

Richard Ake
Clerk of the Circuit Court
Hillsborough County, Florida



Clerk to Board of
County Commissioners
County Center, 12th Floor
601 E. Kennedy Blvd.
P.O. Box 1110
Tampa, Florida 33601
Telephone 276-8100, ext. 6730

November 9, 2001

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
9455 KOGER BOULEVARD SUITE 219
ST PETERSBURG FL 33702

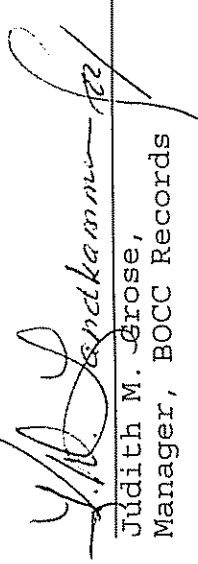
Re: Resolution No. R01-206 - Amending the Development Order for
Cargill Riverview Facility (DRI #68) formerly Gardinier Plant
Expansion

Dear Mr. Meyer:

Attached is a certified original of referenced resolution, which
was adopted by the Hillsborough County Board of County
Commissioners on October 9, 2001.

We are providing this original for your files.

Sincerely,


Judith M. Grose,
Manager, BOCC Records

md

Attachment

Federal Express AB#805649479521

cc: Board files (orig.)

Charles Gauthier, Chief, Florida Department of Community
Affairs (orig.ltr.)

Tim Butts, AICP, Engelhardt, Hammer & Associates(orig.ltr.)

Susan Fernandez, Senior Assistant County Attorney

John Healy, Senior Planner, Planning & Growth Management

Jim Glaros, Assistant Chief Deputy, Valuation, Property
Appraiser's Office

Beth Novak, County Attorney's Office

**RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA,
ISSUING AN AMENDED AND RESTATED DEVELOPMENT ORDER FOR DRI
#68 - GARDINIER PLANT EXPANSION**

Upon motion of Commissioner Hart, seconded by
Commissioner Easterling, the following Resolution was adopted by a vote of
6 to 0 on this 9th day of October, 2001.

WHEREAS, on April 15, 1980, Gardinier, Inc. ("Gardinier"), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners pursuant to the provisions of Section 380.06, Florida Statutes, as amended, and

WHEREAS, said Application proposed to modify and expand the operations of Gardinier's existing chemical plant and to establish a new gypsum disposal area, said proposal constituting a development of regional impact as determined by the Department of Community Affairs in a binding letter of interpretation of January 11, 1980, and

WHEREAS, the described Project lies within the unincorporated area of Hillsborough County; and

WHEREAS, the Board of County Commissioners, as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, as amended, is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact and amendments; and

WHEREAS, on September 17, 1980, the Board of County Commissioners approved a Development Order, Resolution No. R80-0020 for Gardinier Chemical Plant Expansion Development of Regional Impact ("DRI") No. 68 (the "Development Order") pursuant to the provisions of Section 380.06, Florida Statutes; and

WHEREAS, on August 20, 1984, the Board of County Commissioners approved a Development Order for Gardinier Chemical Plant Expansion Phase II (DRI #76, AKA Gypsum Stack Expansion); and

WHEREAS, on August 24, 1993, and June 13, 2000, the Board of County Commissioners approved Development Order amendments (Resolutions 93-0172 and 00-111) for the Gypsum Stack Expansion; and

WHEREAS, on May 16, 2001, Cargill, Inc, the current owners of the Gardinier Chemical Plant, filed a "Notification of a Proposed Change (NOPC) to a Previously Approved Development of Regional Impact (DRI) Subsection 380.06 (19), Florida Statutes", for the Gardinier Chemical Plant DRI in accordance with Section 380.06 (19), Florida Statutes; and

WHEREAS, the NOPC proposed revisions to the Development Order, as more particularly stated in the NOPC; and

WHEREAS, the public notice requirements of Section 380.06, Florida Statutes, as amended, have been satisfied; and

WHEREAS, the Board of County Commissioners has received and considered the report and recommendation of the Tampa Bay Regional Planning Council; and

WHEREAS, the Board of County Commissioners has solicited, received and considered reports, comments and recommendations from interested citizens, County and City agencies as well as the review and report of Hillsborough County Administration.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

I. FINDINGS OF FACT

A. Cargill Fertilizer, Inc., submitted the NOPC to Hillsborough County, which requested revisions to the Development Order, as more particularly stated in the NOPC.

B. A review of the impacts generated by the NOPC has been conducted by Hillsborough County, the Tampa Bay Regional Planning Council and the Department of Community Affairs.

C. The proposed changes approved herein result in no new or additional regional impacts requiring further DRI review.

II. CONCLUSIONS OF LAW

A. All statutory procedures have been adhered to and the impacts of the development authorized hereby are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes.

B. Resolution 80-20 is merged into this Amended and Restated Development Order. Conditions concerning Phase I (the Chemical Plant) are restated herein. Conditions concerning the review of Phase II (the gypsum stack) are no longer relevant, having been replaced by conditions in subsequent Resolutions.

C. Nothing herein shall limit the rights originally approved by the Development Order or the protection afforded under Section 163.3167(8), Florida Statutes.

D. The amendment adopted hereby is consistent with the Comprehensive Plan of Hillsborough County and with applicable land development regulations, and does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area nor the Tampa Bay Regional Planning Council's Strategic Regional Policy Plan.

E. The amendment of the Development Order as set forth herein, considered cumulatively with all previous amendments, is found not to be a substantial deviation to the previously approved Development Order.

