CITY COUNCIL
ATLANTA, GEORGIA

A SUSBSTITUTE ORDINANCE **03-O-0085**

BY TRANSPORTATION COMMITTEE

AN ORDINANCE AUTHORIZING THE CITY ATTORNEY TO INSTITUTE NECESSARY LEGAL ACTION THROUGH CONDEMNATION BY THE DECLARATION OF TAKING METHOD TO OBTAIN FEE SIMPLE TITLE TO THE REAL PROPERTIES DESCRIBED AND IDENTIFIED HEREIN BELOW, SAID PROPERTIES BEING LOCATED IN CLAYTON COUNTY AND NECESSARY FOR PUBLIC USE IN CONNECTION WITH THE FIFTH RUNWAY PROJECT AT HARTSFIELD ATLANTA INTERNATIONAL AIRPORT, WITH THE COSTS THEREOF TO BE CHARGED TO AND PAID FROM FUND ACCOUNT CENTER NO. 2H26 571001 R21E052096AA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (hereinafter "City"), as owner and operator of the William B. Hartsfield Atlanta International Airport, (hereinafter "Airport") has undertaken the construction of an additional runway, referred to as the Fifth Runway Project, in an area located south of the Airport in the City of College Park and in unincorporated Clayton County; and

WHEREAS, it was and continues to be necessary for the City to acquire property located in Clayton County to accommodate the Fifth Runway Project; and

WHEREAS, in Section 2.1 of the March 16, 2000 Intergovernmental Agreement between Clayton County and the City of Atlanta, Clayton County gave its consent to the City to acquire by condemnation properties within Clayton County's jurisdiction for the Fifth Runway Project; and

WHEREAS, the City has been acquiring real property for the Fifth Runway Project from willing property owners through negotiation, pursuant to Resolution No. 01-R-0185, adopted by the Council on February 19, 2001, and approved by the Mayor on February 24, 2001; and

WHEREAS, the City has been acquiring real property for the Fifth Runway Project from unwilling sellers through condemnation pursuant to Ordinance No. 01-O-1867, adopted by the Council on December 3, 2001, and approved by the Mayor on December 11, 2001, said Ordinance being attached hereto as Exhibit A; and

WHEREAS, pursuant to City of Atlanta Ordinance 01-O-1867, the City Attorney, through her designee, filed an action to condemn a Clayton County property located at 5074 Southridge Parkway, College Park, Georgia 30337, under the declaration of taking method of condemnation, as authorized by O.C.G.A. § 32-3-1, *et seq.* The property owner appealed the condemnation award and moved to vacate the order and judgment condemning the property in an action styled *City of Atlanta v. Yusen Air & Sea Service Holdings, Inc.*, filed in the Superior Court of Clayton County, Civil Action No. 2002-CV-2423-8. On November 7, 2002, the Judge in the *Yusen Air* case entered an Order granting the condemnee's Petition to Set Aside, Vacate and Annul the City's Declaration of Taking of the 5074 Southridge Parkway property on the basis of a purported defect in City of Atlanta Ordinance 01-O-1867; and

WHEREAS, time is of the essence for the acquisition of the properties being condemned pursuant to City of Atlanta Ordinance 01-O-1867; and

WHEREAS, the City is currently appealing the *Yusen Air* Order of November 7, 2002, however does not want to risk having future condemnations vacated while the appeal is pending; and

WHEREAS, the City desires to re-authorize the City's condemnation of the properties set forth in City of Atlanta Ordinance 01-O-1867 and to correct the purported defect described in the *Yusen Air* Order of November 7, 2002, and other alleged defects asserted by the condemnee; and

