

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 11, 2008

☒ Consent

☐ Regular

☐ Workshop

☐ Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A 2nd Amendment to the Easement Agreement (R97-724D) with Temple Shaarei Shalom, Inc., (Temple) for the Hagen Ranch Road Drainage south of the Lake Worth Drainage District L-22 Canal.

Summary: This 2nd Amendment will allow the Temple to assume the responsibilities of the Easement Agreement.

District: 3 (MRE)

Background and Justification: Palm Beach County (County) and Novartis Seed, Inc. (Novartis) entered into an Easement Agreement, with Exhibit "A", for drainage of Hagen Ranch Road south of the Lake Worth Drainage District L-22 Canal.

The County and Levitt-Ansca Hagen Ranch, Ltd. (Levitt-Ansca), the successor in title to Novartis, entered into an Amended Easement Agreement, with Exhibit "A-1", to relocate the drainage and assume the responsibilities of Novartis. Exhibit "A-1" was inadvertently omitted from the Amended Easement Agreement.

The Temple is the successor in title to Levitt-Ansca. In order to assume the responsibilities of the Easement Agreement as amended, and to properly depict the location of the drainage, the Temple needs to enter into this Amendment.

The Temple representatives have signed the Amendment, and staff recommends the Board of County Commissioners approve this Amendment.

Attachments:

1. Location Map
2. 2nd Amendment to Easement Agreement for Hagen Ranch Road South of Lake Worth Drainage District L-22 Canal with Exhibit "A-2" (3)

Recommended by:

Daniel A. Fernandez
Division Director

2/07/08
Date

Approved by:

Sy T. Webb
County Engineer

2/12/08
Date

KAT
Kat

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Cost	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-

NET FISCAL IMPACT

ADDITIONAL FTE POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes ___ No ___
Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____
Reporting Category _____

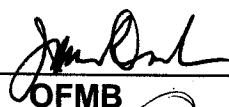


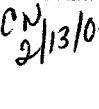
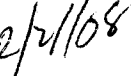
B. Recommended Sources of Funds/Summary of Fiscal Impact:

NOTE: This item has no fiscal impact

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 2/21/08 OFMB  2/22/08 Contract Dev. and Control
 2/21/08 SP  2/13/08 CM  2/21/08

B. Legal Sufficiency:

This amendment complies with
our review requirements.

 2/25/08
Assistant County Attorney

C. Other Department Review:

Department Director

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2nd AMENDMENT TO EASEMENT AGREEMENT
FOR HAGEN RANCH ROAD DRAINAGE SOUTH OF THE LAKE WORTH
DRAINAGE DISTRICT L-22 CANAL

THIS 2ND AMENDMENT TO THE EASEMENT AGREEMENT FOR HAGEN RANCH ROAD DRAINAGE SOUTH OF THE LAKE WORTH DRAINAGE DISTRICT L-22 CANAL, is made this _____, by and between TEMPLE SHAAREI SHALOM, INC., a Florida not-for-profit corporation, hereinafter the TEMPLE, as successor in interest to Levitt-Ansca Hagen Ranch, Ltd., a Florida limited partnership, hereinafter LEVITT-ANSCA, as successor in interest to Novartis Seed, Inc., a Delaware corporation, hereinafter NOVARTIS, and PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter the COUNTY.

WHEREAS, the COUNTY and NOVARTIS entered into an Easement Agreement approved by Resolution R-97-724D and recorded in the Public Records in Official Record Book 9904, Page 841, which provided for the drainage of Hagen Ranch Road south of the Lake Worth Drainage District L-22 canal, and contained a legal description identified as Exhibit A; and,

WHEREAS, LEVITT-ANSCA entered into an Amendment to said Easement Agreement, which was approved by R-2000-1239, and which was not recorded in the Public Records; and,

WHEREAS, said Amendment contained references to Exhibit A-1, which was inadvertently omitted from the Amendment document; and,

WHEREAS, said Exhibit A-1 was to replace the area identified as Exhibit A in the Easement Agreement; and,

WHEREAS, the drainage for Hagen Ranch Road south of the Lake Worth Drainage District L-22 canal has been reconfigured in a new location, said location being Exhibit A-2, attached hereto and made a part hereof; and,

WHEREAS, Paragraph 5 of the aforementioned Easement Agreement provides that it may be amended only by written and recorded instrument; and,

WHEREAS, in order to replace the Easement identified as Exhibit A with the Easement identified as Exhibit A-2, the TEMPLE and the COUNTY hereby amend the Amendment to the Easement Agreement; and,

WHEREAS, the TEMPLE and the COUNTY desire to amend the Amendment to the Easement Agreement as set forth in the following recitals.

NOW THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows:

1. RECITALS The foregoing recitals are true and correct and are incorporated into to this 2nd Amendment to the Easement Agreement, as amended.

2. AMENDMENT The Easement Agreement, as amended, is hereby further amended as hereinafter set forth.

3. SUBSTITUTION OF PARTIES The TEMPLE is hereby substituted for LEVITT-ANSCA for purposes of the 2nd Amendment of the Easement Agreement, as amended, and any reference to LEVITT-ANSCA throughout the Easement Agreement, as amended, shall be deemed to be referring to the TEMPLE. The TEMPLE shall assume all rights, duties, and obligations of LEVITT-ANSCA set forth in the Easement Agreement, as amended, and as further amended by this 2nd Amendment.