III. SPECIFIC CONDITIONS

- A. The name of the DRI is altered to "Cargill Riverview Facility".
- B. The Cargill Riverview Facility is approved to process the equivalent of 1,200,000 tons per year of P₂O₅, and utilize 2,277,081 tons per year of Sulfur, 1,242,800 tons per year of Ammonia and 5.97 million gallons per day of water.
- C. The shipment of 3,096 tons per day (average) of liquid sulfur from the Facility to Cargill's Bartow plant is herein approved. No loaded trucks transporting liquid sulfur shall use Progress/Madison Boulevard under normal traffic conditions.
- D. Revised Map H, as set forth in Exhibit "A", and the legal description of the property that is the subject of this Development Order, as set forth in Exhibit "B", are hereby approved, incorporated into, and made a part of this Development Order.
- E. Cargill shall submit an Annual Report on the DRI to the County, TBRPC, DCA and all other entities as required by Subsection 380.06(18), F.S., on the anniversary of the effective date of this Development Order and for each following year until the Development Order expires. The report shall contain:

- All information requested on Form RPM-BSP-ANNUAL REPORT-1;
- A summary of results from any surface water quality monitoring required by the Department of Environmental Protection;
- The results of the Facility's guard-gate truck logs for the first Wednesday of February and August of the reporting year;
- The amount of reclaimed water used by the Facility for the reporting year; and
- Every five years, the 5-year compliance report provided to the Southwest Florida Water Management District per permit #20001532.004.
- A summary of security and risk management plans and the status of their implementation.

- F. A date of December 31, 2037, is established for the Development Order expiration date and project build-out date.
- G. The proposed lengthening of the Cargill shipping berth (as authorized in ERP Permit #29-01562913-001) located on the Alafia River is hereby approved. Any future expansion to this berth(s) other than routine maintenance shall be submitted for review through the NOPC process.
- H. As soon as reclaimed water is available to the Facility, Cargill shall utilize as much reclaimed water as is available at the Facility, consistent with its system constraints. Cargill shall reduce withdrawals from Lithia and Buckhorn springs by an appropriate amount considering the amount of reclaimed water being used. Once the amount of offset is confirmed under sustained operating conditions, but no later than submittal of the first 5-yr compliance report required by SWFWMD, Cargill shall calculate and report to the County the maximum offset in permitted water use quantities from Lithia and Buckhorn springs. The quantity of the offset accepted by the Southwest Florida Water Management District shall be treated as standby quantities.
- I. Resolution 80-20 is merged into this Amended and Restated Development Order. Conditions concerning Phase I (the Chemical Plant) are restated below. Conditions concerning the review of Phase II (the gypsum stack) are no longer appropriate as the gypsum stack has been reviewed and approved by subsequent Resolutions.
- J. The following conditions are restated from Resolution 80-20 and are modified to be consistent with the foregoing conditions and current practices.
1. Drainage

All stormwater runoff from the Facility shall be properly treated in the Facility's stormwater management system before discharge.
 2. Wetlands
 - a. Existing wetlands within the Cargill Riverview Plant property shall be preserved, as required by condition J.2.b below, and continue to be protected through use of modern pollution control equipment and/or best management practices.
 - b. All wetlands in Phase I have been delineated on Map F of the Application for Development Approval (ADA). All tidal swamps and marshes (TS and TM) on Map F of the ADA shall be preserved. If Cargill proposes to alter any freshwater-swamps or marshes in the future construction activities, application shall be made at that time to all applicable agencies, and review shall be conducted on a site specific basis in accordance with all applicable laws, rules and ordinances in effect at the time of the submittal of the application.

3. Transportation

a. Cargill shall be responsible for making the appropriate petition and incurring all costs to change the signal timing of the traffic signals or installing a new signal at the intersection of the Cargill plant main access road and U.S. Road #41 in the event that the construction activities of Phase I make such a timing change or installation of a new signal necessary.

4. Air Quality

a. As indicated in the application (ADA), pollution control equipment shall be installed which will insure 98% efficiency for particulates, 95% for fluorine control, and close to 100% efficiency of ammonia control.

b. Cargill shall develop an emission control plan which will reduce emissions during construction to the lowest practicable levels. This plan shall be filed with the Hillsborough County Environmental Protection Commission (EPC). Appropriate permits from the EPC will be obtained to fulfill this requirement.

IV. GENERAL PROVISIONS

A. This Resolution shall constitute the Development Order of Hillsborough County in response to the Application for Development Approval for the Cargill Riverview Development of Regional Impact as modified by the Notice of Proposed Change Application submitted on May 16, 2001.

B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of the Development Order.

C. All provisions contained within the Application for Development Approval, marked as "Exhibit B" of Resolution 80-20, shall be considered conditions of this Development Order unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.

D. The definitions contained in Chapter 380, F.S., shall govern and apply to this Development Order.

E. This Development Order shall be binding upon Cargill, its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on Cargill by this Development Order. It is understood that any inference herein to any governmental agency shall be construed to include any future instrumentality that may be created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.

- F. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to review Development of Regional Impact applications as well as all governmental agencies and departments set forth under applicable laws and rules governing Developments of Regional Impact.
- G. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.
- H. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County Land Development Code.
- I. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable rules, regulations and ordinances in effect at the time of the review.
- J. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2037, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this Development Order was based on substantially inaccurate information provided by Cargill or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The Facility has previously commenced physical development.
- K. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if Cargill and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.

