



# CITY OF TAMPA

Frances Henriquez, City Clerk

OFFICE OF CITY CLERK

April 8, 1992

Tampa Bay Regional Planning Council  
9455 Koger Boulevard  
St. Petersburg FL 33702

RE: Petition No. DZ83-32  
Ordinance No. 92-47

Dear Sir:

The enclosed document is being transmitted for your information and record keeping process.

If further information is needed, please contact Susan Swift, Manager, Land Development Coordination, 223-8405.

Sincerely,

(Mrs.) Frances Henriquez  
City Clerk

*mailed 4/8/92  
received 4/9/92*

FH/gg

Enclosure: Ordinance 92-47

CERTIFIED MAIL

cc: Susan Swift, Land Development Coordination

ORDINANCE NO. 92-47

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, AMENDING A DEVELOPMENT ORDER RENDERED PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON A NOTICE OF PROPOSED CHANGE FILED BY THE WESTERN-SOUTHERN LIFE INSURANCE COMPANY ("WESTERN-SOUTHERN") FOR TAMPASPHERE, A PREVIOUSLY APPROVED DEVELOPMENT OF REGIONAL IMPACT, PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 8413-A passed and ordained by the City Council of the City of Tampa, Florida, on November 17, 1983, approved a Development Order for TampaSphere, a Development of Regional Impact (the "Development Order") approving 1,000,000 gross leasable square feet of office, 600 hotel rooms, and 300,000 gross leasable square feet of retail; and

WHEREAS, on December 18, 1991, Western-Southern, as A.C. Associates' successor-in-interest, filed a Notice of Proposed Change ("Proposed Change"), to the Development Order; and

WHEREAS, the Tampa Bay Regional Planning Council ("TBRPC") and the State of Florida Department of Community Affairs ("DCA"), after review of the Proposed Change objected and in response, the applicant modified the Proposed Change as follows: that the proposed buildout date of so much of the development as shall equal 240,000 gross leasable square feet of retail and 400,000 gross leasable square feet of office with a land use trade off mechanism for calculating permitted land uses which may be substituted for the office use without exceeding approved trip generation levels (the "Authorized Development") be extended to December 29, 1997, with a development commencement date of July 1, 1996, and the addition of an anti-down-zoning provision, and the confirmation of transportation mitigation provisions (the "Modified Proposed Change"); and

WHEREAS, the Modified Proposed Change, pursuant to Chapter 380.06(19), Florida Statutes, is presumed to be a substantial deviation and Western-Southern has rebutted that presumption by clear and convincing evidence at a public hearing; and

WHEREAS, Western-Southern has made all of the financial contributions required by the Development Order to date and has submitted a transportation analysis which demonstrates (1) that the project is in a regional activity center, and (2) that the amount of development being proposed for buildout extension is projected to have a less than ten percent (10%) impact on I-275; and (3) that the Spruce/Dale Mabry intersection is projected to operate at an acceptable level of service at the reduced development levels; and

WHEREAS, the City Council as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes (1990), is authorized and empowered to consider Notices of

Proposed Change and to adopt and amend Development Orders concerning Developments of Regional Impact; and

WHEREAS, the public notice requirements of Chapter 380, Florida Statutes, and Section 27-418, City of Tampa Code have been satisfied; and

WHEREAS, all interested parties and members of the public were afforded an opportunity to participate in the hearing on the subject proposed amendment before the City Council; and

WHEREAS, the City Council has held a duly noticed public hearing on this proposed amendment to the Development Order and has reviewed the above-referenced documents, as well as all related testimony and evidence submitted by each party and members of the general public; and

WHEREAS, Chapter 380.06, Florida Statutes, provides that a development order may be amended to reflect approval of changes to the approved development which have been found not to constitute substantial deviations; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF TAMPA, FLORIDA:

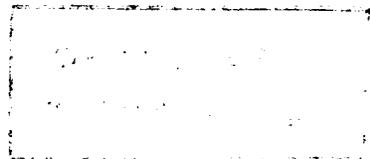
Section 1. Findings of Fact. That City Council, having received the above referenced documents, and having received all related comments, testimony and evidence submitted by all persons and members of the general public, finds that there is substantial competent, clear and convincing evidence to support the following findings of fact:

A. That the Developer submitted to the City the Proposed Change, the Modified Proposed Change, and three traffic studies dated February 13 and 24, 1992, and March 2, 1992, all of which are attached hereto as Composite Exhibit "A".

B. Developer proposes to extend the proposed buildout of 240,000 gross leasable square feet of retail and 400,000 gross leasable square feet of office, with a land use trade-off mechanism, to December 29, 1997, and commence development by July 1, 1996, which extension is presumed to be a substantial deviation pursuant to Section 380.06(19), Florida Statutes, as amended, and that said presumptions were rebutted at the public hearing by clear and convincing evidence.

C. That the Developer has either complied with or demonstrated that it will have no additional regionally significant impact on the regional transportation network if the Authorized Development is built within the above-described time frames, as further described in the Traffic Studies, including the following:

- i) Himes Avenue has been four-laned from Cypress Street north to Columbus Avenue in compliance with condition 4.D.1.a.(1) and 4.D.1(c) of the Development Order; and
- ii) Intersections G, H, J, K, L, and M have been improved by responsible entities as provided for in condition 4.D.1.a.(2) of the Development Order, with funding commitments for Intersections D and I not being required until the project receives building permits, and completion of the improvements to Intersections D and I not being required until the project is completed in accordance with condition 4.I;
- iii) Western-Southern has paid to the City of Tampa \$687,000 for the construction of the new Himes Avenue/I-275 ramps to and from the East in compliance with condition 4.D.1.b.(1) of the Development Order; and
- iv) The City has constructed new ramps to I-275 to and from the East utilizing the Western-Southern grant-in-aid of construction in compliance with condition 4.D.1.b. of the Development Order; and
- v) The construction of the I-275 Himes Avenue ramps to and from the east provide additional capacity to the City road network and in particular Dale Mabry Highway and Himes Avenue; and
- vi) Western-Southern has paid to the City of Tampa \$421,500 in compliance with the transportation mitigation requirements of condition 4.D.3. and 4.J. of the Development Order; and
- vii) Western-Southern has conveyed to the City of Tampa right-of-way for the widening of Himes Avenue as required by Condition 4.D.4. of the Development Order.
- viii) Condition 4.E relating to the Dale Mabry Highway/Himes Avenue corridor study has been complied with through the study and four-laning of Himes Avenue; and
- ix) Western-Southern has demonstrated in the Traffic Studies that the required improvements to I-275 in Condition 4.G. of the Development



Order are not triggered by the Authorized Development being proposed for buildout extension, if said development is completed by December 29, 1997.

x) Western-Southern has demonstrated in the Traffic Studies that the required improvements in Condition 4.H of the Development Order relating to Intersection C are not triggered by the Authorized Development as the Intersection is projected to operate at an acceptable level of service at the reduced development levels.

D. That the development is not located in an area of critical state concern as designated pursuant to Section 380.05, Florida Statutes (1989), as amended.

E. That the Modified Proposed Change will comply with local land development regulations and the local comprehensive plan, respectively, and is vested from compliance with concurrency, pursuant to Chapter 163.3167(8), Florida Statutes.

F. That the Modified Proposed Change does not unreasonably interfere with the achievement of objectives of the adopted state development plan applicable to the area and is consistent with the State Comprehensive Plan.

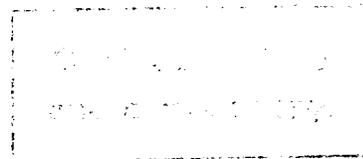
G. That the Modified Proposed Change is consistent with the report and recommendations of the TBRPC.

H. That a comprehensive review of the impacts generated by the Modified Proposed Change has been conducted by the City Staff, TBRPC and DCA.

Section 2. Conclusions of Law. That the City Council having made the above findings of fact, draws the following conclusions of law:

A. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in this proceeding, the various departments of the City and the Developer are authorized to approve/conduct development as described herein, subject to the conditions, restrictions and limitations set forth herein.

