CITY COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE BY: **03-O-1478**
COUNCILMEMBER H. LAMAR WILLIS
AS SUBSTITUTED BY TRANSPORTATION COMMITTEE

A SUBSTITUTE ORDINANCE AUTHORIZING THE CITY ATTORNEY TO INSTITUTE NECESSARY LEGAL ACTION THROUGH CONDEMNATION BY 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 City 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 City 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 the City of Atlanta Ordinance 01-O-1867, the City Attorney, through her designee, filed an action to condemn Clayton County property located at 5074 Southridge Parkway, College Park, Georgia 30337 (the "Property") and certain other properties, under the declaration of taking method of condemnation, as authorized by O.C.G.A. § 32-3-1, *et seq;* and

WHEREAS, in the aforementioned condemnation action, 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. ("Yusen Air"),* filed in the Superior Court of Clayton County, Civil Action No. 2002-CV-2423-8; and

WHEREAS, on November 7, 2002, the Judge in the *Yusen Air* case entered an Order granting the Property owner's Petition to Set Aside, Vacate and Annul the City's Declaration of Taking of the Property on the basis of a purported defect in the City of Atlanta Ordinance 01-O-1867; and

WHEREAS, the City appealed the *Yusen Air* Order of November 7, 2002; and

WHEREAS, on September 5, 2003, the Court of Appeals affirmed the ruling of the Clayton Superior Court in the City's appeal of the Order of November 7, 2002 in *Yusen Air*, for reasons other than those stated by the Clayton Superior Court; and

WHEREAS, pursuant to the City of Atlanta Ordinance 01-O-1867, the same ordinance relied upon in *Yusen Air*, the City Attorney, through her designee, has filed actions to condemn Clayton County properties located at the vacant land located on the North Side of Sullivan Road, College Park, Georgia 30349, Tax ID No. 13-056B-B001B, and 935 Sullivan Road, College Park, Georgia 30349, Tax ID No. 13-056B-B-001A, and 985, 1015 and 1045 Sullivan Road, College Park, Georgia 30349, Tax ID Nos. 13-056B-B-004 and 13-056B-B-006, and 751 Sullivan Road, College Park, Georgia 30349, Buildings A & B, Tax ID No. 13-055A-B004, and 751 Sullivan Road, College Park, Georgia 30349, Building C, Tax ID No. 13-055A-B001, and 4883-4901 Milan Drive, College Park, Georgia 30349, Tax ID Nos. 13-055B-C-009, 13-055B-C-010 and 13-055B-C-011, and the vacant tract of land located on the South East Side of Terrell Mill Road, College Park, Georgia 30349, Tax ID 13-055A-B-001, and 4917-4927 Milan Drive, College Park, Georgia 30349, Tax ID No. 13-055B-C-008 + 006, and being more particularly described in Exhibit B hereto (collectively hereinafter referred to as "the Properties") under the declaration of taking method of condemnation, as authorized by O.C.G.A. § 32-3-1, *et seq;* (Collectively, the "Condemnations"); and

WHEREAS, certain of the owners of the Properties in the Condemnations have appealed the condemnation awards or moved to vacate the orders and judgments condemning the Properties or may so appeal and move or renew their motions to vacate and set aside the orders and judgments; and

WHEREAS, the City and the property owners in *Yusen Air* have reached a settlement agreement regarding the disputes in *Yusen Air* and it being in the best interest of the City not to disturb that agreement by further appealing or otherwise challenging the ruling of the Court of Appeals in *Yusen Air*; and

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

WHEREAS, the City desires to authorize the City's condemnation of the Properties set forth in City of Atlanta Ordinance 01-O-1867 and previously sought to be condemned in the Condemnations and to correct the purported defect described in the *Yusen Air* Order of November 7, 2002, by the Court of Appeals, and other alleged defects asserted by the owners of the Properties to provide for the immediate taking of the Properties by the declaration of taking method, as authorized by O.C.G.A. § 32-3-1, *et seq*; 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 reaffirmed; 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 shall be and hereby is authorized and the City Attorney or her designee shall be and hereby is directed, with respect to the said Properties, to institute condemnation proceedings and/or amend pending

condemnation actions in the name of the City for the condemnation of the 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 herby 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 as a municipal authority, the Declarations of Taking prepared in connection with any condemnation of the Properties.