- L. In connection with all regulatory permits required in the future for the Facility, Cargill shall be required to comply with all laws, rules and regulations in effect at the time that Cargill submits complete and sufficient permit applications(s). However, except as expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and Cargill shall retain its rights under Section 163.3167(8), F.S.
- M. Cargill shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.
- N. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.
- O. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex Officio Clerk to the BOCC by certified mail to DCA, TBRPC and Cargill.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting on October 9, 2001, 2001, as the same appears of record in Minute Book 305 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 9th day of November, 2001.

RICHARD AKE
CLERK OF CIRCUIT COURT

By: Midred K. DeLeon
Deputy Clerk



APPROVED BY COUNTY ATTORNEY

BY [Signature]

Approved As To Form And

Legal Sufficiency.

LEGEND

-  Cargill Riverview Facility DRI #68
-  Natural Preservation Area

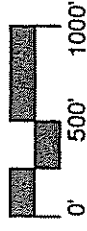
Exhibit "A"

Adopted by Hillsborough County
Board of County Commissioners
on 10-9-01 as part of
Resolution No. BoI-206

RECEIVED

SEP 17 2001
PLANNING & GROWTH
MANAGEMENT DEPARTMENT

SOURCE:
GARDINIER TAMPA CHEMICAL PLANT
ADA, APRIL 10, 1980.



Scale: 1" = 1000'

Cargill Riverview Facility
DRI #68
Map H
Revised September 6, 2001



CARGILL FERTILIZER, INC.
TAMPA, FLORIDA



ENGELHARDT, HAMMER & ASSOCIATES S
Urban Planning Services
5444 Bay Center Drive, Suite 122, Tampa, FL 33609
Telephone 813 282-3855, Fax 813 286-2398

HILLSBOROUGH BAY

RIVER

EXHIBIT "B"

BEING A PART OF SECTIONS 9, 10, 15, 16, 21, 22 AND 23 OF TOWNSHIP 30 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: STARTING AT THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 30 SOUTH, RANGE 19 EAST, RUN SOUTH 193.80 FEET ALONG EAST BOUNDARY OF SAID SECTION 22 TO THE POINT OF BEGINNING (P. O. B.), THENCE PROCEED SOUTH 00° 35' 00" EAST FOR A DISTANCE OF 874.02 FEET, THENCE SOUTH 00° 32' 01" WEST FOR A DISTANCE OF 243.76 FEET, THENCE SOUTH 00° 45' 18" WEST FOR A DISTANCE OF 151.90 FEET, THENCE DUE SOUTH FOR A DISTANCE OF 884.30 FEET, THENCE SOUTH 58° 27' 16" WEST FOR A DISTANCE OF 2327.23 FEET, THENCE SOUTH 76° 13' 05" WEST FOR A DISTANCE OF 2614.27 FEET, THENCE SOUTH 09° 33' 57" EAST FOR A DISTANCE OF 96.25 FEET, THENCE NORTH 73° 24' 49" EAST FOR A DISTANCE OF 5319.02 FEET, THENCE DUE NORTH FOR A DISTANCE OF 1700.00 FEET, THENCE NORTH 73° 24' 49" EAST FOR A DISTANCE OF 5032.54 FEET, THENCE NORTH 16° 04' 47" WEST FOR A DISTANCE OF 552.77 FEET, THENCE NORTH 23° 31' 59" WEST FOR A DISTANCE OF 606.95 FEET, THENCE DUE NORTH FOR A DISTANCE OF 1542.67 FEET, THENCE NORTH 15° 32' 16" WEST FOR A DISTANCE OF 1125.71 FEET, THENCE NORTH 17° 56' 34" WEST FOR A DISTANCE OF 355.60 FEET, THENCE NORTH 02° 51' 39" WEST FOR A DISTANCE OF 325.32 FEET, THENCE NORTH 01° 27' 05" EAST FOR A DISTANCE OF 413.70 FEET, THENCE NORTH 28° 27' 51" EAST FOR A DISTANCE OF 428.75 FEET, THENCE NORTH 42° 25' 22" EAST FOR A DISTANCE OF 163.11 FEET, THENCE NORTH 36° 33' 11" EAST FOR A DISTANCE OF 175.95 FEET, THENCE NORTH 12° 20' 59" EAST FOR A DISTANCE OF 171.49 FEET, THENCE DUE NORTH FOR A DISTANCE OF 177.99 FEET, THENCE NORTH 11° 35' 08" EAST FOR A DISTANCE OF 184.44 FEET, THENCE DUE NORTH FOR A DISTANCE OF 499.94 FEET, THENCE DUE WEST FOR A DISTANCE OF 166.79 FEET, THENCE NORTH 80° 32' 45" WEST FOR A DISTANCE OF 92.23 FEET, THENCE NORTH 12° 06' 19" WEST FOR A DISTANCE OF 216.92 FEET, THENCE DUE NORTH FOR A DISTANCE OF 181.80 FEET, THENCE NORTH 10° 18' 50" EAST FOR A DISTANCE OF 169.38 FEET, THENCE NORTH 20° 34' 22" EAST FOR A DISTANCE OF 129.45 FEET, THENCE NORTH 30° 16' 58" WEST FOR A DISTANCE OF 5441.42 FEET, THENCE SOUTH 89° 26' 26" EAST FOR A DISTANCE OF 208.11 FEET, THENCE SOUTH 89° 26' 26" EAST FOR A DISTANCE OF 63.00 FEET, THENCE SOUTH 89° 26' 26" EAST FOR A DISTANCE OF 2649.67 FEET, THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT OF RADIUS 1482.69 FEET, AN ARC DISTANCE OF 665.06 FEET, THENCE SOUTH 28° 46' EAST FOR A DISTANCE OF 5312.84 FEET, THENCE SOUTH 28° 10' 08" EAST FOR A DISTANCE OF 4053.15 FEET, THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT OF RADIUS 5679.58 FEET, AN ARC DISTANCE OF 596.06 FEET, THENCE SOUTH 22° 07' 22" EAST FOR A DISTANCE OF 709.94 FEET, THENCE SOUTH 67° 52' 38" WEST FOR A DISTANCE OF 40.00 FEET, THENCE SOUTH 22° 07' 22" EAST FOR A DISTANCE OF 472.28 FEET, THENCE SOUTH 19° 10' 33" WEST FOR A DISTANCE OF 93.66 FEET, THENCE SOUTH 00° 33' 58" WEST FOR A DISTANCE OF 20.00 FEET, THENCE SOUTH 89° 26' 02" EAST FOR A DISTANCE OF 61.94 FEET, THENCE SOUTH 00° 33' 58" WEST FOR A DISTANCE OF 32.32 FEET, THENCE SOUTH 88° 25' 45" EAST FOR A DISTANCE OF 24.12 FEET TO THE P. O. B.