WHEREAS, of the properties set forth in City of Atlanta Ordinance 01-O-1867, the following properties have not yet been acquired through negotiation with the Owner(s), or through condemnation: (1) 4883-4901 Milan Drive, College Park, Georgia 30349, Tax ID Nos. 13-055B-C-011, 13-055B-C-010 and 13-055B-C-009; (2) the Vacant Land on Terrell Mill Road, College Park, Georgia 30349, Tax ID No. 13-055B-C-0044; (3) the Vacant Land on Turner Road and Hambrick Road, College Park, Georgia 30349, Tax ID No. 13-055D-A-001; (4) 916 Lees Mill Road, College Park, Georgia 30349, Tax ID No. 13-056B-B-002; (5) 5110 Riverdale Road, College Park, Georgia 30349, Tax ID No. 13-71B-00A-002; (6) 5119 Riverdale Road, College Park, Georgia 30349, Tax ID No. 13-71B-00A-0004; (7) 5132 Riverdale Road, College Park, Georgia 30349, Tax ID No. 13-72A-00A-0002; (8) the vacant Land on Terrell Mill Road, College Park, Georgia 30349, Tax ID No. 13-055B-00C-0003; (9) the vacant land on Terrell Mill Road, College Park, Georgia 30349, Tax ID No. 13-055B-00C-0025; (10) the property on the south east side of Terrell Mill Road, College Park, Georgia 30349, Tax ID No. 13-055A-B-001; (11) 795 Terrell Mill Road, College Park, Georgia 30349, Tax ID No. 13-055A-A-002; (12) 5091 Derrick Jones Road, College Park, Ga. 30349, Tax ID No. 13-056D-A-001; (13) 5139 Southridge Parkway, College Park, Ga. 30349, Tax ID No. 13-056C-A-004; and (14) 5136 Southridge Parkway, College Park, Ga. 30349, Tax ID No. 13-056C-A-003 (collectively hereinafter referred to as "the Properties"); and

WHEREAS, City of Atlanta Ordinance 01-O-1867 established that the cost incurred by the City in connection with condemning all of the properties set forth in said Ordinance must not exceed $149,000,000.00; and

WHEREAS, it is anticipated that the cost of condemning all of the properties set forth in City of Atlanta Ordinance 01-O-1867, including the anticipated cost of the condemnations of the Properties, will not exceed $149,000,000.00, and therefore no further funds must be allocated for the condemnation of the Properties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. That the public necessity for immediately acquiring the Properties for public use associated with the Fifth Runway Project is hereby declared; and, further, a finding is hereby made that the circumstances are such that it is necessary to proceed with condemnation proceedings by use of the declaration of taking method of condemnation, as authorized by O.C.G.A. § 32-3-1, *et seq.*, and use of that method is hereby authorized to acquire and obtain fee simple title to the Properties.

Section 2. That the City Attorney be and hereby is authorized and the City Attorney or her designee be and hereby is directed, with respect to the Properties, to institute condemnation proceedings in the name of the City of Atlanta for the condemnation of said Properties and of every interest therein, for the public uses above set forth, as provided by the Constitution of the State of Georgia, and to use the declaration of taking method as provided in the above referenced laws; provided, however, that once the condemnation proceedings have been filed, and should the opportunity for settlement between the parties develop, the Aviation General Manager or his designee, with the advice and coordination of the City Attorney or her designee, is hereby authorized to enter into settlement negotiations and/or agreements in an effort to resolve and/or settle the condemnation case.

Section 3. That the Mayor of the City of Atlanta is hereby authorized and directed, to sign, for the City of Atlanta, the Declarations of Taking prepared in connection with the condemnation of the Properties.

Section 4. That the cost incurred by the City in condemning all of the properties set forth in City of Atlanta Ordinance 01-O-1867, including but not limited to the cost incurred by the City in connection with the foregoing, shall not exceed $149,000,000.00, and shall be paid from Fund Account Center No. 2H26 571001 R21E052096AA.

Section 5. That the Chief Financial Officer be and is hereby authorized and directed to make all necessary and proper payments required in connection with the foregoing, upon receipt of a requisition therefore from the Aviation General Manager or the City Attorney and to make all necessary and proper payments in connection with the title searches, appraisals, surveys, specialty reports, closings and/or condemnation actions pursuant to this Ordinance.

Section 6. That, in the unanticipated event that any particular condemnation award causes the costs incurred by the City in condemning all of the properties set forth in City of Atlanta Ordinance 01-O-1867 to exceed $149,000,000.00, the Chief Financial Officer is hereby authorized and directed to pay said award and any additional awards of condemnation actions already filed, if not appealed, but no further condemnation actions regarding any of the Properties shall be filed prior to the City Council's authorizing the expenditure of additional funds.

Section 7. That the City Attorney be and hereby is authorized to engage the services of outside attorneys and expert witnesses to assist with the condemnation and/or closing of said Properties.