Section 4. That the cost incurred by the City in condemning all of the properties set fort 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 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 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 such award and any additional awards of condemnation actions already filed, but no additional condemnation actions regarding any of the Properties shall be filed thereafter without further authorization by the City Council for 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 OCT 06, 2003
APPROVED by the Mayor OCT 09, 2003

EXHIBIT B

LEGAL DESCRIPTION
Commonly Known As The Vacant Land
Located On The North Side of Sullivan Road
Tax ID No. 13-056B-B001B
Parcel No. 436RE

All that tract or parcel of land lying and being in Land Lot 56 of the 13th District of Clayton County, Georgia, and being Tract A on that certain plat of survey prepared by Lum C. Hall, Registered Land Surveyor No. 1050 of Lum HALL & Assoc., Inc., dated February 22, 1973, recorded in Plat Book 14, Page 113, Clayton County Records, as from said plat being more particularly described as follows:

BEGINNING at a point on the northeasterly side of Sullivan Road 407.1 feet (said distance being shown on the attached plat as being 407.97 feet) northwesterly (as measured along the northeasterly side of Sullivan Road) from the point of intersection of the northeasterly side of Sullivan Road with the east line of Land Lot 56, which point of beginning is marked by an iron pin; running thence North 69° 15' 44" West along the northeasterly side of Sullivan Road, 452.6 feet to an iron pin (said call being shown on the attached plat as being North 68° 40' 34" West a distance of 423.25 feet to a point); running thence South 89° 46' 54" East, 302.9 feet (said call being shown on the attached plat as being South 89° 03' 34" East a distance of 271.97 feet) to an iron pin; running thence North 01° 25' 42" East 517 feet (said call being shown on the attached plat as being North 02° 04' 56" East a distance of 518.64 feet) to an iron pin; running thence South 88° 22' 27" East. 125 feet (said call being shown on the attached plat as being South 87° 41' 45" East a distance of 123.91 feet) to a point; running thence South 672.7 feet (said call being shown on the attached plat as being South 01° 45' 21" West a distance of 663.07 feet) to the iron pin at the point of beginning, said tract containing 2.255 acres.

Said parcel also being shown as comprising 2.163 acres according to that certain Survey for City of Atlanta dated May 7, 2002, prepared by Patterson & Dewar Engineers, Inc. and bearing the seal of George E. Ingram, Ga. R.L.S. 1980.

Said parcel being bounded on the south by Sullivan Road, on the west by property now or formerly owned by Security Capital Industrial Trust, on the north by property now or formerly owned by Security Capital Industrial Trust and by property now or formerly owned by the City of Atlanta, and on the east by another tract now or formerly owned by Milling Limited Partnership.

LEGAL DESCRIPTION
Commonly Known As 935 Sullivan Road
Tax ID No. 13-056B-B-001A
Parcel No. 435RE

All that tract or parcel of land lying and being in Land Lot 56 of the 13th District of Clayton County, Georgia, and from a plat by H. V. Fitzpatrick, Inc., dated May, 1972, being more particularly described as follows:

BEGINNING at a point on the northeasterly side of Sullivan Road, 214.4 feet (shown on the attached plat as being 212.06 feet) from a point where the east line of Land Lot 56 intersects the northeasterly side of Sullivan Road; running thence North 68° 4' 16" West, along the northeasterly side of Sullivan Road 200.0 feet to an iron pin (said call being shown on the attached plat as being North 68° 40' 34" West a distance of 195.91 feet to a point); running thence North 02° 50' 24" West, 669.397 feet to an iron pin (said call being shown on the attached plat as being North 01° 45' 21" East a distance of 663.07 feet to a point); running thence South 87° 28' 36" East, 161.800 feet to an iron pin (said call being shown on the attached plat as being South 87° 41' 45" East a distance of 160.40 feet to a point); running thence South 00° 53' 24" West, 306.300 feet (said call being shown on the attached plat as being South 00° 09' 02" East a distance of 306.41 feet) to an iron pin; running thence South 00° 09' 02" East a distance of 421.14 feet to the iron pin at the point of beginning on the northeasterly side of Sullivan Road, said tract containing 2.5 acres (shown on the attached plat as 2.888 acres).