AND

PARCEL 5: STARTING AT THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 30 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA, RUN SOUTH 697.92 FEET ALONG WEST BOUNDARY OF SAID SECTION 23 TO THE POINT OF BEGINNING (P.O.B.); THENCE RUN NORTHEAST AT AN ANGLE OF 54° 48' FOR 68 FEET, TO THE WESTERLY RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 45; THENCE RUN SOUTHEASTERLY 59.0 FEET, ALONG WEST RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 45; THEN WEST FOR 75.7 FEET, THIS BOUNDARY BEING A COMMON BOUNDARY WITH TAMPA ELECTRIC CO. PROPERTY LYING TO THE SOUTH; THENCE NORTH 19.9 FEET, (AT RIGHT ANGLE TO THE PRECEDING COURSE), ALONG WEST BOUNDARY OF SAID SECTION 23 TO P.O.B., ALL LYING IN GOVERNMENT LOT 3, SECTION 23 (ALSO CALLED FRACTIONAL SECTION 23) TOWNSHIP 30 SOUTH, RANGE 19 EAST.

AND

PARCEL 6: STARTING AT THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 30 SOUTH, RANGE 19 EAST, RUN SOUTH 717.82 FEET ALONG THE WEST BOUNDARY OF SAID SECTION 23 TO THE POINT OF BEGINNING (P.O.B.); THENCE CONTINUE SOUTH 85 FEET ALONG WEST BOUNDARY OF SAID SECTION 23, THENCE EAST (AT RIGHT ANGLE TO PRECEDING COURSE) TO THE WESTERLY RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 45 TO A POINT 717.82 FEET SOUTH OF THE NORTH BOUNDARY OF SAID SECTION; THENCE WEST 75.5 FEET, PLUS OR MINUS, (ALONG A COMMON BOUNDARY WITH PARCEL 5 HEREIN-BEFORE DESCRIBED, LYING TO THE NORTH) TO THE P.O.B., ALL LYING IN GOVERNMENT LOT 3, SECTION 23 (ALSO CALLED FRACTIONAL SECTION 23) TOWNSHIP 30 SOUTH, RANGE 19 EAST.

AND

PARCEL 7: STARTING AT THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 30 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA, RUN SOUTH 917.82 FEET ALONG THE WEST BOUNDARY OF SAID SECTION 23 TO POINT OF BEGINNING (P.O.B.); THENCE CONTINUE SOUTH 150 FEET ALONG WEST BOUNDARY OF SAID SECTION 23; THENCE GO EAST 190 FEET, (AT RIGHT ANGLE TO THE PRECEDING COURSE) TO THE WESTERLY RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 45; THENCE NORTHERLY 162 FEET, ALONG WEST RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 45; THENCE WEST 142.2 FEET, (AT RIGHT ANGLE TO WEST BOUNDARY OF SECTION 23) TO THE P.O.B.; ALL LYING IN GOVERNMENT LOT 3, SECTION 23 (ALSO CALLED FRACTIONAL SECTION 23) TOWNSHIP 30 SOUTH, RANGE 19 EAST.

AND

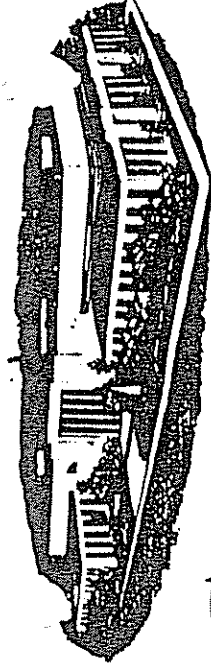
PARCEL 18: THAT CERTAIN LOT, TRACT OR PARCEL OF LAND IN HILLSBOROUGH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT 318.1 FEET EAST OF THE NORTHWEST CORNER OF GOVERNMENT LOT 3, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID GOVERNMENT LOT 3 WHERE IT IS INTERSECTED BY THE EASTERLY RIGHT-OF-WAY LINE OF THE TAMPA SOUTHERN RAILROAD (NOW C.S.X. RAILROAD), AND RUN S 25°14'E, 429 FEET ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SAID RAILROAD; THENCE RUN S 57°00'E, 231 FEET, MORE OR LESS, TO THE ALAFIA RIVER; THENCE RUN NORTH ALONG THE NORTH SHORE OF SAID RIVER TO THE NORTH LINE OF GOVERNMENT LOT 3, TO A POINT THEREON 1,170.0 FEET EAST OF THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 3, 851.9 FEET TO THE POINT OF BEGINNING; ALL BEING IN SECTION 23, TOWNSHIP 30 SOUTH, RANGE 19 EAST. TOGETHER WITH ANY AND ALL RIPARIAN RIGHTS SUPPORTING THERETO.

