



MUNICIPAL CLERK  
ATLANTA, GEORGIA

Final

01-0-0249

**A SUBSTITUTE ORDINANCE AS AMENDED BY FINANCE/EXECUTIVE COMMITTEE**

**A SUBSTITUTE ORDINANCE AS AMENDED BY FINANCE/EXECUTIVE COMMITTEE AUTHORIZING THE MAYOR TO EXECUTE A SEVERANCE BENEFITS INCENTIVE AGREEMENT WITH BENJAMIN R. DECOSTA, AVIATION GENERAL MANAGER, AND FOR OTHER PURPOSES.**

WHEREAS the City of Atlanta, through the proven leadership of its Aviation General Manager Benjamin DeCosta (General Manager), is currently engaged in an ambitious and much needed expansion program for Hartsfield Atlanta International Airport;

WHEREAS the General Manager, through his past performance, has proven himself to be highly competent in the exercise of his job duties, and has served a role of critical importance to the growth and development of Hartsfield Atlanta International Airport;

WHEREAS the proper administration and continued development of Hartsfield International Airport is of utmost importance to the City's future;

WHEREAS the proper administration and continued development of Hartsfield International Airport (recently heralded as the busiest airport in the world) is critical and absolutely necessary to successful operation of the National Air Transportation System of the United States;

WHEREAS the General Manager, because of his proven abilities and value in the marketplace, has other career opportunities;

WHEREAS the City believes that stability in the Hartsfield International Airport General Manager position is crucial to the Airport's future success (including, but not necessarily limited to the current expansion program); and

WHEREAS the City desires to resolve to offer the General Manager the incentive compensation severance agreement attached to this ordinance to entice him to remain employed by the City in the position of General Manager for Hartsfield International Airport for a minimum period of four (4) years.



THE COUNCIL OF THE CITY OF ATLANTA HEREBY ORDAINS, AS FOLLOWS:

**SECTION 1:** That the Mayor is hereby authorized to enter into the attached severance benefits incentive agreement with Benjamin R. DeCosta, Aviation General Manager. The four year period shall begin upon the effective date of this ordinance.

**SECTION 2:** That the severance benefits authorized by this ordinance pursuant to the severance benefits incentive agreement shall not be payable if Executive's appointment is terminated as a result of disciplinary action, investigative findings of wrongdoing, malfeasance in office, or poor performance.

**SECTION 3:** That the Mayor is hereby authorized to establish the salary of the Aviation General Manager in the Executive Salary Plan, at Grade E5, step 4. Said salary shall become effective upon the effective date of this ordinance.

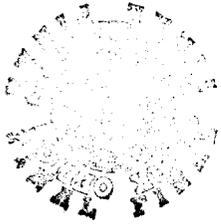
**SECTION 4:** That Section 7 of Ordinance 92-O-1247 is hereby waived for the purpose of this ordinance only.

OMC – Amendment Incorporated by tcp 3/14/01

A true copy,  
  
Deputy Clerk

**ADOPTED** as amended  
**APPROVED** by the Mayor

March 5, 2001  
March 12, 2001



## **EXECUTIVE SEVERANCE BENEFITS INCENTIVE AGREEMENT**

**THIS EXECUTIVE SEVERANCE BENEFITS INCENTIVE AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2001, by and between the **CITY OF ALANTA**, ("City" or "Employer"), and **BENJAMIN R. DECOSTA**, a Georgia resident ("Executive").

### **BACKGROUND AND PURPOSE:**

The Executive is currently employed by the City in the position of General Manager for Hartsfield Atlanta International Airport (Hartsfield). Both the City and the Executive desire to continue their employment relationship..

WHEREAS the City, in large part through the Executive's leadership, is currently engaged in an ambitious and much needed expansion program for Hartsfield;

WHEREAS the Executive, through his past performance, has proven himself to be highly competent in the exercise of his job duties, and has served a role of critical importance to the growth and development of Hartsfield (see Hartsfield Atlanta International Airport List of Top Achievements During Year 2000, attached hereto as Attachment 1);

WHEREAS the proper administration and continued development of Hartsfield is of utmost importance to the City's future;

WHEREAS the proper administration and continued development of Hartsfield (recently heralded as the busiest airport in the United States) is critical and absolutely necessary to successful control and operation of air traffic in the United States;

WHEREAS the Executive, because of his proven abilities and value in the marketplace, has other career opportunities; and

WHEREAS the City believes that stability in the Hartsfield General Manager position is crucial to the Airport's future success (including, but not necessarily limited to the current expansion program).