Said parcel also being shown as comprising a total of 2.888 acres and being designated as Area-1 and Area-2 according to that certain Survey for City of Atlanta dated May 7, 2002, prepared by Patterson & Dewar Engineers, Inc. and bearing the seal of George E. Ingram, Ga. R.L.S. 1980.

Said parcel being bounded on the south by Sullivan Road, on the west by another tract now or formerly owned by Milling Limited Partnership, on the north by property now or formerly owned by the City of Atlanta, and on the east by property now or formerly owned by Andrew Gene Crews and property now or formerly owned by the City of Atlanta.

LEGAL DESCRIPTION
Commonly Known As 985, 1015 and
1045 Sullivan Road
Tax ID Nos. 13-056B-B-004 and 13-056B-B-006
Parcel No. 424

All that tract or parcel of land lying and being in Land Lot 56 of the 13th District of Clayton County, Georgia, being more particularly described as follows:

To reach the POINT OF BEGINNING: commence at the intersection formed by the centerlines of Sullivan Road and Lees Mill Road (as presently located) and proceed thence in a southeasterly direction along the centerline of Sullivan Road for a distance of 864.03 feet to a point; proceed thence North 01° 37' 40" East, and departing the centerline of Sullivan Road, for a distance of 42.87 feet to a point on the northeasterly right-of-way of Sullivan Road (80' right-of-way) and which point is the POINT OF BEGINNING

FROM THE POINT OF BEGINNING as thus established, running thence North 01° 37' 40" East a distance of 361.48 feet to a point; running thence South 88° 22' 20" East a distance of 257.00 feet to a point; running thence North 01° 37' 40" East a distance of 254.00 feet to a point on the southerly right-of-way of Lees Mill Road (40' right-of-way); running thence easterly along the southerly right-of-way of Lees Mill Road (40' right-of-way) the following courses and distances: North 86° 52' 20" East, 61.11 feet; thence along the arc of a curve to the right 51.66 feet (said arc having a chord distance of 51.66 feet on a bearing of North 87° 57' 10" East and a radius of 1369.691 feet); thence North 89° 01' 59" East, 123.86 feet to a point; running thence South 01° 41' 58" West, along the property formerly owned by Ruth Harris, and departing the southerly right-of-way of Lees Mill Road, a distance of 805.90 feet to a point on the northeasterly right-of-way of Sullivan Road (80' right-of-way); running thence North 68° 39' 02" West along the northeasterly right-of-way of Sullivan Road (80' right-of-way) a distance of 522.84 feet to the POINT OF BEGINNING.

Said tract containing 6.5047 acres and being shown as Tract One on that certain Survey dated January 25, 1995, prepared by Watts & Browning Engineers, Inc. and bearing the seal and certification of V. T. Hammond, Georgia Registered Land Surveyor No. 2554.

LEGAL DESCRIPTION
Commonly Known As 985, 1015 and
1045 Sullivan Road
Tax ID Nos. 13-056B-B-004 and 13-056B-B-006
Parcel No. 431

All that tract or parcel of land lying and being in Land Lot 56 of the 13th District of Clayton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at the intersection of the center line of Sullivan Road (80 foot right of way) with the center line of Lees Mill Road (40 foot right of way as relocated by D.O.T.) and run thence along the center line of Sullivan Road in a southeasterly direction a distance of 1386.68 feet to a point; thence leave said center line and run North 01° 41' 58" East 42.47 feet to a point on the Northeasterly right of way line of Sullivan Road and THE TRUE POINT OF BEGINNING.