AND

THAT PORTION OF SECTION 15, TOWNSHIP 30 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA, EAST OF THE EASTERN RIGHT-OF-WAY OF U.S HIGHWAY #41, WEST OF THE WESTERN RIGHT-OF-WAY OF THE CSX MAINLINE AND NORTH AND WEST OF THE RIGHT-OF-WAY OF THE CSX SPUR LINE.

AND

ALL OF SECTION 11, TOWNSHIP 30 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA, WEST OF THE WESTERN RIGHT-OF-WAY LINE OF 78TH STREET AND NORTH AND EAST OF THE TAMPA ELECTRIC COMPANY PERMANENT RIGHT-OF-WAY EASEMENT FOR ELECTRIC POWER TRANSMISSION LINES (OFFICIAL RECORDS BOOK 1129, PAGE 850, HILLSBOROUGH COUNTY, FLORIDA).



COUNTY OF HILLSBOROUGH

Tampa, Florida 33601

October 15, 1980

CHIEF ASSISTANT COUNTY ATTORNEY
RONALD G. MCCORD

ASSISTANT COUNTY ATTORNEYS

DAVID M. MECHANIK
VINCENT L. NUCCIO JR.
RICHARD E. DAVIS
R. ELLIOTT DUNN JR.
V. SUE BALDWIN
JEFFREY A. BLAU
NANCY MANEATY LOPEZ
CHARLES E. WILSON

Scott D. Wilson, Executive Director
Tampa Bay Regional Planning Council
9455 Koger Blvd.
St. Petersburg, FL 33702

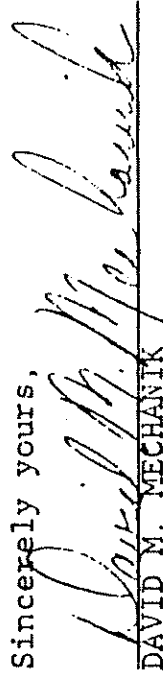
Re: Gardiner Agreement - DRI #80-20

Dear Mr. Wilson:

Enclosed please find original agreement in the above referenced DRI. This is submitted pursuant to the incremental review requirements of Florida Statute §380.06(20)(b), and I ask that the appropriate representative of your agency execute and return to my office for further handling.

Should you have any questions, please do not hesitate to call.

Sincerely yours,


DAVID M. MECHANIK
Assistant County Attorney

DMM/vl
Enc.

CC: Mike McKinley
Brent Wall

AGREEMENT

THIS AGREEMENT entered into among Hillsborough County (COUNTY), a subdivision of the State of Florida, by and through its Board of County Commissioners; the Tampa Bay Regional Planning Council (TBRPC); and Gardinier, Inc. (GARDINIER).

P R E A M B L E

WHEREAS, the Board of County Commissioners of Hillsborough County, Florida, has issued a Development Order on DRI #80-20 on the application for development approval submitted by GARDINIER; and

WHEREAS, GARDINIER has filed such application in accordance with the alternative review procedure set forth in Section 380.06, Florida Statutes, and Chapter 22F-1.24 of the Florida Administrative Code; and

WHEREAS, Phase II of the foregoing application for development approval as set forth in said development order shall be considered for incremental review pursuant to the specific provisions of Section 380.06(20), Florida Statutes; and

WHEREAS, the parties herein are authorized to enter into an agreement for such subsequent incremental review pursuant to Section 380.06(20)(b), Florida Statutes; and

WHEREAS, the parties agree that such incremental review is necessary in order to evaluate Phase II pursuant to the requirements of Section 380.06, Florida Statutes.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING PREAMBLE, IT IS AGREED:

1. That GARDINIER shall submit an application for Phase II development approval in accordance with all

11/11/80
11/11/80
11/11/80
11/11/80
11/11/80

requirements of Section 380.06, Florida Statutes, and any duly adopted rules thereunder. The application shall set forth the answers to all questions required for an initial application for Development of Regional Impact approval, as promulgated by the State Land Planning Agency.

2. That review of all conditions and information requirements contained in DRI #80-20 development order shall be in accordance with the provisions of Section 380.06, Florida Statutes, or any amendments thereto, all rules adopted pursuant to that statute and all applicable rules, regulations and ordinances of Hillsborough County in effect at time of submittal of Phase II review.

IN WITNESS WHEREOF, said parties hereunto set their hands and seals this 10th day of October, 1980.

ATTEST: JAMES F. TAYLOR, JR.
Clerk of Circuit Court

By:

James F. Taylor, Jr.
Deputy Clerk

HILLSBOROUGH COUNTY, FLORIDA

By: James A. Barnes
Chairman, Board of County Commissioners

ATTEST:

James E. Diggers
Witness

TAMPA BAY REGIONAL PLANNING CO

James E. Diggers
Chairman (SEAL)

ATTEST:

GARDINIER, INC.