B. The review by the City, TBRPC, DCA, and other participating agencies and interested citizens reveals that the presumption that these changes constitute a substantial deviation has been rebutted by clear and convincing evidence and that the impacts of the Modified Proposed Change are adequately addressed pursuant to requirements of Chapter 380, within the terms and conditions of this Amendment.



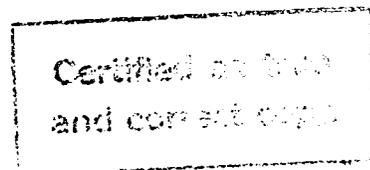
C. That pursuant to Section 380.06(19), Florida Statutes, the Proposed Change does not constitute a substantial deviation from the Development Order.

Section 3. Order. That based upon the above findings of fact and conclusions of law, it is hereby ordered:

A. Extension of the Proposed Buildout. Section 4 of the Development Order which incorporates the Application for Development Approval is hereby amended to extend to December 29, 1997, the proposed buildout of 240,000 gross leasable square feet of retail and 400,000 gross leasable square feet of office with tradeoff mechanisms herein. In the event Developer proposes to build any of the remaining development beyond the "Authorized Development", including the remaining 60,000 gross leasable square feet of retail, or 600 hotel rooms, or 600,000 gross leasable square feet of office permitted under the original Development Order, such additional development shall be a substantial deviation, provided, however, such substantial deviation shall not be triggered by the use of the land use trade-off mechanism as set forth herein. In the event Developer proposes to further extend the buildout date of the Authorized Development (240,000 gross leasable square feet of retail and 400,000 gross leasable square feet of office or trade-off of land uses as set forth herein), such proposal shall be presumed to be a substantial deviation. For purposes of calculating the cumulative total of any further buildout date extensions for the Authorized Development, the following assumptions shall apply: 300,000 gross leasable square feet of office and 30,000 gross leasable square feet of retail shall be presumed to have had an original estimated buildout date of 1986. The remaining 100,000 gross leasable square feet of office and additional 30,000 gross leasable square feet of retail shall be presumed to have had an original estimated buildout date of 1987. The remaining 180,000 gross leasable square feet of retail shall be presumed to have had an estimated buildout date of 1992.

B. That the Development Order conditions in Subparagraphs 4.C., 4.D.1.a.(1)., 4.D.1.a.(2)., with respect to Intersections G, H, J and K, 4.D.1.b.(1)., 4.D.1.c., 4.D.2., 4.D.3., 4.D.4., 4.E., 4.F., 4.H., with respect to Intersections L and M, 4.J. and 4.K. have been completely satisfied. The improvements to I-275 as set forth in condition 4.G. and the improvements to Intersection C as set forth in condition 4.H. are not triggered by the Authorized Development. The funding commitments for Intersections D and I as set forth in condition 4.D.1.a.(2) are not required until the project receives building permits.

C. That the Development Order is hereby amended by creating a new section 4.Z to read as follows:



"Land Use Trade Off Mechanism. Exchanges of the office land uses will be permitted, subject to Section 380.06(19), Florida Statutes, with the transportation impacts calculated pursuant to the mechanism attached hereto as Exhibit "B". In no event will the exchange of office land uses result in the addition of more than a maximum of 600 hotel rooms and 60,000 gross leasable square feet of retail."

D. That the Development Order is hereby amended by creating a new section 4.A.A. to read as follows:

"Transportation Mitigation. The Developer has, by its payments to the City totalling \$1,108,500, has met its financial obligations under Sections 4.D.1.(b), 4.D.3 and 4.J.b. to mitigate for the buildout of the Authorized Development".

E. That the Development Order is hereby amended by creating a new section 4.B.B. to read as follows:

"Downzoning/Intensity Reduction. Prior to November 18, 1998, the City may not down-zone or reduce the intensity or unit density permitted by this Order, unless the City can demonstrate that:

(1) substantial changes in the conditions underlying the approval of the Order have occurred; or

(2) the Order was based upon substantially inaccurate information provided by the Developer; or

(3) the change is clearly established by the City to be essential to the public health, safety, or welfare.

Any down-zoning or reduction of intensity shall be effected only through the usual and customary procedures required by statute and/or ordinance for changes in local land development regulations.

For the purposes of this Order, the term "down-zone" shall refer only to changes in zoning or development regulations which decrease the development rights approved by

this Order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer by this Order. The inclusion of this section is not to be construed as evidencing any present foreseeable intent on the part of the City to down-zone or alter the density or intensity of the development, but is included herein to comply with Section 380.06(15)(c)3, Florida Statutes (1990 Supp.). A change in the land use plan category applicable to TampaSphere which authorizes the intensities and densities of use approved herein shall not constitute a down-zone."

F. That the Development Order is hereby amended by creating a new section 4.C.C. to read as follows:

"Commencement Date. The Authorized Development must commence on or before July 1, 1996."

G. That the Development Order is hereby amended by creating a new section 4.D.D. to read as follows:

"Westshore Transportation Management Association. Prior to issuance of a certificate of occupancy for any office, retail or hotel development on site, the Developer shall become a participating member of the Westshore Transportation Management Association ("TMA") and shall use reasonable efforts to implement recommendations from the TMA to the extent economically feasible."

H. That the Development Order is hereby amended by adding to section 4.L. the following:

"Transit. In order to adequately mitigate the "Authorized Development" impacts on transit facilities and services, the following requirements shall be met when requested by Hillsborough Area Rapid Transit Authority ("HART"):

- a. Access and internal road geometrics shall accommodate a 96" wide by forty (40) foot long advanced design coach.
- b. Prior to receipt of the first certificate of occupancy of the development, the Developer shall provide a bus shelter and

bus pullout bay to serve the commercial component of the project. The location of this shelter is to be agreed upon by HART and the Developer prior to final site plan approval. The shelter shall be located so as to be reasonably accessible via pedestrian walkways/crosswalks. Sufficient area, lighting and appropriate signage shall be provided at the shelter location.

- c. Prior to site plan approval, the Developer and HART shall agree to placement of bus stops within the project. Prior to receipt of certificates of occupancy, the Developer shall install informational displays at each site.
- d. Maintenance of transit amenities shall be the responsibility of the property owner, unless specifically assumed by another responsible entity.

The Developer, in coordination with HART, will monitor transit usage on the site in order to establish compliance with transit rates estimated in the ADA and shall report the findings in the annual report.

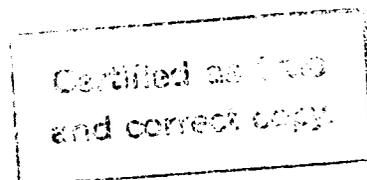
I. That Developer hereby confirms that it will comply with Conditions 4.N and 4.P of the Development Order relating to stormwater management, and as set forth therein, Developer will ensure that the final drainage plan approved by the City will be prepared in accordance with the latest City policies and standards for stormwater management.

J. That Developer hereby confirms that it will comply with Conditions 4.S and 4.T of the Development Order relating to waste water and potable water, respectively.

K. That Section 4.Y. of the Development Order is hereby amended to read as follows:

"That all development pursuant to this Order shall be in accordance with applicable local building codes, ordinances and other laws in effect at time of permitting except as otherwise herein provided."

L. That Section 4.B. of the Development Order is hereby amended to add 4.B.(7) to read as follows:



"The Developer shall, as part of its annual report submitted pursuant to Section 380.06(18), Florida Statutes, as amended, provide notice of the use of the Land Use Trade Off Mechanism. In addition, the Developer shall monitor the actual trip generation rates that result from the utilization of the Land Use Trade Off Mechanism and report the results as part of the required annual report in the year immediately following said notice."

Section 4. Development Order, as amended. That this Ordinance ("Development Order Amendment") shall constitute the first amendment to Ordinance No. 8413-A, and shall collectively constitute the Development Order, as amended, for the Development. All provisions of the Development Order except those provisions specifically modified herein, shall remain in full force and effect and shall be considered conditions of development unless inconsistent with the terms and conditions of this Ordinance, in which case the terms and conditions of this Ordinance shall govern.

Section 5. Binding Effect. That this ordinance shall be binding upon the Developer, its assigns and successors-in-interest.

Section 6. Government Agencies. That it is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created or designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order Amendment.