FROM THE TRUE POINT OF BEGINNING as thus established, leave said right of way line and run North 01° 41' 58" East 805.90 feet to an iron pin found on the southerly right of way line of Lees Mill Road; run thence along said right of way line the following courses and distances: North 89° 01' 59" East 184.67 feet to a point; thence along the arc of a 218.712 foot radius curve to the right an arc distance of 96.77 feet to a point (said arc being subtended by a chord having a bearing of South 78° 17' 31" East and a length of 95.98 feet); thence South 65° 37' 01" East 111.08 feet; thence South 73° 26' 01" East 101.37 feet to an iron pin found; thence continue along said right of way of Lees Mill Road South 73° 26' 01" East 12.84 feet to a point; thence leave said right of way line and run South 02° 03' 49" West 800.03 feet to an iron pin found; thence North 89 ° 05' 02" West 259.07 feet to an iron pin placed; thence North 89° 03' 02" West 9.26 feet to an iron pin placed on the northeasterly right of way line of Sullivan Road; thence along said right of way line of Sullivan Road North 68° 39' 02" West 231.98 feet to THE TRUE POINT OF BEGINNING.

Said tract containing 9.5176 acres and being designated as Tracts Two and Two-A on that certain Survey dated January 25, 1995, prepared by Watts & Browning Engineers, Inc. and bearing the seal and certification of V. T. Hammond, Georgia Registered Land Surveyor No. 2554.

Together with any rights and easements previously reserved in Ruth Harris, including but not limited to tap on rights to sewer easements.

LEGAL DESCRIPTION
Commonly Known As 751 Sullivan Road
Building C, Tax ID No. 13-055A-B001
Parcel No. 443RE

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at an iron pin on the northeasterly right-of-way line of Sullivan Road (having an 80 foot right-of-way), and which iron pin is located North 00° 36' 38" West a distance of 85.38 feet from the point of intersection of the southwesterly right-of-way line of said Sullivan Road with the northeasterly right-of-way line of Lees Mill Road (a dirt road having a 50 foot right-of-way); thence leaving the northeasterly right-of-way line of Sullivan Road and running North 00° 36' 38" West along the easterly lines of property now or formerly owned by Surf-Air, Inc. and Hugh Steel and distance of 933.81 feet to an iron pin on the southwesterly right-of-way line of Terrell Mill Road (having an 80 foot right-of-way); running thence southeasterly along the southwesterly right-of-way line of said Terrell Mill Road and along the arc of a curve to the right (which arc is subtended by a chord having a bearing of South 79° 17' 25.1" East, a chord distance of 304.76 feet and a radius of 1,078.31 feet) an arc distance of 305.79 feet to an iron pin; running thence along said southwesterly right-of-way line of Terrell Mill Road the following courses and distances: along the arc of a curve to the right (which arc is subtended by a chord having a bearing of South 69° 43' 33" East, a chord distance of 54.22 feet and a radius of 1,078.31 feet) an arc distance of 54.22 feet to an iron pin; thence South 68° 17' 00" East a distance of 45.15 feet to a point; thence along the arc of a curve to the left (which arc is subtended by a chord having a bearing of South 84° 13' 00" East, a chord distance of 205.39 feet and a radius of 374.09 feet) an arc distance of 208.06 feet to an iron pin; thence leaving the southwesterly right-of-way line of Terrell Mill Road and running South 77° 07' 44" East, a distance of 77.86 feet to an iron pin located on the westerly line of property now or formerly owned by David and Ann Boyd, et al.; running thence South 01° 24' 21" East along the westerly line of property now or formerly owned by David and Ann Boyd, et al., a distance of 389.32 feet to an iron pin and the TRUE POINT OF BEGINNING.