Witness

Authorized Signature (SEAL)

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA

DOCUMENT No. 80-825

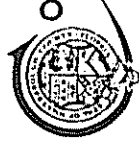
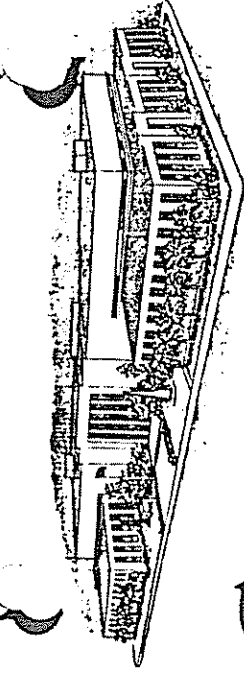
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APPROVED BY COUNTY ATTORNEY
BY James P. Diggers
Approved As To Form And
Legal Sufficiency.

THE
BOARD OF COUNTY COMMISSIONERS
JERRY BOWMER, CHAIRMAN
DISTRICT 5
CHARLES F. BEAN III, VICE-CHAIRMAN
DISTRICT 3

ROBERT E. CURRY, DISTRICT 1
FRANCES M. DAVIN, DISTRICT 4
JAN KAMINIS PLATT, DISTRICT 2

P.O. BOX 1110
TAMPA, FLORIDA 33601
TELEPHONE (813) 272-5000



COUNTY of HILLSBOROUGH

Tampa, Florida 33601



September 19, 1980

Tampa Bay Regional Planning Council
9455 Koger Blvd.
St. Petersburg, Florida 33702

RE: Gardinier Development Order
H/C Document No. 80-713

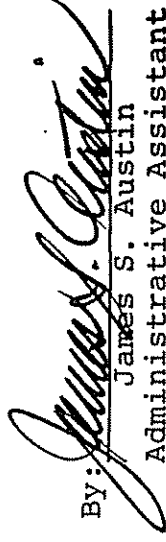
Gentlemen:

Enclosed is a copy of the subject Order which was approved by the Hillsborough County Board of County Commissioners on September 17, 1980.

We are returning this copy for your official files.

Sincerely,

JAMES F. TAYLOR, JR., CLERK

By: 
James S. Austin
Administrative Assistant

JSA:ljs

Enclosure

An Affirmative Action - Equal Opportunity Employer

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
HILLSBOROUGH COUNTY, FLORIDA, DRI #80-20

DEVELOPMENT ORDER

Upon motion of Commissioner Platt , seconded by Commissioner Curry , the following Resolution was adopted this 17th day of September , 1980:

WHEREAS, on April 15 , 1980, Gardinier, Inc., filed an application for development approval of a development of regional impact with the Hillsborough County Board of County Commissioners pursuant to the provisions of Section 380.06, Florida Statutes; and

WHEREAS, said application proposes to modify and expand the operations of Gardinier's existing chemical plant and proposes to establish a new gypsum disposal area, said proposal constituting a development of regional impact as determined by the Department of Community Affairs in a binding letter of interpretation of January 11, 1980; and

WHEREAS, the Board of County Commissioners, as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, is authorized and empowered to consider applications for development approval for development of regional impact; and

WHEREAS, the public notice requirements of Section 380.06, Florida Statutes, have been satisfied; and

WHEREAS, the Board of County Commissioners has on August 25, 1980, and September 17, 1980, held a duly noticed public hearing on said application for development approval and has heard and considered testimony and documents received thereon; and

WHEREAS, the Board of County Commissioners has received and considered the report and recommendations of the Tampa Bay Regional Planning Council; and

WHEREAS, the Board of County Commissioners has solicited, received and considered reports, comments and recommendations from interested citizens and local agencies as well as the report and recommendations of the Hillsborough County Administration; and

WHEREAS, Gardinier, Inc., has elected to utilize the DRI alternative review procedure set forth in Section 380.06, Florida Statutes, and Chapter 22F-1.24 Florida Administrative Code providing for incremental review.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

I. FINDINGS OF FACT

A. That the real property which is subject to the application for development approval is legally described as set forth on Exhibit A attached hereto and made a part hereof by reference.

B. That Gardinier, Inc., hereinafter referred to as Developer submitted to Hillsborough County, Florida, an application for development approval, hereinafter referred to as "Application" which is attached hereto as Exhibit B and incorporated herein by reference to the extent not inconsistent with the provisions of this development order.

C. That the proposed development is not in an area of critical state concern as designated pursuant to Section 380.05, Florida Statutes.

D. That developer has elected to request development approval pursuant to the alternative review procedure, and that pursuant to this, developer has divided its proposed project into two phases as set forth in its application, to wit:

Phase I - Modification and expansion of the
existing chemical plant

Phase II - Creation of a new gypsum disposal
area.

Hereinafter all references to the project shall be to either Phase I or Phase II as set forth by the above designation unless the context otherwise indicates.

E. That development will occur in accordance with this development order and the application as set forth in Exhibit B to the extent not inconsistent with the terms and conditions of this development order.

F. That the information received outlining the proposed activities for Phase I is sufficient to grant development approval for Phase I at this time.

G. That a comprehensive review of the impact generated by Phase I development has been conducted by the Hillsborough County Administration, the Hillsborough County Environmental Protection Commission, the Hillsborough County City-County Planning Commission, the Tampa Bay Regional Planning Council.

H. That under the incremental review provisions in this development order, Phase II shall be reviewed separately at a future date subject to the provisions contained in this development order.

I. That the information for Phase II contained within the application as set forth in Exhibit B is insufficient to assess the impacts of Phase II development activities.

J. That testimony of the developer established that developer proceeds to develop Phase I with the knowledge that it must continue to provide for adequate gypsum disposal without reliance upon or expectation of approval for Phase II application for development approval.