A true copy,
Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council FEB 17, 2003
APPROVED by the Mayor FEB 25, 2003

CITY COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE

BY TRANSPORTATION COMMITTEE

01- O -1867

AN ORDINANCE AUTHORIZING THE CITY ATTORNEY TO INSTITUTE NECESSARY LEGAL ACTION THROUGH CONDEMNATION OR ANY OTHER METHOD PROVIDED BY LAW TO OBTAIN FEE SIMPLE TITLE TO THE REAL PROPERTY WITHIN THE AREA OF THE PROPOSED FIFTH RUNWAY PROJECT SOUTH OF HARTSFIELD ATLANTA INTERNATIONAL AIRPORT IN THE CITY OF COLLEGE PARK AND IN UNINCORPORATED CLAYTON COUNTY, WITH THE COSTS THEREOF NOT TO EXCEED $149,000,000.00 TO BE CHARGED TO AND PAID FROM FUND ACCOUNT CENTER NO. 2H26 571001 R21E052096AA; REPEALING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta, as owner and operator of The William B. Hartsfield Atlanta International Airport, has undertaken the construction of an additional runway, referred to as the Fifth Runway Project, in an area located south of the Airport in the City of College Park and in unincorporated Clayton County; and

WHEREAS, the City has undertaken the acquisition of the real property for the Fifth Runway Project and the relocation of the residents and businesses situated on such property under a Land Acquisition/Relocation Program pursuant to Resolution No. 01-R-0185, adopted by the Council on February 19, 2001, and approved by the Mayor on February 24, 2001, and funded with revenues generated from the imposition of a Passenger Facility Charge (PFC Funds) and allocated for such purpose, which authorized purchase of same from willing sellers; and

WHEREAS, it will be necessary to institute condemnation proceedings in Clayton County under the State law of eminent domain to acquire all of the property required for the Fifth Runway Project from owners unwilling to sell their property through negotiation; and

WHEREAS, in Section 2.1 of the March 16, 2000 Intergovernmental Agreement between Clayton County and the City of Atlanta, Clayton County has given its consent to the City to acquire by condemnation properties within its jurisdiction for the expansion of the Fifth Runway Project from 6,000 feet to 9,000 feet; and

WHEREAS, it is necessary, pursuant to Section 2-1541(b)(3) of the Atlanta City Code, to authorize the City Attorney to take appropriate legal action to obtain fee simple title to such property, as hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. That the public necessity for immediately acquiring all of the property within the limits of the established boundaries of said Fifth Runway Project to serve the above stated purposes is hereby declared; and, further, a finding is hereby made that the circumstances are such that it is necessary to proceed with condemnation proceedings by use of declarations of taking as a method of condemnation, as authorized by O.C.G.A. § 32-3-1, *et seq.*, and use of that method is hereby authorized for acquisition of properties within the area shown on the drawing attached hereto as Exhibit A and made a part hereof by reference.

EXHIBIT

A

Section 2. That the City Attorney be and hereby is authorized and the City Attorney or her designee be and hereby is directed in each instance and with respect to each parcel of real property located within the project boundaries to institute condemnation proceedings in the name of the City of Atlanta for the quick and effective condemnation of said properties and of every interest therein, for the public uses above set forth, as provided by the Constitution of the State of Georgia and to use the Declaration of Taking method as provided in the above referenced laws or in the alternative the Special Master method of taking as provided in the Georgia Code, O.C.G.A. § 22-2-100, *et seq.*; provided, however, that once the condemnation proceedings have been filed, and should the opportunity for settlement between the parties develop, the Aviation General Manager or his designee, with the advice and coordination of the City Attorney or her designee, is hereby authorized to enter into settlement negotiations and/or agreements in an effort to resolve and/or settle the condemnation cases.

Section 3. That the cost incurred by the City in connection with the foregoing shall not exceed $149,000,000.00 and shall be paid from Fund Account Center No. 2H26 571001 R21E052096AA.

Section 4. That the Chief Financial Officer be and is hereby authorized and directed to make all necessary and proper payments required in connection with the foregoing, upon receipt of a requisition therefor from the Aviation General Manager or the City Attorney and to make all necessary and proper payments in connection with the title searches, appraisals, surveys, specialty reports, closings and/or condemnation actions pursuant to this Ordinance.