Section 7. Severance. That in the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

Section 8. Transmittals. That the City Clerk is directed to send copies of this Ordinance, within five (5) days of the effective date of this Ordinance, to the owner, (The Western-Southern Life Insurance Company, c/o Thomas Stapleton, 400 Broadway, Cincinnati, Ohio 45202), the Florida Department of Community Affairs (Bureau of Land and Water Management), and the Tampa Bay Regional Planning Council.

Section 9. Recordation. That the Developer shall record a notice of adoption of this Development Order Amendment as required pursuant to Chapter 380, Florida Statutes, and shall furnish the City Clerk a copy of the recorded notice.

Section 10. Effective Date. That this Ordinance shall take effect immediately upon becoming a law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA, ON APR 02 1992.

ATTEST:

Joe Green  
CHAIRMAN, CITY COUNCIL

James Henriquez  
CITY CLERK

APPROVED by me on APR 06 1992

Prepared and Approved by:

Sandra W. Friedman

G. K. G.  
ASSISTANT CITY ATTORNEY

W-LU/10337/001/FINALR11 03/18/92

State of Florida  
County of Hillsborough

This is to certify that the foregoing is a true and correct copy of Ordinance no 92-47 on file in my office.

Witness my hand and official seal this 7th day of April, 1992.

Charles Henriquez  
CITY CLERK  
Deputy City Clerk

## COMPOSITE EXHIBIT "A"

1. NOTIFICATION OF A PROPOSED CHANGE DATED DECEMBER 18, 1991
2. MODIFIED PROPOSED CHANGE
3. LETTER DATED FEBRUARY 13, 1992, FROM JOSEPH J. GRIMAIL, DAMES & MOORE, TO SUSAN LYNN-JOHNSON, LAND DEVELOPMENT COORDINATION
4. LETTER DATED MARCH 2, 1992 FROM JOSEPH J. GRIMAIL, DAMES & MOORE, TO MARINA PENNINGTON, DEPARTMENT OF COMMUNITY AFFAIRS.
5. LETTER DATED FEBRUARY 24, 1992, FROM JOSEPH J. GRIMAIL, DAMES & MOORE, TO SUZANNE COOPER, TAMPA BAY REGIONAL PLANNING COUNCIL.

(located in  
Master DO file)



ORDINANCE NO. 8413 -A

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, RENDERING A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL FILED BY A. C. ASSOCIATES, FOR TAMPASPHERE, A DEVELOPMENT OF REGIONAL IMPACT; PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, on April 19, 1983, A. C. Associates ("the Developer") filed an Application for Development Approval ("ADA") of a Development of Regional Impact ("DRI") with the City of Tampa ("the City"), Hillsborough County City-County Planning Commission, Hillsborough County Environmental Protection Commission, Florida Department of Community Affairs and the Tampa Bay Regional Planning Council ("TBRPC"), pursuant to the provisions of section 380.06, Florida Statutes (1981), as amended ("Chapter 380"), and Section 43-96.2, City of Tampa Code; and

WHEREAS, the ADA proposes the development of TampaSphere, a mixed used, office/retail/hotel development located on an 18.0 acre site at the northeast corner of the intersection of Dale Mabry Highway and I-275, in the City of Tampa; and

WHEREAS, the City Council as the governing body of the local government having jurisdiction pursuant to Chapter 380 is authorized and empowered to consider ADA's for DRI's; and

WHEREAS, the public notice requirements of Chapter 380, and Section 43-96.2, City of Tampa Code have been satisfied; and

WHEREAS, the City Council has on November 1, 1983, held a duly noticed public hearing on the ADA and has heard and considered testimony and documents received thereon; and

WHEREAS, the City Council has received and considered the report and recommendations of the TBRPC; and

WHEREAS, all interested parties and members of the public were afforded the opportunity to participate in the application hearing on the subject DRI, before the City Council; and

WHEREAS, the City Council has reviewed the above referenced documents, as well as all related testimony and evidence submitted by each party and members of the general public; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF TAMPA, FLORIDA:

Section 1. That this Ordinance shall constitute the Development Order ("Order") for the City Council issued in response to the ADA filed by the Developer, for development of TampaSphere, a DRI. The scope of development to be permitted pursuant to this Order includes the operations described in the ADA and the supporting documents, which by reference are made a part hereof as composite Exhibit A.

Section 2. That City Council, having received the above referenced documents, and having received all related comments, testimony and evidence submitted by each party and members of the general public, finds there is substantial competent evidence to support the following findings of fact:

- A. That the real property which is the subject of the ADA is legally described as set forth in Exhibit B, attached hereto and by reference made a part hereof.

74  
minutes

Exhibit "A" not attached

DZ 83-32

- B. That the Developer submitted to the City an ADA and sufficiency response which are attached hereto as composite Exhibit A, and by reference made a part hereof, to the extent that they are not inconsistent with the terms and conditions of this Order.
- C. That the Developer proposes the development of Tampa-Sphere, a multi-use office/retail/hotel complex with a total site area of approximately 18.0 acres, located approximately at the intersection of Dale Mabry Highway and I-275, in the City of Tampa.
- D. That the proposed development is not located in an area of critical state concern as designated pursuant to Section 380.05, Florida Statutes (1981), as amended.
- E. That the project is consistent with all local land development regulations.
- F. That this Order is consistent with the report and recommendations of the TBRPC.
- G. That the development will not unreasonably interfere with the achievement or objectives of the adopted State Land Development Plan applicable to the area.
- H. That a comprehensive review of the impact generated by the development has been conducted by the City's departments and the TBRPC.

Section 3. That the City Council having made the above findings of fact, reaches the following conclusions of law:

- A. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in this proceeding, the Developer and the various departments of the City are authorized to conduct development as described herein, subject to the conditions, restrictions and limitations set forth herein.
- B. That the review by the City, the TBRPC and other participating agencies and interested citizens reveals that impacts are adequately addressed pursuant to the requirements of Chapter 380, within the terms and conditions of this Order and the ADA.

Section 4. That, having made the above findings of fact and drawn the above conclusions of law, it is ordered that the ADA is hereby approved, subject to the following conditions, restrictions and limitations:

- A. Substantial Deviations: Retriggering of DRI process.  
  
Further review pursuant to Chapter 380, may be required if a substantial deviation, as defined in Chapter 380, occurs. The Developer shall be given due notice of, and an opportunity to be heard at any hearing to determine whether or not a proposed change to the development is a substantial deviation. Substantial deviation may occur by failure to comply with the conditions herein, failure to follow the plans and specifications submitted in the ADA and supplementary information, or by activities which are not commenced until after the expiration of the period of the effectiveness of this Order.
- B. The Developer shall submit annual reports on the DRI to the City, the TBRPC, the State Land Planning Agency, and other agencies as may be appropriate, on the

anniversary of the effective date of this Order for each following year until and including such time as all terms and conditions of this Order are satisfied. Such report shall be submitted to the Director, Department of Housing, Inspections and Community Services (hereinafter "HICS") who shall, after appropriate review, submit it for review by the City Council. The City Council shall review the report for compliance with the terms and conditions of this Order and may issue further orders and conditions to insure compliance with the terms and conditions of this Order. The Developer shall be notified of any City Council hearing wherein such report is to be reviewed, provided, however, that receipt and review by the City Council shall not be considered a substitute or a waiver of any terms or conditions of this Order. The annual report shall contain:

1. A description of all development activity conducted pursuant to this Order during the year immediately preceding the submission of the annual report;
2. A description of all development activities proposed to be conducted under the terms of this Order for the year immediately subsequent to the submission of the annual reports;
3. A statement listing anticipated applications for development permits, required pursuant to applicable regulations, which the Developer proposes to submit during the year immediately following submittal of the annual report;
4. A statement by HICS regarding the status of the activities, improvements, measures and commitments referred to in Section 4.
5. A statement setting forth the name and address of any heir, assignee or successor in interest to the Developer in its capacity as Developer of Tampa-Sphere; and
6. A statement that all persons have received copies of the annual report, as required under Chapter 380.

It is the intent herein, that the foregoing requirements for submittal of the annual report shall be in addition to and not in lieu of any submittal requirements for an annual report as promulgated by the State Land Planning Agency.