FROM THE TRUE POINT OF BEGINNING as thus established, running thence South 01° 24' 21" East along the property line now or formerly owned by David and Ann Boyd, et al. a distance of 313.49 feet to an iron pin (said call being shown on the attached plat as being South 00° 38' 56" East a distance of 313.31 feet to a point located 0.22 feet East of an iron pin, said easterly point being shown on the attached plat as being North 00° 38' 56" West a distance of 322.10 feet from an iron pin located on the northeasterly right-of-way line of Sullivan Road, which iron pin is

located 962.7 feet Southeasterly from the centerline of Lee's Mill Road, as measured along said northeasterly right-of-way line of Sullivan Road); thence North 70° 08' 55" West a distance of 416.38 feet (said call being shown on the attached plat as being North 69° 24' 48" West a distance of 416.39 feet) to an iron pin; thence North 01° 10' 41" East a distance of 227.63 feet (said call being shown on the attached plat as being North 01° 53' 55" East a distance of 227.65 feet) to a PK set; thence South 88° 49' 19" East along the new line a distance of 219.00 feet (said call being shown on the attached plat as being South 88° 03' 51" East a distance of 218.99 feet) to a PK set; thence South 45° 49' 19" East along the new line a distance of 77.00 feet (said call being shown on the attached plat as being South 45° 03' 19" East a distance of 76.99 feet) to a PK set; thence North 88° 35' 39" East along the new line a distance of 105.12 feet (said call being shown on the attached plat as being North 89° 22' 45" East a distance of 105.31 feet) to THE TRUE POINT OF BEGINNING and containing 2.4458 acres.

Said tract being shown as comprising 2.444 acres according to that certain Survey of Parcel #443RE for City of Atlanta dated May 28, 2002, prepared by Patterson & Dewar Engineers, Inc., with the seal of George E. Ingram, Ga. R.L.S. 1980.

TOGETHER WITH those certain easements contained in that certain Declaration of Easements between Hooker/Barnes (7) and Metropolitan Life Insurance Company dated June 30, 1987, recorded in Deed Book 1400, Page 127, aforesaid records; as amended by Temporary Suspension of Easements recorded at Deed Book 1905, Page 335, aforesaid records.

TOGETHER WITH those certain easements contained in that certain Declaration of Easements between Lloyd T. Dunn, Su Yen Dunn and Sullivan 75, L.P. dated May 28, 1993, recorded in Deed Book 1905, Page 343, aforesaid Records.

LEGAL DESCRIPTION

Commonly Known As 751 Sullivan Road
Buildings A&B, Tax ID No. 13-055A-B004
Parcel No. 442RE

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the northeasterly right-of-way line of Sullivan Road (having an 80 foot right-of-way), which iron pin is located North 00° 36' 38" West, a distance of 85.38 feet from the point of intersection of the southwesterly right-of-way line of said Sullivan Road with the northeasterly right-of-way line of Lees Mill Road (a dirt road having a 50 foot right-of-way) (said pin being shown on the attached plat as being located 536.79 feet Southeasterly from the centerline of Lee's Mill Road, as measured along the northeasterly right-of-way line of Sullivan Road); thence leaving the northeasterly right-of-way line of Sullivan Road and running North 00° 36' 38" West along the easterly lines of property now or formerly owned by Surf-Air, Inc. and Hugh Steel a distance of 933.81 (said call being shown on the attached plat as being North 00° 08' 08" East a distance of 647.05 feet to an iron pin and North 00° 09' 13" East a distance of 286.65 feet) to an iron pin found on the southwesterly right-of-way line of Terrell Mill Road (having an 80 foot right-of-way); running thence Southeasterly along the southwesterly right-of-way line of said Terrell Mill Road and along the arc of a curve to the right (which arc is subtended by a chord having a bearing of South 79° 17' 25.1" East, a chord distance of 304.76 feet and a radius of 1,078.31 feet) an arc distance of 305.79 feet (said call being shown on the attached plat as being 305.53 feet along the arc of a curve to the right, said curve having a radius of 1,078.31 feet and being subtended by a chord having a length of 304.51 feet and a bearing of South 78° 30' 14" East) to an iron pin found; thence leaving the southwesterly right-of-way line of said Terrell Mill Road and running South 00° 36' 38" East a distance of 375.19 feet to a pk nail found; running thence South 01° 10' 40.5" West a distance of 259.63 feet to a pk nail found (said two previous calls being shown on the attached plat as being South 00° 16' 05" West a distance of 407.11 feet to a pk nail found, and South 01° 53' 55" West a distance of 227.65 feet to a point); running thence South 70° 08' 55" East a distance of 416.38 feet (said call being shown on the attached plat as being South 69° 24' 48" East a distance of 416.39 feet) to an iron pin found on the westerly line of property now or formerly owned by David and Ann Boyd, et al; running thence South 01° 24' 21" East along the westerly line of property now or formerly owned by David and Ann Boyd, et al, a distance of 322.26 feet (said call being shown on the attached plat as being South 00° 38' 56" East a distance of 322.10 feet) to an iron pin set on the northeasterly right-of-way line of Sullivan Road; running thence Northwesterly along the northeasterly right-of-way line of said Sullivan Road the