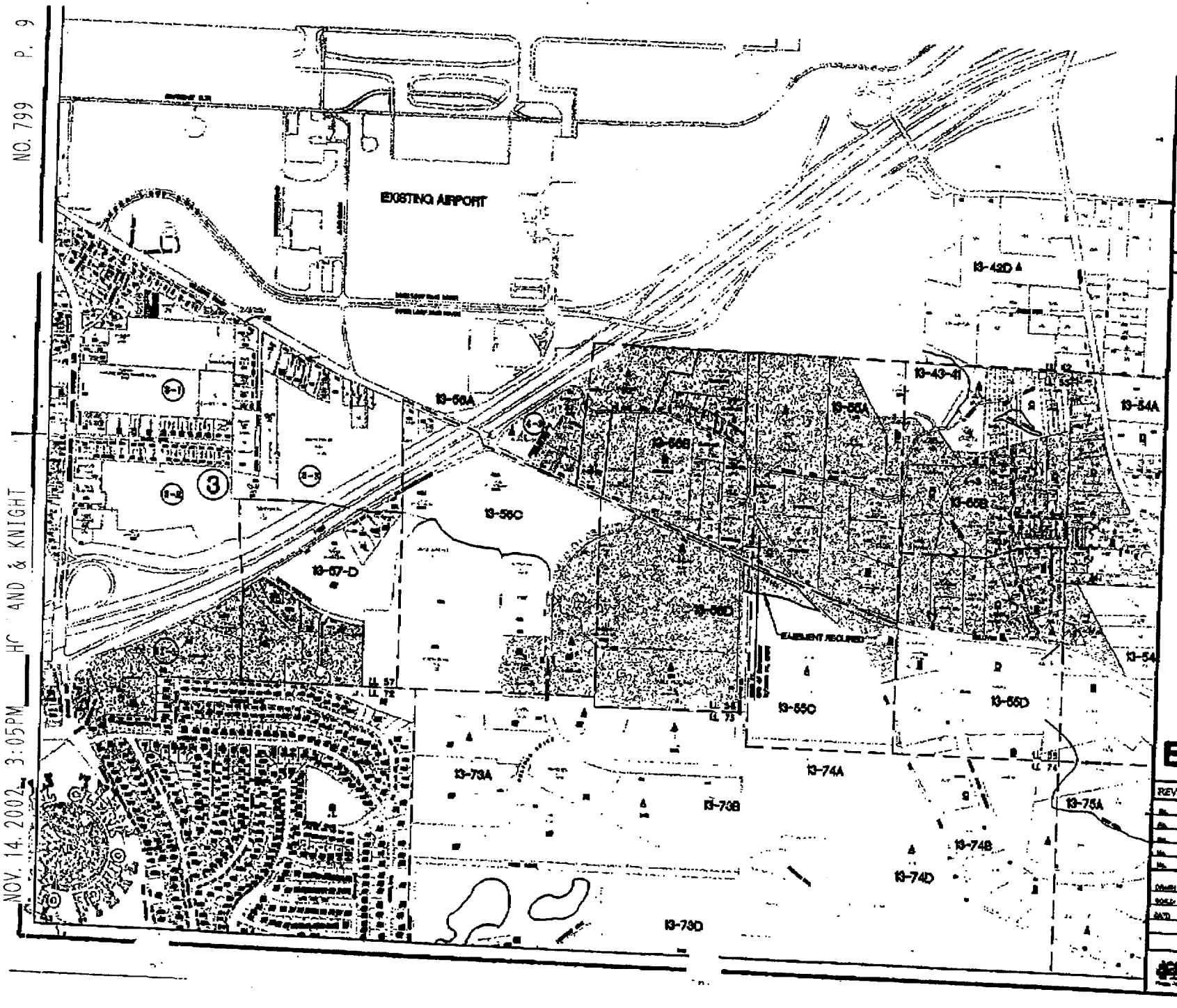
Section 5. That the City Attorney be and hereby is authorized to engage the services of outside attorneys and expert witnesses to assist with the condemnation and/or closing of said properties.

Section 6. That all ordinances or parts of ordinances in conflict herewith be and hereby are repealed.