- C.
  1. That, for the purposes of this Order, funding commitments may be either in the form of Developer contributions-in-aid-of-construction, or Developer commitments for the actual construction, or the placement of the improvements in the City's, County's, or FDOT's transportation improvements work programs, or a combination thereof.
  2. That, for the purposes of this Order, the Developer is considered one of a number of possible responsible entities.
- D.
  1. Prior to the issuance of construction permits for Phase I (herein defined as not including site clearing or demolition permits):

- a. The City shall ensure that funding commitments from responsible entities for the following improvements/provisions are secured:
- (1) Improve Himes Avenue to four lanes with turn lanes as needed at intersections from Cypress Street north to Columbus Drive; and the City hereby commits to construct these improvements;
  - (2) Improve intersections D, G, H, I, J, K, and L, as referenced in Exhibit C attached hereto and by reference incorporated herein. The intersection improvements may include, but are not limited to, geometric improvements, signalization modifications, and new signal installations. The design for these improvements shall be reviewed and approved, as appropriate, by FDOT, Hillsborough County and the City, with, in all cases, a final review and approval by the City, prior to the issuance of any necessary permits, for these intersection improvements. The improvements and the phasing of those improvements shown in Exhibit C, may, after more detailed review by the appropriate governmental agency, and the City, be modified in a manner intended to accomplish the same result, utilizing generally recognized professional traffic engineering standards and practices.
- b. The City shall insure that contracts for the construction of the new Himes Avenue/I-275 ramps to and from the east have been awarded, or the City has received adequate monies to fund the design, if needed, and the acquisition of additional right-of-way, if needed, and the construction of the new Himes Avenue/I-275 ramps to and from the east. The design of this improvement shall be approved by FDOT as appropriate, with a final review and approval by the City. The construction of the ramps shall be a public project with funds provided by the developer. The City shall be responsible for developing, advertising, awarding and administering the necessary contract or contracts.
- (1) The Developer shall pay the City, at the time of advertising for bids, the City's estimate of the costs of construction. After the acceptance of the lowest responsible bid, the Developer shall pay the difference, if any, between the bid price and the City's estimate. If the accepted bid is less than the City's estimate, the City shall rebate the difference between the bid price and the City's estimate. After the contract for construction is awarded, the cost of any change orders necessary to the satisfactory completion of the project shall be borne by the Developer. Should the total of all change orders result in a total cost less than the bid price,

the Developer shall be refunded the amount saved at the completion of the construction project.

- (2) The City shall actively seek Federal or State Funds for reimbursement for construction costs for Himes Avenue/I-275 ramps. The City shall utilize its best efforts to obtain such funds. Funds so received shall be refunded to the Developer; but in no event shall this amount exceed the amount paid by the Developer.
- c. The City shall use its best efforts to complete improvements to Himes Avenue from Cypress Street north to Columbus Drive (4.D.1.a.(1)) and the Himes Avenue/I-275 ramps (4.D.1.b.) by January 1, 1986.
2. That conditions contained in 4.D.1. are in addition to the initiation of a Dale Mabry Highway/Himes Avenue ("DMH/HA") corridor plan (4.E.1.) and, as a Developer option, the initiation of a Transportation System Management ("TSM") plan (4.F.).
3. That, payment of the sum of \$421,500.00 referred to in Section 4.J. below, shall constitute the final and complete cash payment by the Developer for any and all off-site transportation improvements related to the project, except as may be required in Subsections 4.D.4., 4.G., 4.H., and 4.I., below. However, this sum does not include that amount of money which may be required from the Developer for the construction of the Himes Avenue/I-275 ramps as required by Subsection 4.D.1.b. above.
4. That, at the time of the issuance of the first construction permit for Phase I, the Developer shall convey to the City, at no charge, a right-of-way parcel, not to exceed 10 feet in width, along the west side of Himes Avenue for the entire length of the development's frontage on Himes Avenue, a more specific description of which will be determined during the design of the Himes Avenue corridor improvement as referenced in 4.D.1.a.(1) above.
- E. 1. Prior to the issuance of construction permits for Phase II a study that will result in a transportation improvements plan and implementation schedule for the DMH/HA corridor shall be initiated. It shall be developed through the coordinated efforts of the Developer, the City, the County, the TBRPC, the Tampa-Hillsborough Metropolitan Planning Organization ("MPO"), and FDOT. The plan shall incorporate, as appropriate, the findings and recommendations of the regional studies in progress in the study area. The transportation improvements plan and implementation schedule shall be completed prior to the issuance of construction permits for Phase III.
2. The subjects of study within the DMH/HA corridor plan shall include, but are not limited to:

- a. The existing regionally significant roadways and roadways to be constructed in the study area.
  - b. The applicable existing, approved (including previously approved DRI's) and projected development.
  - c. The methods by which the traffic impact of 4.E.2.b. developments will be assessed.
  - d. The goal of daily level of service C, D at peak hour.
  - e. The procedures by which TSM (including mass transit) will be studied to alleviate overburdened roadways.
  - f. The identification of specific, construction implementation goals, including right-of-way acquisition, in order to phase transportation improvements with projected development approvals.
  - g. The identification of funding commitments for the improvements.
3. An FDOT DMH/HA corridor plan, shall be deemed to meet the condition established in 4.E.1. and 2. above.
- F. 1. Prior to the issuance of construction permits for Phase II the Developer, as an option to financial participation in roadway improvements, may submit a plan of TSM measures to be initiated during Phase II and implemented through project build-out. As appropriate, the plan shall be approved by City, MPO, Hillsborough Area Regional Transit ("HART"), FDOT, and TBRPC. The TSM plan may address:
- a. Worker flex time and worker ride sharing, both of a sufficient magnitude to divert a portion of the total peak hour vehicle trips away from the peak traffic hour, over and above those referenced in the ADA, together with the measures to achieve these diversions.
  - b. In conjunction with HART, a bus incentive program to provide transit service facilities and ridership to divert a portion of the total peak hour vehicle trips away from the peak traffic hour, together with the measures to achieve this diversion.
  - c. Express Bus Service of sufficient magnitude to divert a portion of the total peak hour vehicle trips away from the peak hour, together with the measures to achieve this diversion.
2. If the Developer follows this option, the achievement of the proposed effect of the approved TSM measures shall become a condition of this Order, and a precondition of phase approvals, in the same manner that the roadway improvements the TSM replaced, would have been preconditions to phase approvals.

3. If the Developer follows this option, thereafter, each annual report required by Section 4.B. of this Order, shall include a documentation and assessment of the vehicle trips diverted from the peak traffic hour, over and above those included in the ADA.
- G. Prior to the issuance of construction permits for Phase II the City shall ensure:
1. That funding commitments from the responsible entities for the following improvement have been secured: Improve I-275 to eight lanes, divided, from Dale Mabry Highway to Armenia Avenue; or
  2. That the responsible entity has initiated implementation of the results/recommendations of the FDOT High Occupancy Vehicle study as it related to this facility; or
  3. That the responsible entities have initiated other measures to assure an adequate Level of Service on the facility.
- H. Prior to the issuance of construction permits for Phase III, the City shall ensure:
1. That funding commitments from the responsible entities are secured for improvements to the following intersections: Intersection C, D, L and M referred to in Exhibit C, unless the results of the DMH/HA corridor plan reflect that (a) any or all of the improvements are not required based on the improvement criteria set forth in the TBRPC's "Future of the Region", and the applicable City requirements, as both of those from time to time may be amended; or (b) additional/alternative improvements are needed to any or all of the referenced intersections, or additional/alternative improvements are needed elsewhere within the impact area as described in the ADA, in which event the City shall insure that funding commitments from the responsible entities are secured for those additional/alternative improvements. The intersection improvements may include, but are not limited to, geometric improvement, signalization, modifications and new signal installations. The design for these improvements shall be reviewed and approved by, as appropriate, FDOT, Hillsborough County and the City, with, in all cases, a final review and approval by the City prior to issuance of any necessary permits. The improvements shown on Exhibit C, or the additional/alternative improvements referred to above, may, after more detailed review by the appropriate governmental agency, and the City, be modified in a manner intended to accomplish the same result, utilizing generally recognized professional traffic engineering standards and practices; or
  2. That the responsible entities initiate other measures to assure an adequate Level of Service on these facilities; or
  3. That a combination of the conditions in 4.H.1. and 4.H.2. above assures an adequate Level of Service on these facilities.