The City has hereby offers the Executive the incentives set forth below to entice him to remain employed by the City in the position of General Manager for Hartsfield for a minimum period of four (4) years following the full execution of this Agreement.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the premise, the mutual promises, covenants and agreements contained herein, and other good and valuable



consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Employment and Salary.** The City agrees to continue to employ Executive for a period of four (4) years subject to the same terms which have governed his past and present employment with the City, including employment-at-will, with the exception that the City agrees to pay Executive the severance benefits set forth below in the unlikely event that the City decides in the future to involuntarily terminate Executive's employment.
2. **Exception for Cause Termination.** The provisions of the preceding paragraph shall not be applicable in the event that termination of the Executive is warranted due to gross negligence in performance of his job duties or if Executive is convicted of or pleads guilty to any felony or other crime of moral turpitude (including, but not necessarily limited to, a crime or other act constituting fraud, deceit or material misrepresentation).
3. **Severance Incentive.** In the event that the City terminates the Executive's employment within one (1) year of the signing of this Agreement, the City agrees to pay the Executive in addition to any other severance benefits owed by the City, a one time payment of three (3) year's salary at the Executive's then existing rate of pay plus the remaining months of the year in which termination occurs.

In the event that the City terminates the Executive's employment within two (2) years of the signing of this Agreement, the City agrees to pay the Executive in addition to any other severance benefits owed by the City, a one time payment of two (2) year's salary at the Executive's then existing rate of pay plus the remaining months of the year in which termination occurs.

In the event that the City terminates the Executive's employment within three (3) years of the signing of this Agreement, the City agrees to pay the Executive in addition to any other severance benefits owed by the City, a one time payment of one (1) year's salary at the Executive's then existing rate of pay plus the remaining months of the year in which termination occurs.

In the event that the City terminates the Executive's employment within four (4) years of the signing of this Agreement, the City agrees to pay the Executive in addition to any other severance benefits owed by the City, a one time payment of the remaining months of the year in which termination occurs at the Executive's then existing rate of pay.

4. **Termination by Executive.** Nothing in this Agreement should be construed and limiting in any way the Executive's right to terminate his at-will employment with the City. Upon such termination, however, whether it occurs during or following the four-year period mentioned (post this agreement), Executive shall not be entitled to any severance benefits mentioned hereinabove.



5. **Miscellaneous.**

(a) This Agreement contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

(c) Executive may not assign this Agreement, in whole or in part, without the prior written consent of the City, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.

(d) This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(e) The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.

(g) If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

(h) This Agreement shall not be construed more strongly against either party hereto regardless of which party is responsible for its preparation.

(i) Upon the reasonable request of the other party, each party hereto agrees to take any and all actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.



**IN WITNESS WHEREOF**, the parties hereto have executed, or caused their duly authorized representatives to execute, this Agreement as of the day and year first above written.

THE CITY OF ATLANTA

By: \_\_\_\_\_  
MAYOR Date

\_\_\_\_\_  
BENJAMIN R. DECOSTA Date



RCS# 2714  
3/05/01  
9:11 PM

Atlanta City Council

Regular Session

01-0-0249

Severance Benefits Incentive Agreement  
with Benjamin DeCosta, Aviation Gen Man.  
ADOPT SUB/AMEND

YEAS: 9  
NAYS: 1  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 2  
ABSENT 1

NV McCarty	E Dorsey	N Moore	Y Thomas
Y Starnes	Y Woolard	NV Martin	Y Emmons
Y Bond	Y Morris	B Maddox	E Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

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(Do Not Write Above This Line)

AN ORDINANCE BY

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A SEVERANCE BENEFITS INCENTIVE AGREEMENT WITH BENJAMIN R. DECOSTA, AVIATION GENERAL MANAGER, AND FOR OTHER PURPOSES.

3/5/01 - Muller's Motion to Amend Approved; Moore's Motion to Amend FAILED

ADOPTED BY MAR 0 5 2001

COUNCIL

AS AMENDED

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 2/19/01

Referred To: Finance / Executive

Date Referred

Referred To:

Date Referred

Referred To:

Committee FIN EXEC First Reading

Date 2-14-01

Chair FIN EXEC

Referred to FIN EXEC

Committee FIN

Date 2-28-01

Chair [Signature]

Action: Fav, Adv, Hold (see rev. side)

Other: Substituted as amended

Members [Signatures]

Refer To [Signature]

Committee

Date

Chair

Action: Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

2nd  1st & 2nd  3rd

Readings

Consent  V Vote  ARC Vote

CERTIFIED

**CERTIFIED**

MAR 5 2001

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

**CERTIFIED**

MAR 0 5 2001

[Signature]

MUNICIPAL CLERK

MAYOR'S ACTION

**APPROVED**

MAR 12 2001

[Signature]

MAYOR