II. CONCLUSIONS OF LAW

A. Based upon compliance with all terms and conditions of this development order, the provisions of the application as set forth in Exhibit B, the reports, recommendations and testimony heard and considered by the Board of County Commissioners, it is concluded that:

1. That Phase I does not unreasonably interfere with the achievement of the objectives of the adopted state land development plan applicable to the area subject to this application. With respect to Phase II development activity, no determination of interference with the state plan can be made at this time.

2. That Phase I is consistent with all local land development regulations. With respect to Phase II development activity, no determination of consistency with local land development regulations can be made at this time.

3. That Phase I development is consistent with the report and recommendations of Tampa Bay Regional Planning Council provided that all terms and conditions of this development order are met. With respect to Phase II development activity, no determination of ultimate consistency with the Tampa Bay Regional Planning Council report can be made at this time.

B. The provisions of this development order shall not be construed as a waiver or exception of any rule, regulation or ordinance of Hillsborough County, its agencies or commissions and to that extent, any subsequent or incremental review provided for in this development order shall be subject to all such applicable rules, regulations or ordinances in effect at the time of the review.

C. That review by Hillsborough County, the Hillsborough County City-County Planning Commission, the Hillsborough County Environmental Protection Commission, the Tampa Bay Regional Planning Council, and other participating agencies and interested citizens reveals that Phase I impacts have been adequately addressed, pursuant to the requirements of Section 380.06, Florida Statutes, within the conditions of this development order and the application marked as Exhibit B, to the extent not inconsistent with this development order.

D. That impacts of the proposed development in Phase II cannot be evaluated in accordance with Section 380.06, Florida Statutes, at this time.

E. Due to the fact that the developer has elected to proceed under the alternative review procedure, this development order contains conditions divided into the two phases of the proposed project. Specific conditions for each phase are listed under its respective heading contained within this development order. This development order shall only constitute specific approval for Phase I activities subject to all terms and conditions in this development order. Phase II approval shall be contingent upon compliance with all conditions contained under Part IV of this development order. No activity within Phase II may

be begun until the developer obtains a separate Phase II development order.

F. Nothing herein shall be construed to be a waiver of the right of Hillsborough County to review an application for Phase II approval pursuant to Section 380.06, Florida Statutes, any duly adopted rules thereunder, or the conditions set forth in this development order.

III. PHASE I CONDITIONS

A. Drainage

1. A settling pond shall be constructed in the area impacted by construction to intercept rainfall runoff before it reaches Tampa Bay.

B. Wetlands

1. Existing wetlands within the Gardinier property shall be preserved and continue to be protected through use of modern pollution control equipment and/or best management practices.
2. All wetlands in Phase I have been delineated on Map F of the Application. All tidal swamps and marshes (TS and TM on Map F) shall be preserved. If Gardinier proposes to alter any fresh-water swamps or marshes in the future construction activities, application shall be made at that time to all applicable agencies, and review shall be conducted on a site specific basis in accordance with all applicable laws, rules and ordinances in effect at the time of the submittal of the application.

C. Transportation

1. The developer shall be responsible to make the appropriate petition and incur all costs to change the signal timing of the traffic signals or to install a new signal at the intersection of the Gardinier plant and U. S. Road #41 in the event that the construction activities of Phase I make such a timing change or installation of a new signal necessary. The Division of Public Works of Hillsborough County shall monitor, upon request of Florida Department of Transportation or developer, the traffic at this site to determine if a change in signal timing or a new signal is needed.

D. Air Quality

1. As indicated in the application, pollution control equipment shall be installed which will insure 98% efficiency for particulates, 95% for fluorine control, and close to 100% efficiency for ammonia control.
2. Gardinier shall develop an emission control plan which will reduce emissions during construction to the lowest practicable levels. This plan shall be filed with the Hillsborough County Environmental Protection Commission.

IV. PHASE II CONDITIONS

A. Incremental Review

1. Developer shall submit an application for Phase II development approval in accordance with all requirements of Section 380.06, Florida Statutes, and duly adopted rules thereunder. This shall include an application which sets forth the answers to all questions for application for development approval as required for an initial application for development approval as promulgated by the State Land Planning Agency.

B. Specific Phase II Informational Requirements

1. Drainage

The Phase II Application for Development Approval shall contain:

- a. Information to establish that proper precautions will be taken to capture and neutralize the runoff rather than allow it to contaminate the surrounding area.
- b. Information to establish that proper precautions will be taken to insure that seepage of contaminated water will not occur and that proper monitoring systems will be used to insure this does not occur over time.
- c. Information depicting areas of potential groundwater contamination.
- d. Compliant drainage plans showing the retention or treatment of the first one inch of stormwater runoff.

2. Wetlands

The Phase II Application for Development Approval shall contain:

- a. Information as to determination of potential impacts to wetlands.
- b. The appropriate permit applications for the re-routing of the creek system to be impacted by the gypsum disposal site.

3. Reclamation

The Phase II Application for Development Approval shall set forth:

- a. The timing and techniques for reclamation of the two gypsum disposal areas.
- b. Information as to minimization of visual and other impacts to the surrounding uses.

4. Prehistoric Sites/Archaeology

The Phase II Application for Development Approval shall contain:

- a. A professional historic and archaeological site survey and shall provide that all measures recommended by the survey authority as regards the mitigation of direct or indirect adverse impacts on any identified sites will be implemented.

5. Air Quality

The Phase II Application for Development Approval shall contain:

- a. Information to establish that proper precautions will be taken to reduce dust pollution.
 - C. Review of all the foregoing conditions shall be in accordance with the provisions of Section 380.06, Florida Statutes, or any amendments thereto, all rules adopted pursuant thereto, and all applicable rules, regulations and ordinances of Hillsborough County and any agency thereof in effect at time of submittal of Phase II review. Grounds for Phase II disapproval shall include but not be limited to failure to comply with the abovementioned statute, regulations, rules or ordinances, failure to comply with any conditions of this development order or failure to supply any information required for Phase II submittal in this development

order. This condition shall not be construed to limit or modify the authority, responsibilities or prerogatives of the County in its review under said statute, regulations, rules or ordinances.