- I. That the Developer shall construct access points to TampaSphere at the following locations: Dale Mabry Highway (one access point) and Himes Avenue (one access point at Union Street, Main Street, and Green Street). The improvements may include, but are not limited to, geometric improvements, signalization modifications, and new signal installations. The design for these improvements shall be reviewed and approved by FDOT, as appropriate, and the City, with, in all cases, a final review and approval by the City, prior to issuance of any necessary permits. The improvements to the access points shall be completed no later than is necessary to complement the completion of each phase, based upon generally recognized professional traffic engineering standards and practices.
- J. That, notwithstanding other funding commitments, or commitments to construct, the Developer shall contribute to the City, in discharge of its responsibility to mitigate the transportation system impacts of all phases of the TampaSphere development, the sum of \$421,500.00 as a grant-in-aid-of-construction, which has been determined to be at least equal to the proportionate share of the cost of improvements for intersections C, G, L, and M, as referenced in Exhibit C, and the improvement identified in Section 4.D.1.a.(1) above, assignable to TampaSphere. The first payment will constitute TampaSphere's proportionate share of the cost of the improvements needed to mitigate the transportation impacts of Phase I and Phase II of this development and will be in an amount of \$197,000.00, due and payable at the time of the issuance of the first construction permit for Phase I, or on January 1, 1985, whichever event occurs earlier. The second payment will constitute TampaSphere's proportionate share of the cost of the improvements needed to mitigate the transportation impacts of Phase III of this development and will be in an amount of \$224,500.00, which is due and payable at the time of the issuance of the first construction permit for Phase III, or on the last business day of December, 1990, whichever event occurs earlier. The City shall apply this grant-in-aid-of-construction referred to above toward completing needed improvements within this project's impact area as described in the ADA. Notwithstanding the above, additional Grants-in-aid-of-construction may be required from the Developer for his proportionate share of the cost of those improvements referred to in Sections 4.G. and 4.H. above.
- K. This subsection shall be considered as another option from that option which is stated in Section 4.E., 4.F., 4.G., 4.H, 4.I, and 4.J. (taken together), above.
1. That, after the DMH/HA corridor plan is initiated and in the event that adequate transportation improvements are assured to permit initial approval of the development, then the capacity and loading of the transportation facilities in the development transportation area, including, but not limited to, the regional roadways and intersections referred to in 4.D., 4.E., 4.F., 4.G., 4.H., 4.I, and 4.J. above, shall be the limiting factor for subsequent approvals.
  2. That, thereafter, for any approvals beyond the original Phase I approval, the Developer shall provide to the City, the Tampa Urban Area Transportation Study Staff, the MPO and the TBRPC,

updated traffic counts on the roadways and intersections referred to in 4.K.1. above, for review pursuant to Chapter 380.

3. At the same time as 4.K.2. above, the Developer shall also provide projections of traffic volume that will result after the completion of the currently approved construction, plus projections of traffic volume that will result from the next portion of the project for which the Developer is seeking construction approval.
  4. Each updated traffic analysis shall serve to verify the findings of the original DRI traffic analysis, or shall indicate alternative transportation improvements/measures which, when implemented, will improve and maintain the roadways and intersections referred to in 4.K.1. above, at daily Level of Service C, D at peak hours.
  5. Both the traffic counts and projection of traffic volume referred to in 4.K.3. and 4.K.4. above, shall be prepared using generally recognized professional traffic engineering standards and practices and shall be validated by an appropriate transportation planning agency. For the purposes of this subsection, the City Department of Public Works, Transportation Division is deemed an appropriate transportation planning agency.
  6. Prior to any specific approval beyond original approval, the City shall ensure that the above roadways and intersections are operating at or above an average, daily Level of Service C, D at peak hours, and that the projected trips generated by such specific approval will not cause the above roadways and intersections to operate below an average daily Level of Service C, D at peak hours. The written results of the City's analysis shall be included in the Developer's annual report.
  7. The Developer shall have the option, as opposed to awaiting funding commitments from other responsible entities, to assume financial responsibility for a proportionate share of the cost for improvement construction to any of the facilities which fall below an average daily Level of Service C, D at peak hours. The terms of such option shall allow, if appropriate, the Developer to proceed with the development, prior to the Developer actually funding the improvements. The terms of such option shall be in a form acceptable to both the Developer and the City.
- L. That the Developer shall provide on-site roadway designs that reduces vehicle congestion, together with bus bays, if and when mass transit is available, in order to minimize the impacts to air quality.
- M. The Developer shall institute the wind and soil erosion control measures referenced in the ADA for minimizing adverse water and air quality impacts.
- N. The Developer shall ensure that the final stormwater drainage plan shall be prepared in accordance with TBRPC's approved Stormwater and Lakes System Maintenance and Design Guidelines and shall ensure that the system is appropriate for treatment of the first one-half inch of runoff from the site; further, the

Developer shall ensure that the final drainage plan shall be prepared in accordance with the latest City policies and standards for stormwater management.

- O. The Developer shall implement a street cleaning program within the development as a measure for reducing the pollutant load in the stormwater runoff from on-site parking and roadway areas.
- P. That the Developer shall be the responsible entity for the maintenance of on-site stormwater management systems.
- Q. That the Developer shall implement the energy conservation measures referenced on page 25-3 of the ADA.
- R. That the total daily generation of solid waste from commencement of construction to build-out of the project as referenced in the ADA will be accepted by the City.
- S. That, the average daily flows of waste water from commencement of construction through build-out and operation of the project as referenced in the ADA will be accepted by the City at the standard charge for wastewater service. Connection fees, installation charges and, if applicable, grants-in-aid-of-construction for off-site improvements to the wastewater system necessitated by this development, shall be assumed by the Developer, when assessed by the City, as project plans become final, all in accordance with established City policies and regulations. Grants-in-aid-of-construction, if required by the City, shall be reduced by a credit for Average Daily Flows generated by the previously existing development on the site, and by a credit for Sewer Improvement Fees.
- T. That the total daily water requirements from commencement of construction through build-out and operation of the project as referenced in the ADA will be supplied by the City at the standard charge for water service. Connection fees, installation charges and, if applicable, grants-in-aid-of-construction for off-site improvements to the water system necessitated by this development, shall be assumed by the Developer, when assessed by the City, as project plans become final, all in accordance with established City policies and regulations.
- U. That the City shall ensure the adequacy and availability of the following public services for each phase of this development: energy, police, emergency medical and fire. Further, that the Developer shall be responsible for the cost of any water distribution capital improvements necessitated by this development to ensure adequate fire protection.
- V. That the developer shall ensure that the Federal Aviation Authority shall complete its review and issue project clearances prior to any construction. Further, the Developer shall implement the Federal Aviation Administration review requirements.
- W. That, if any significant historical or archaeological sites or artifacts are discovered during site preparation and construction, the Developer shall notify the Bureau of Historic Sites and Properties, Florida Department of State and the City, in order to determine the importance of such discoveries and to determine

appropriate measures to be undertaken to ensure their preservation.

X. The Developer shall be the responsible entity for the maintenance of all open space areas on the project site.

Y. That all development pursuant to this Order shall be in accordance with applicable local building codes, ordinances, and other laws except as otherwise herein provided.

Section 5. That the definitions contained in Chapter 380 shall control the interpretation and construction of any terms of this Order.

Section 6. That this Order shall remain in effect for a period of fifteen (15) years from the effective date of this Order. Any development activity wherein plans have been submitted to the City for its review and approval prior to the expiration date of this Order, may be completed, if approved. This Order may be extended by City Council on the finding of excusable delay in any proposed development activity.

Section 7. That this Order shall be binding upon the Developer, assigns or successors-in-interest.

Section 8. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created or designated as successor-in-interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Order.

Section 9. That in the event that any portion or section of this Order is determined to be invalid, illegal, or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner effect the remaining portions or sections of this Order which shall remain in full force and effect.

Section 10. That the City Clerk is hereby directed to send copies of this Order, within five (5) days of the effective date of this Ordinance, to the Developer, the Florida Department of Community Affairs, and the TBRPC.