4. LEGAL DESCRIPTION The legal description of the Easement Agreement, as amended, is further amended so as to delete Exhibit A-1, formerly Exhibit A, Retention Area, of the Easement Agreement and substitute therefore the attached Exhibit A-2, which is made a part hereof. The area depicted on Exhibit A-2 shall hereinafter be known as the Easement Area.

5. AMENDMENT TO PARAGRAPH 7 Paragraph 7 of the Easement Agreement, as amended, is hereby further amended to read as follows:

Exhibits The attached legal description (Exhibit A-2) is hereby incorporated and made a part of this Easement Agreement, as amended, and further amended.

6. AMENDMENT TO PARAGRAPH 8 Paragraph 8 of the Easement Agreement, as amended, is hereby further amended to read as follows:

Power and Authority The TEMPLE represents, warrants and covenants it has the legal power, right, and authority to enter into this 2nd Amendment to the Easement Agreement, as amended, and that all requisite action has been taken by the TEMPLE in connection with the execution of this 2nd Amendment to the Easement Agreement, as amended. The individuals executing this 2nd Amendment to the Easement Agreement, as amended, on behalf of the TEMPLE represent, warrant and covenant that they have the legal power, right and authority to bind the TEMPLE.

The COUNTY represents, warrants and covenants it has the legal power, right and authority to enter into this 2nd Amended to the Easement Agreement, as amended, and that all requisite action has been taken by the COUNTY in connection with the execution of this 2nd Amendment to the Easement Agreement, as amended. The individuals executing this 2nd Amendment to the

Easement Agreement, as amended, on behalf of the COUNTY represent, warrant and covenant that they have the legal power, right and authority to bind the COUNTY.

7. RECORDING The parties agree that this 2nd Amendment to the Easement Agreement, as amended, shall be recorded in the Official Records of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

8. NO AMENDMENT TO OTHER TERMS AND PROVISIONS Except as modified by this 2nd Amendment to the Easement Agreement, as amended, no terms and provisions of the Easement Agreement, as amended, are further amended and shall remain in full force and effect, and are ratified, confirmed and incorporated herein.

9. SEVERABILITY If any term or provision of this 2nd Amendment to the Easement Agreement, as amended, or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, to the remainder of this 2nd Amendment to the Easement Agreement, as amended, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this 2nd Amendment to the Easement Agreement, as amended, shall be deemed valid and enforceable to the extent permitted by law.

10. REMEDIES This 2nd Amendment to the Easement Agreement, as amended, shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the 2nd Amendment to the Easement Agreement, as amended, will be held in Palm Beach County. 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 now or hereafter existing at law, or in equity, by statute or otherwise. No single or partial exercise by an party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

11. ENTIRETY The TEMPLE and the COUNTY agree that this 2nd Amendment to the Easement Agreement, as amended, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the term or provisions of this 2nd Amendment to the Easement Agreement, as amended, may be added to, modified, superceded, or otherwise altered, except by written instrument executed by the parties, their heirs, successors or assigns.

IN WITNESS WHEREOF, this 2nd Amendment to the Easement Agreement, as amended, has been executed on the date first written.

Signed, sealed and delivered in the presence of:

Lewis J. Doctor
WITNESS Signature (Required)

LEWIS J. DOCTOR
TYPED OR PRINTED NAME OF
WITNESS

Wendy Alfaro
WITNESS Signature (Required)

Wendy Alfaro
TYPED OR PRINTED NAME OF
WITNESS

TEMPLE SHARAI SHALOM, INC., a
Florida not-for-profit corporation
CORPORATION NAME - TYPED OR PRINTED

BY: *[Signature]*
SIGNATURE OF PRESIDENT

Robert M. Kesten
TYPED OR PRINTED NAME OF PRESIDENT

ATTEST: *Cyrille E. Dreyfuss*
SIGNATURE OF SECRETARY


Cyrille E. Dreyfuss
TYPED OR PRINTED NAME OF SECRETARY

9085 HAGEN RANCH RD BOYNTON BEACH, FL
MAILING ADDRESS 33472

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28 DAY OF JANUARY, 2008 by ROBERT M. KESTEN and CYRILLE E. DREYFUSS of TEMPLE SHARAI SHALOM, a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Witness my hand and official seal this 28 day of JANUARY, 2008
NOTARY PUBLIC-STATE OF FLORIDA
 Linda A. Gulko
Commission #DD372919
Expires: NOV 17, 2008
by Atlantic Bonding Co., Inc.
Signed: *[Signature]*
Notary Public in and for
the County and State aforementioned

ATTEST: SHARON R. BOCK,
Clerk and Comptroller

PALM BEACH COUNTY BOARD
OF COUNTY COMMISSIONERS

By _____
Deputy Clerk

By _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM
LEGAL SUFFICIENCY

By *[Signature]*
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By *[Signature]*
Director, Engineering and Public Works
Operations