D. The developer, the Tampa Bay Regional Planning Council and Hillsborough County shall enter into an agreement pursuant to the requirement of Subsection (20)(b) of Section 380.06, Florida Statutes, providing for the incremental review of Phase II as set forth in this development order. For purposes of this condition, the term "subsequent increments" as set forth in that statute shall refer to all Phase II activities.

V. GENERAL PROVISIONS

A. The legal description as set forth on Exhibit A is hereby incorporated by reference and made a part of this development order.

B. All provisions contained within the application for development approval marked "Exhibit B" shall be considered conditions of this development order unless inconsistent with the terms and conditions of this development order.

C. This Resolution shall constitute the development order of Hillsborough County in response to the application for development approval for the Gardinier Development of Regional Impact.

D. That the definitions found in Chapter 380, Florida Statutes, shall govern and apply to this development order. For purposes of this development order, the term "development activities" includes but is not limited to both the acts of construction and the resulting operation conducted by developer as permitted by this development order.

E. This development order shall be binding upon the developer and its heirs, assignees, or successors in interest. 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 agencies in existence on the effective date of this development order.

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

G. Whenever this development order provides for review subsequent to the issuance of this order, the right to review shall include all government agencies and department as is or may be designated by the Board of County Commissioners of Hillsborough County to review development of regional impact applications as well as all those government agencies and departments set forth under applicable laws and rules governing developments of regional impact.

H. A certified true copy of this Resolution shall be recorded in accordance with Section 380.06, Florida Statutes.

I. A substantial deviation from the terms or conditions of this development order or other changes to the approved development plans which create a reasonable likelihood of adverse regional impact or other regional impact may result in Hillsborough County ordering termination of all development approved in this development order.

J. Failure on the part of the developer to provide adequate means of gypsum disposal at any time during the conduct of development activities approved under this development order shall be considered a change which will require submission for a substantial deviation determination pursuant to Section 380.06, Florida Statutes.

K. Nothing in this development order shall be construed to limit or modify the right of Hillsborough County to make a substantial deviation determination pursuant to the provisions of subparagraphs (17)(a) of Section 380.06, Florida Statutes.

L. In the event that the developer fails to commence significant physical development within six (6) months from the date of the effectiveness of this development order, development approval shall terminate and the development shall be subject to further consideration.

M. The Director of the Hillsborough County Office of Development Coordination shall be responsible for monitoring all terms and conditions of this development order. For purposes of this condition, the Director may rely upon or utilize information supplied by any Hillsborough County department or agency having particular responsibility over the area or subject involved.

The Director shall report to the County Administrator and the Board of County Commissioners any findings of deviation from the terms and conditions of this development order. The Director shall issue a notice of such non-compliance to the developer and, if the deviation is not rectified within a reasonable amount of time, the Director shall recommend that the Board of County Commissioners establish a hearing to consider such deviations. The developer shall be given notice of such public hearing. The Board of County Commissioners may issue further orders and conditions to insure compliance with the terms and conditions of this development order. In the event that circumstances require immediate action, so as to prevent irreparable harm, the Director need not issue a notice of compliance.

N. The developer shall file an annual report in accordance with Section 380.06(16), Florida Statutes. Such report shall be due on the anniversary of the effective date of this development order, for each following year until and including such time as all terms and conditions of this development order are

2. satisfied. Such report shall be submitted to the Director of the Office of Development Coordination who shall, after appropriate review, submit it for receipt by the Board of County Commissioners. The Board of County Commissioners shall review the report for compliance with the terms and conditions of this development order.

The developer shall be notified of any Board of County Commissioners' hearing wherein such report is to be reviewed. Provided, however, that receipt and review by the Board of County Commissioners shall not be considered a substitute or a waiver of any terms or conditions of this development order. The report shall contain:

1. A description of all development activities conducted pursuant to this development 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 development order for the year immediately subsequent to the submission of the annual report;

3. A statement listing all applications for incremental review required in this development order or other which the developer proposes to submit during the year immediately following submittal of the annual report;

4. A statement setting forth the name(s) and address of any heir, assignee or successor in interest to this development order or to the real estate which is the subject of this development order; and

5. A statement that all persons have received copies of the annual report as required under Section 380.06(16), Florida Statutes.

It is the intent herein that the foregoing requirements for submittal of 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.

0. This development order shall become effective upon adoption by the Board of County Commissioners of Hillsborough

County in accordance with Section 380.06, Florida Statutes.

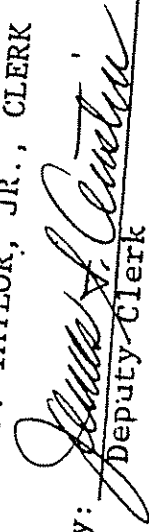
P. Upon its adoption the ex officio Clerk to the Board of County Commissioners shall transmit certified copies of this development order by certified mail to the State Land Planning Agency, the Tampa Bay Regional Planning Council, and the developer.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, JAMES F. TAYLOR, JR., Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board in its regular meeting of September 17, 1980, as the same appears of record in Minute Book 75 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 19th day of September, 1980.

JAMES J. TAYLOR, JR., CLERK

By: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA
DOCUMENT No. 80-713