Section 11. That the Developer shall record a notice of adoption of this Order as required pursuant to Chapter 380, and shall furnish the City Clerk a copy of the recorded notice.

Section 12. That this Order shall be deemed rendered upon transmittal of copies of this Order to the recipients specified in Chapter 380.

Section 13. That this Ordinance shall take effect immediately upon becoming a law, and a copy hereof shall be posted on the bulletin board in the hall of the first floor of the City Hall in the City of Tampa, Florida, for the convenience of the public.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
TAMPA, FLORIDA, ON NOV 17 1983.

*Barbara W. Spalding*  
CHAIRMAN, CITY COUNCIL

ATTEST:  
*Francis M. Higgins*  
CITY CLERK

APPROVED by me on: 11-18-83  
*[Signature]*  
MAYOR

Prepared and Approved by:  
*[Signature]*  
CITY ATTORNEY

FRANCES HENRIQUEZ  
City Clerk

November 22, 1983

Tampa Bay Regional Planning Council  
9455 Koger Boulevard  
St. Petersburg, FL 33702

Re: Ordinance No. 8413-A

Gentlemen:

I am transmitting the above ordinance which was adopted by the City Council and signed by the Mayor.

Please let me know if I can be of further service.

Sincerely,



(Mrs) Frances Henriquez  
City Clerk

FF/jnd

Enclosure

ORDINANCE NO. 8413 -A

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, RENDERING A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL FILED BY A. C. ASSOCIATES, FOR TAMPASHERE, A DEVELOPMENT OF REGIONAL IMPACT; PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, on April 19, 1983, A. C. Associates ("the Developer") filed an Application for Development Approval ("ADA") of a Development of Regional Impact ("DRI") with the City of Tampa ("the City"), Hillsborough County City-County Planning Commission, Hillsborough County Environmental Protection Commission, Florida Department of Community Affairs and the Tampa Bay Regional Planning Council ("TBRPC"), pursuant to the provisions of Section 380.06, Florida Statutes (1981), as amended ("Chapter 380"), and Section 43-96.2, City of Tampa Code; and

WHEREAS, the ADA proposes the development of TampaSphere, a mixed used, office/retail/hotel development located on an 18.0 acre site at the northeast corner of the intersection of Dale Mabry Highway and I-275, in the City of Tampa; and

WHEREAS, the City Council as the governing body of the local government having jurisdiction pursuant to Chapter 380 is authorized and empowered to consider ADA's for DRI's; and

WHEREAS, the public notice requirements of Chapter 380, and Section 43-96.2, City of Tampa Code have been satisfied; and

WHEREAS, the City Council has on November 1, 1983, held a duly noticed public hearing on the ADA and has heard and considered testimony and documents received thereon; and

WHEREAS, the City Council has received and considered the report and recommendations of the TBRPC; and

WHEREAS, all interested parties and members of the public were afforded the opportunity to participate in the application hearing on the subject DRI, before the City Council; and

WHEREAS, the City Council has reviewed the above referenced documents, as well as all related testimony and evidence submitted by each party and members of the general public; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF TAMPA, FLORIDA:

Section 1. That this Ordinance shall constitute the Development Order ("Order") for the City Council issued in response to the ADA filed by the Developer, for development of TampaSphere, a DRI. The scope of development to be permitted pursuant to this Order includes the operations described in the ADA and the supporting documents, which by reference are made a part hereof as composite Exhibit A.

Section 2. That City Council, having received the above referenced documents, and having received all related comments, testimony and evidence submitted by each party and members of the general public, finds there is substantial competent evidence to support the following findings of fact:

- A. That the real property which is the subject of the ADA is legally described as set forth in Exhibit B, attached hereto and by reference made a part hereof.

- B. That the Developer submitted to the City an ADA and sufficiency response which are attached hereto as composite Exhibit A, and by reference made a part hereof, to the extent that they are not inconsistent with the terms and conditions of this Order.
- C. That the Developer proposes the development of Tampa-Sphere, a multi-use office/retail/hotel complex with a total site area of approximately 18.0 acres, located approximately at the intersection of Dale Mabry Highway and I-275, in the City of Tampa.
- D. That the proposed development is not located in an area of critical state concern as designated pursuant to Section 380.05, Florida Statutes (1981), as amended.
- E. That the project is consistent with all local land development regulations.
- F. That this Order is consistent with the report and recommendations of the TBRPC.
- G. That the development will not unreasonably interfere with the achievement or objectives of the adopted State Land Development Plan applicable to the area.
- H. That a comprehensive review of the impact generated by the development has been conducted by the City's departments and the TBRPC.

Section 3. That the City Council having made the above findings of fact, reaches the following conclusions of law:

- A. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in this proceeding, the Developer and the various departments of the City are authorized to conduct development as described herein, subject to the conditions, restrictions and limitations set forth herein.
- B. That the review by the City, the TBRPC and other participating agencies and interested citizens reveals that impacts are adequately addressed pursuant to the requirements of Chapter 380, within the terms and conditions of this Order and the ADA.

Section 4. That, having made the above findings of fact and drawn the above conclusions of law, it is ordered that the ADA is hereby approved, subject to the following conditions, restrictions and limitations:

- A. Substantial Deviations: Retriggering of DRI process.  
Further review pursuant to Chapter 380, may be required if a substantial deviation, as defined in Chapter 380, occurs. The Developer shall be given due notice of, and an opportunity to be heard at any hearing to determine whether or not a proposed change to the development is a substantial deviation. Substantial deviation may occur by failure to comply with the conditions herein, failure to follow the plans and specifications submitted in the ADA and supplementary information, or by activities which are not commenced until after the expiration of the period of the effectiveness of this Order.
- B. The Developer shall submit annual reports on the DRI to the City, the TBRPC, the State Land Planning Agency, and other agencies as may be appropriate, on the

anniversary of the effective date of this Order for each following year until and including such time as all terms and conditions of this Order are satisfied. Such report shall be submitted to the Director, Department of Housing, Inspections and Community Services (hereinafter "HICS") who shall, after appropriate review, submit it for review by the City Council. The City Council shall review the report for compliance with the terms and conditions of this Order and may issue further orders and conditions to insure compliance with the terms and conditions of this Order. The Developer shall be notified of any City Council hearing wherein such report is to be reviewed, provided, however, that receipt and review by the City Council shall not be considered a substitute or a waiver of any terms or conditions of this Order. The annual report shall contain:

1. A description of all development activity conducted pursuant to this Order during the year immediately preceding the submission of the annual report;
2. A description of all development activities proposed to be conducted under the terms of this Order for the year immediately subsequent to the submission of the annual reports;
3. A statement listing anticipated applications for development permits, required pursuant to applicable regulations, which the Developer proposes to submit during the year immediately following submittal of the annual report;
4. A statement by HICS regarding the status of the activities, improvements, measures and commitments referred to in Section 4.
5. A statement setting forth the name and address of any heir, assignee or successor in interest to the Developer in its capacity as Developer of Tampa-Sphere; and
6. A statement that all persons have received copies of the annual report, as required under Chapter 380.

It is the intent herein, that the foregoing requirements for submittal of the annual report shall be in addition to and not in lieu of any submittal requirements for an annual report as promulgated by the State Land Planning Agency.