Exhibit
"A-2"
1 of 2

SOUTH LINE SECTION 16-45-42
AS SHOWN ON THE ABERDEEN PLAT NO. 24,
AS RECORDED IN PLAT BOOK 77, PAGES 174
THROUGH 180 OF THE PUBLIC RECORDS,
BEARING S89°52'23"W

NORTH LINE BLOCK 49
BEARING S89°52'23"W

RADIAL BEARING
N89°27'48"W

POINT OF
COMMENCEMENT

4'02'00"
R=2162.00'
L=152.19'

POINT OF
BEGINNING



TRACT 10, BLOCK 49

TRACT 9 BLOCK 49
PALM BEACH FARMS COMPANY PLAT NO.3
(PLAT BOOK 2, PAGES 45-54)

30' R/W ON PALM BEACH FARMS PLAT NO.3

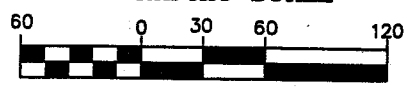
TRACT 8 BLOCK 49

HAGEN RANCH ROAD
(PUBLIC R/W)
(O.R.B. 9904, PGS. 860-882)
(O.R.B. 9904, PGS. 863-885)
(O.R.B. 9904, PGS. 870-872)
(O.R.B. 9904, PGS. 885-887)
(O.R.B. 9904, PGS. 892-894)

POINT OF
TERMINUS

LEGEND
R/W - RIGHT-OF-WAY
ORB - OFFICIAL RECORDS BOOK

GRAPHIC SCALE



(IN FEET)

CAULFIELD & WHEELER, INC
Consulting Engineers - Land Planners - Surveyors
7301A West Palmetto Park Road - Suite 100A
Boca Raton, Florida 33433 (561) - 392-1991

TUSCANY A AND B DRAINAGE ESMT
SKETCH OF DESCRIPTION

SHEET 1 OF 2

DATE 8/4/00
SCALE ASSHOWN
DRN.BY DPL
CKD.BY DPL
FLD.BK. N/A
PAGE N/A
JOB NO. 3786
DWG 3786DF

Exhibit
"A-2"
2 of 2

NOTES:

- 1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
- 2. LANDS SHOWN HEREON WERE NOT ABSTRACTED BY THE SURVEYOR.
- 3. BEARINGS SHOWN HEREON ARE RELATIVE TO THE SOUTH LINE OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 42 EAST, GRID BEARING S89°52'23"W, AS NOTED ON ABERDEEN PLAT NO.24 AS RECORDED IN PLAT BOOK 77, PAGES 174 - 180 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
- 4. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
- 5. DATA SHOWN HEREON WAS PREPARED FROM THE INSTRUMENTS OF RECORD AND DOES NOT CONSTITUTE A BOUNDARY SURVEY AS SUCH.

DESCRIPTION (DRAINAGE EASEMENT)


A 20.00 FOOT WIDE DRAINAGE EASEMENT LYING IN TRACTS 8 AND 9, BLOCK 49, AND THAT 30.00 FOOT WIDE RIGHT-OF-WAY LYING BETWEEN SAID TRACTS 8 AND 9, "PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM COUNTY, FLORIDA, THE CENTERLINE OF WHICH BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT 8 AND THE WEST RIGHT-OF-WAY LINE OF "HAGEN RANCH ROAD", AS RECORDED IN OFFICIAL RECORD BOOK 9904, PAGE 855 OF SAID PUBLIC RECORDS; THENCE SOUTHERLY ALONG SAID WEST RIGHT-OF-WAY LINE ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS N89°27'48"W, HAVING A RADIUS OF 2162.00 FEET, A CENTRAL ANGLE OF 04°02'00", AN ARC DISTANCE OF 152.19 FEET TO THE POINT OF BEGINNING; THENCE S82°44'23"W, A DISTANCE OF 64.41 FEET; THENCE S08°03'09"W, A DISTANCE OF 245.75 FEET; THENCE S57°43'02"W, A DISTANCE OF 109.81 FEET; THENCE S16°38'20"W, A DISTANCE OF 31.47 FEET TO A POINT OF TERMINUS.

THE SIDELINES OF SAID EASEMENT SHALL BE SHORTENED OR LENGTHENED TO TERMINATE ON SAID WEST RIGHT-OF-WAY LINE OF "HAGEN RANCH ROAD".


SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION ON AUGUST 4, 2000. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN CHAPTER 61G17-6 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.


DAVID P. LINDLEY, P.L.S.
REG. LAND SURVEYOR #5005
STATE OF FLORIDA
LB #3591

SHEET 2 OF 2



CAULFIELD & WHEELER, INC.
Consulting Engineers - Land Planners - Surveyors
7301A West Palmetto Park Road - Suite 100A
Boca Raton, Florida 33433 (561) - 382-1991

TUSCANY A AND B DRAINAGE ESMT
SKETCH OF DESCRIPTION

REVISIONS	DATE	BY

DATE 8/4/00
SCALE 1"=60'
DRN.BY DPL
CKD.BY DPL
FLD.BK N/A
PAGE N/A
JOB NO. 3786
DWG 3786DE