ If OPTION 2 is approved and the milestones are met by May 13, 2022, the deadline to obtain permits may be extended at the discretion of the Board.

Questions?