- C.
  1. That, for the purposes of this Order, funding commitments may be either in the form of Developer contributions-in-aid-of-construction, or Developer commitments for the actual construction, or the placement of the improvements in the City's, County's, or FDOT's transportation improvements work programs, or a combination thereof.
  2. That, for the purposes of this Order, the Developer is considered one of a number of possible responsible entities.
- D.
  1. Prior to the issuance of construction permits for Phase I (herein defined as not including site clearing or demolition permits):

- a. The City shall ensure that funding commitments from responsible entities for the following improvements/provisions are secured:
- (1) Improve Himes Avenue to four lanes with turn lanes as needed at intersections from Cypress Street north to Columbus Drive; and the City hereby commits to construct these improvements;
  - (2) Improve intersections D, G, H, I, J, K, and L, as referenced in Exhibit C attached hereto and by reference incorporated herein. The intersection improvements may include, but are not limited to, geometric improvements, signalization modifications, and new signal installations. The design for these improvements shall be reviewed and approved, as appropriate, by FDOT, Hillsborough County and the City, with, in all cases, a final review and approval by the City, prior to the issuance of any necessary permits, for these intersection improvements. The improvements and the phasing of those improvements shown in Exhibit C, may, after more detailed review by the appropriate governmental agency, and the City, be modified in a manner intended to accomplish the same result, utilizing generally recognized professional traffic engineering standards and practices.
- b. The City shall insure that contracts for the construction of the new Himes Avenue/I-275 ramps to and from the east have been awarded, or the City has received adequate monies to fund the design, if needed, and the acquisition of additional right-of-way, if needed, and the construction of the new Himes Avenue/I-275 ramps to and from the east. The design of this improvement shall be approved by FDOT as appropriate, with a final review and approval by the City. The construction of the ramps shall be a public project with funds provided by the developer. The City shall be responsible for developing, advertising, awarding and administering the necessary contract or contracts.
- (1) The Developer shall pay the City, at the time of advertising for bids, the City's estimate of the costs of construction. After the acceptance of the lowest responsible bid, the Developer shall pay the difference, if any, between the bid price and the City's estimate. If the accepted bid is less than the City's estimate, the City shall rebate the difference between the bid price and the City's estimate. After the contract for construction is awarded, the cost of any change orders necessary to the satisfactory completion of the project shall be borne by the Developer. Should the total of all change orders result in a total cost less than the bid price,

the Developer shall be refunded the amount saved at the completion of the construction project.

- (2) The City shall actively seek Federal or State Funds for reimbursement for construction costs for Himes Avenue/I-275 ramps. The City shall utilize its best efforts to obtain such funds. Funds so received shall be refunded to the Developer; but in no event shall this amount exceed the amount paid by the Developer.
- c. The City shall use its best efforts to complete improvements to Himes Avenue from Cypress Street north to Columbus Drive (4.D.1.a.(1)) and the Himes Avenue/I-275 ramps (4.D.1.b.) by January 1, 1986.
2. That conditions contained in 4.D.1. are in addition to the initiation of a Dale Mabry Highway/Himes Avenue ("DMH/HA") corridor plan (4.E.1.) and, as a Developer option, the initiation of a Transportation System Management ("TSM") plan (4.F.).
  3. That, payment of the sum of \$421,500.00 referred to in Section 4.J. below, shall constitute the final and complete cash payment by the Developer for any and all off-site transportation improvements related to the project, except as may be required in Subsections 4.D.4., 4.G., 4.H., and 4.I., below. However, this sum does not include that amount of money which may be required from the Developer for the construction of the Himes Avenue/I-275 ramps as required by Subsection 4.D.1.b. above.
  4. That, at the time of the issuance of the first construction permit for Phase I, the Developer shall convey to the City, at no charge, a right-of-way parcel, not to exceed 10 feet in width, along the west side of Himes Avenue for the entire length of the development's frontage on Himes Avenue, a more specific description of which will be determined during the design of the Himes Avenue corridor improvement as referenced in 4.D.1.a.(1) above.
- E.
1. Prior to the issuance of construction permits for Phase II a study that will result in a transportation improvements plan and implementation schedule for the DMH/HA corridor shall be initiated. It shall be developed through the coordinated efforts of the Developer, the City, the County, the TBRPC, the Tampa-Hillsborough Metropolitan Planning Organization ("MPO"), and FDOT. The plan shall incorporate, as appropriate, the findings and recommendations of the regional studies in progress in the study area. The transportation improvements plan and implementation schedule shall be completed prior to the issuance of construction permits for Phase III.
  2. The subjects of study within the DMH/HA corridor plan shall include, but are not limited to:

- a. The existing regionally significant roadways and roadways to be constructed in the study area.
  - b. The applicable existing, approved (including previously approved DRI's) and projected development.
  - c. The methods by which the traffic impact of 4.E.2.b. developments will be assessed.
  - d. The goal of daily level of service C, D at peak hour.
  - e. The procedures by which TSM (including mass transit) will be studied to alleviate overburdened roadways.
  - f. The identification of specific, construction implementation goals, including right-of-way acquisition, in order to phase transportation improvements with projected development approvals.
  - g. The identification of funding commitments for the improvements.
3. An FDOT DMH/HA corridor plan, shall be deemed to meet the condition established in 4.E.1. and 2. above.
- F. 1. Prior to the issuance of construction permits for Phase II the Developer, as an option to financial participation in roadway improvements, may submit a plan of TSM measures to be initiated during Phase II and implemented through project build-out. As appropriate, the plan shall be approved by City, MPO, Hillsborough Area Regional Transit ("HART"), FDOT, and TBRPC. The TSM plan may address:
- a. Worker flex time and worker ride sharing, both of a sufficient magnitude to divert a portion of the total peak hour vehicle trips away from the peak traffic hour, over and above those referenced in the ADA, together with the measures to achieve these diversions.
  - b. In conjunction with HART, a bus incentive program to provide transit service facilities and ridership to divert a portion of the total peak hour vehicle trips away from the peak traffic hour, together with the measures to achieve this diversion.
  - c. Express Bus Service of sufficient magnitude to divert a portion of the total peak hour vehicle trips away from the peak hour, together with the measures to achieve this diversion.
2. If the Developer follows this option, the achievement of the proposed effect of the approved TSM measures shall become a condition of this Order, and a precondition of phase approvals, in the same manner that the roadway improvements the TSM replaced, would have been preconditions to phase approvals.

3. If the Developer follows this option, thereafter, each annual report required by Section 4.B. of this Order, shall include a documentation and assessment of the vehicle trips diverted from the peak traffic-hour, over and above those included in the ADA.
- G. Prior to the issuance of construction permits for Phase II the City shall ensure:
1. That funding commitments from the responsible entities for the following improvement have been secured: Improve I-275 to eight lanes, divided, from Dale Mabry Highway to Armenia Avenue; or
  2. That the responsible entity has initiated implementation of the results/recommendations of the FDOT High Occupancy Vehicle study as it related to this facility; or
  3. That the responsible entities have initiated other measures to assure an adequate Level of Service on the facility.
- H. Prior to the issuance of construction permits for Phase III, the City shall ensure:
1. That funding commitments from the responsible entities are secured for improvements to the following intersections: Intersection C, D, L and M referred to in Exhibit C, unless the results of the DMH/HA corridor plan reflect that (a) any or all of the improvements are not required based on the improvement criteria set forth in the TBRPC's "Future of the Region", and the applicable City requirements, as both of those from time to time may be amended; or (b) additional/alternative improvements are needed to any or all of the referenced intersections, or additional/alternative improvements are needed elsewhere within the impact area as described in the ADA, in which event the City shall insure that funding commitments from the responsible entities are secured for those additional/alternative improvements. The intersection improvements may include, but are not limited to, geometric improvement, signalization, modifications and new signal installations. The design for these improvements shall be reviewed and approved by, as appropriate, FDOT, Hillsborough County and the City, with, in all cases, a final review and approval by the City prior to issuance of any necessary permits. The improvements shown on Exhibit C, or the additional/alternative improvements referred to above, may, after more detailed review by the appropriate governmental agency, and the City, be modified in a manner intended to accomplish the same result, utilizing generally recognized professional traffic engineering standards and practices; or
  2. That the responsible entities initiate other measures to assure an adequate Level of Service on these facilities; or
  3. That a combination of the conditions in 4.H.1. and 4.H.2. above assures an adequate Level of Service on these facilities.