A true copy,

Deputy Clerk

ADOPTED by the Council DEC 03, 2001
APPROVED by the Mayor DEC 11, 2001



Hartsfield Atlanta International Airport

PROJECT

5TH RUNWAY LAND ACQUISITION

LEGEND

EXHIBIT A

REVISIONS

RCS# 4470
2/17/03
2:22 PM

Atlanta City Council

Regular Session

CONSENT I

Pgs. 1-11: Except 03-R-0224

ADOPT

YEAS:	14
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	2
EXCUSED:	0
ABSENT	0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

2/17/03 FULL COUNCIL MEETING

Items Adopted on the Consent Agenda

1. 02-O-0037
2. 03-O-0127
3. 03-O-0185
4. 03-O-0187
5. 03-O-0085
6. 03-O-0125
7. 03-R-0143
8. 03-R-0144
9. 03-R-0189
10. 03-R-0210
11. 03-R-0211
12. 03-R-0212
13. 03-R-0213
14. 03-R-0145
15. 03-R-0146
16. 03-R-0149
17. 03-R-0150
18. 03-R-0151
19. 03-R-0152
20. 03-R-0153
21. 03-R-0160
22. 03-R-0207
23. 03-R-0208
24. 03-R-0209
25. 03-R-0141
26. 03-R-0142
27. 03-R-0140
28. 03-R-0128
29. 03-R-0129
30. 03-R-0130
31. 03-R-0131
32. 03-R-0132
33. 03-R-0133
34. 03-R-0134
35. 03-R-0135
36. 03-R-0136
37. 03-R-0161
38. 03-R-0162

Items Adversed on the Consent Agenda

39. 03-R-0137
40. 03-R-0138
41. 03-R-0139
42. 03-R-0163
43. 03-R-0164
44. 03-R-0165
45. 03-R-0166
46. 03-R-0167
47. 03-R-0168
48. 03-R-0169
49. 03-R-0170
50. 03-R-0171
51. 03-R-0172
52. 03-R-0173
53. 03-R-0174
54. 03-R-0175
55. 03-R-0176
56. 03-R-0177
57. 03-R-0178
58. 03-R-0179
59. 03-R-0180
60. 03-R-0181
61. 03-R-0201

Consent I Vote: 14Yeas; 0 Nays: (See RCS #4470)
Item Removed from the Consent Agenda: 03-R-0224

03- O -0085
(Do Not Write Above This Line)

AN ORDINANCE

BY TRANSPORTATION COMMITTEE

AN ORDINANCE AUTHORIZING THE CITY ATTORNEY TO INSTITUTE NECESSARY LEGAL ACTION THROUGH CONDEMNATION BY THE DECLARATION OF TAKING METHOD TO OBTAIN FEE SIMPLE TITLE TO THE REAL PROPERTIES DESCRIBED AND IDENTIFIED HEREIN BELOW, SAID PROPERTIES BEING LOCATED IN CLAYTON COUNTY AND NECESSARY FOR PUBLIC USE IN CONNECTION WITH THE FIFTH RUNWAY PROJECT AT HARTSFIELD ATLANTA INTERNATIONAL AIRPORT, WITH THE COSTS THEREOF TO BE CHARGE TO AND PAID FROM FUND ACCOUNT CENTER NO. 2H26 571001 R21E052096AA; AND FOR OTHER PURPOSES.

ADOPTED BY COUNCIL FEB 17 2003

APPROVED BY:
Rosalind Rubens
LINDA K. DISANTIS
CITY ATTORNEY
Substitute

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

Date Referred 2/3/03
Referred To: Transportation
Date Referred
Refferred To:
Date Referred
Referred To:

First Reading
Committee TRANSPORTATION
Date 1/29/03
Chair
Referred To

Committee	Committee
TRANSPORTATION	
Date 2/12/03	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side)	Action Fav, Adv, Hold (see rev. side)
Other SUBSTITUTE	Other
Members	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side)	Action Fav, Adv, Hold (see rev. side)
Other	Other
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION
☑ 2nd ☐ 1st & 2nd ☐ 3rd Readings
☑ Consent ☐ V Vote ☑ RC Vote

CERTIFIED
CERTIFIED
FEB 17 2003
ATLANTA CITY COUNCIL PRESIDENT
Cathexa M. Woolard

CERTIFIED
FEB 17 2003
Rhonda Dauphin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION
APPROVED
FEB 28 2003
MAYOR