- I. That the Developer shall construct access points to TampaSphere at the following locations: Dale Mabry Highway (one access point) and Himes Avenue (one access point at Union Street, Main Street, and Green Street). The improvements may include, but are not limited to, geometric improvements, signalization modifications, and new signal installations. The design for these improvements shall be reviewed and approved by FDOT, as appropriate, and the City, with, in all cases, a final review and approval by the City, prior to issuance of any necessary permits. The improvements to the access points shall be completed no later than is necessary to complement the completion of each phase, based upon generally recognized professional traffic engineering standards and practices.
- J. That, notwithstanding other funding commitments, or commitments to construct, the Developer shall contribute to the City, in discharge of its responsibility to mitigate the transportation system impacts of all phases of the TampaSphere development, the sum of \$421,500.00 as a grant-in-aid-of-construction, which has been determined to be at least equal to the proportionate share of the cost of improvements for intersections C, G, L, and M, as referenced in Exhibit C, and the improvement identified in Section 4.D.1.a.(1) above, assignable to TampaSphere. The first payment will constitute TampaSphere's proportionate share of the cost of the improvements needed to mitigate the transportation impacts of Phase I and Phase II of this development and will be in an amount of \$197,000.00, due and payable at the time of the issuance of the first construction permit for Phase I, or on January 1, 1985, whichever event occurs earlier. The second payment will constitute TampaSphere's proportionate share of the cost of the improvements needed to mitigate the transportation impacts of Phase III of this development and will be in an amount of \$224,500.00, which is due and payable at the time of the issuance of the first construction permit for Phase III, or on the last business day of December, 1990, whichever event occurs earlier. The City shall apply this grant-in-aid-of-construction referred to above toward completing needed improvements within this project's impact area as described in the ADA. Notwithstanding the above, additional Grants-in-aid-of-construction may be required from the Developer for his proportionate share of the cost of those improvements referred to in Sections 4.G. and 4.H. above.
- K. This subsection shall be considered as another option from that option which is stated in Section 4.E., 4.F., 4.G., 4.H, 4.I, and 4.J. (taken together), above.
1. That, after the DMH/HA corridor plan is initiated and in the event that adequate transportation improvements are assured to permit initial approval of the development, then the capacity and loading of the transportation facilities in the development transportation area, including, but not limited to, the regional roadways and intersections referred to in 4.D., 4.E., 4.F., 4.G., 4.H., 4.I, and 4.J. above, shall be the limiting factor for subsequent approvals.
  2. That, thereafter, for any approvals beyond the original Phase I approval, the Developer shall provide to the City, the Tampa Urban Area Transportation Study Staff, the MPO and the TBRPC,

updated traffic counts on the roadways and intersections referred to in 4.K.1. above, for review pursuant to Chapter 380.

3. At the same time as 4.K.2. above, the Developer shall also provide projections of traffic volume that will result after the completion of the currently approved construction, plus projections of traffic volume that will result from the next portion of the project for which the Developer is seeking construction approval.
  4. Each updated traffic analysis shall serve to verify the findings of the original DRI traffic analysis, or shall indicate alternative transportation improvements/measures which, when implemented, will improve and maintain the roadways and intersections referred to in 4.K.1. above, at daily Level of Service C, D at peak hours.
  5. Both the traffic counts and projection of traffic volume referred to in 4.K.3. and 4.K.4. above, shall be prepared using generally recognized professional traffic engineering standards and practices and shall be validated by an appropriate transportation planning agency. For the purposes of this subsection, the City Department of Public Works, Transportation Division is deemed an appropriate transportation planning agency.
  6. Prior to any specific approval beyond original approval, the City shall ensure that the above roadways and intersections are operating at or above an average, daily Level of Service C, D at peak hours, and that the projected trips generated by such specific approval will not cause the above roadways and intersections to operate below an average daily Level of Service C, D at peak hours. The written results of the City's analysis shall be included in the Developer's annual report.
  7. The Developer shall have the option, as opposed to awaiting funding commitments from other responsible entities, to assume financial responsibility for a proportionate share of the cost for improvement construction to any of the facilities which fall below an average daily Level of Service C, D at peak hours. The terms of such option shall allow, if appropriate, the Developer to proceed with the development, prior to the Developer actually funding the improvements. The terms of such option shall be in a form acceptable to both the Developer and the City.
- L. That the Developer shall provide on-site roadway designs that reduces vehicle congestion, together with bus bays, if and when mass transit is available, in order to minimize the impacts to air quality.
  - M. The Developer shall institute the wind and soil erosion control measures referenced in the ADA for minimizing adverse water and air quality impacts.
  - N. The Developer shall ensure that the final stormwater drainage plan shall be prepared in accordance with TBRPC's approved Stormwater and Lakes System Maintenance and Design Guidelines and shall ensure that the system is appropriate for treatment of the first one-half inch of runoff from the site; further, the

Developer shall ensure that the final drainage plan shall be prepared in accordance with the latest City policies and standards for stormwater management.

- O. The Developer shall implement a street cleaning program within the development as a measure for reducing the pollutant load in the stormwater runoff from on-site parking and roadway areas.
- P. That the Developer shall be the responsible entity for the maintenance of on-site stormwater management systems.
- Q. That the Developer shall implement the energy conservation measures referenced on page 25-3 of the ADA.
- R. That the total daily generation of solid waste from commencement of construction to build-out of the project as referenced in the ADA will be accepted by the City.
- S. That, the average daily flows of waste water from commencement of construction through build-out and operation of the project as referenced in the ADA will be accepted by the City at the standard charge for wastewater service. Connection fees, installation charges and, if applicable, grants-in-aid-of-construction for off-site improvements to the wastewater system necessitated by this development, shall be assumed by the Developer, when assessed by the City, as project plans become final, all in accordance with established City policies and regulations. Grants-in-aid-of-construction, if required by the City, shall be reduced by a credit for Average Daily Flows generated by the previously existing development on the site, and by a credit for Sewer Improvement Fees.
- T. That the total daily water requirements from commencement of construction through build-out and operation of the project as referenced in the ADA will be supplied by the City at the standard charge for water service. Connection fees, installation charges and, if applicable, grants-in-aid-of-construction for off-site improvements to the water system necessitated by this development, shall be assumed by the Developer, when assessed by the City, as project plans become final, all in accordance with established City policies and regulations.
- U. That the City shall ensure the adequacy and availability of the following public services for each phase of this development: energy, police, emergency medical and fire. Further, that the Developer shall be responsible for the cost of any water distribution capital improvements necessitated by this development to ensure adequate fire protection.
- V. That the developer shall ensure that the Federal Aviation Authority shall complete its review and issue project clearances prior to any construction. Further, the Developer shall implement the Federal Aviation Administration review requirements.
- W. That, if any significant historical or archaeological sites or artifacts are discovered during site preparation and construction, the Developer shall notify the Bureau of Historic Sites and Properties, Florida Department of State and the City, in order to determine the importance of such discoveries and to determine

appropriate measures to be undertaken to ensure their preservation.

- X. The Developer shall be the responsible entity for the maintenance of all open space areas on the project site.
- Y. That all development pursuant to this Order shall be in accordance with applicable local building codes, ordinances, and other laws except as otherwise herein provided.

Section 5. That the definitions contained in Chapter 380 shall control the interpretation and construction of any terms of this Order.

Section 6. That this Order shall remain in effect for a period of fifteen (15) years from the effective date of this Order. Any development activity wherein plans have been submitted to the City for its review and approval prior to the expiration date of this Order, may be completed, if approved. This Order may be extended by City Council on the finding of excusable delay in any proposed development activity.

Section 7. That this Order shall be binding upon the Developer, assigns or successors-in-interest.

Section 8. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created or designated as successor-in-interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Order.

Section 9. That in the event that any portion or section of this Order is determined to be invalid, illegal, or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner effect the remaining portions or sections of this Order which shall remain in full force and effect.

Section 10. That the City Clerk is hereby directed to send copies of this Order, within five (5) days of the effective date of this Ordinance, to the Developer, the Florida Department of Community Affairs, and the TBRPC.

Section 11. That the Developer shall record a notice of adoption of this Order as required pursuant to Chapter 380, and shall furnish the City Clerk a copy of the recorded notice.

Section 12. That this Order shall be deemed rendered upon transmittal of copies of this Order to the recipients specified in Chapter 380.

Section 13.<sup>a</sup> That this Ordinance shall take effect immediately upon becoming a law, and a copy hereof shall be posted on the bulletin board in the hall of the first floor of the City Hall in the City of Tampa, Florida, for the convenience of the public.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
TAMPA, FLORIDA, ON NOV 17 1983

*Sandra W. Freeman*  
CHAIRMAN, CITY COUNCIL

ATTEST:

*Frances Hennigan*  
CITY CLERK

APPROVED by me on: **NOV 18 1983**

*Bob Martinez*  
MAYOR

Prepared and Approved by:

*[Signature]*  
CITY ATTORNEY