following courses and distances: along the arc of a curve to the right (which arc is subtended by a chord having a bearing of North 75° 04' 19" West, a chord distance of 297.13 feet and a radius of 1,730.87 feet) an arc distance of 297.50 feet to a nail set (said call being shown on the attached plat as being 297.45 feet along the arc of a curve to the right, said curve having a radius of 1,730.87 feet and being subtended by a chord having a length of 297.08 feet and a bearing of North 74° 19' 54" West to a point); and North 70° 08' 55" West (said bearing being shown on the attached plat as being North 69° 23' 49" West) a distance of 425.91 feet to an iron pin found and the POINT OF BEGINNING; said tract containing 9.6132 acres and being more particularly shown as Tract 1 on that certain As-Built survey for Sullivan 75 Distribution Center prepared by Larry W. Clark, Georgia R.L.S. No. 1709 of Riley, Park, Hayden & Associates, Inc., dated June 5, 1987, last revised October 11, 1994.

Said tract also being shown as comprising 9.609 acres according to that certain Survey of Parcel #442RE for City of Atlanta dated May 28, 2002, prepared by Patterson & Dewar Engineers, Inc., with the seal of George E. Ingram, Ga. R.L.S. 1980.

TOGETHER WITH, as an appurtenance to the hereinabove described property, the following:

1. a perpetual non-exclusive easement for drainage and discharge of surface and subsurface water upon, over, across and through the drainage facilities located on adjacent property now or formerly owned by Hooker/Barnes (7) as set forth in that certain Declaration of Easements dated June 3, 1987, between Hooker Atlanta (7) Corporation and Nona Barnes, Inc., together d/b/a Hooker/Barnes (7) and Metropolitan Life Insurance Company, recorded in Deed Book 1400, Page 127, Clayton County Records.

2. A perpetual non-exclusive easement for pedestrian and vehicular ingress and egress only (but not for parking purposes), on, over, across and through those portions of the adjacent property now or formerly owned by Hooker/Barnes (7) which have been paved and designated for access as set forth in that certain Declaration of Easements dated June 3, 1987, between Hooker Atlanta (7) Corporation and Nona Barnes, Inc., together d/b/a Hooker/Barnes (7), a Georgia joint venture, and Metropolitan Life Insurance Company, recorded in Deed Book 1400, Page 127, Clayton County Records.

LEGAL DESCRIPTION
Commonly Known As 4883-4901 Milan Drive
Tax ID Nos. 13-055B-C-009, 13-055B-C-010 and 13-055B-C-011
Parcel No. 474

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, being designated as Lot No. 13, as shown on plat of McElroy Subdivision on file in Plat Book No. "Two", page 109, Office of the Clerk of the Superior Court of Clayton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the west side of Milan Drive F/K/A Terrell Street at the northeast corner of Lot 14, (said point being 500 feet North from the original intersection of same with Lee Street A/K/A Turner Road and being shown on the attached plat as being 249.13 feet North of the intersection of the west side of Milan Drive with the south side of Weems Street); and running thence West 200 feet (said call being shown on the attached plat as being North 86° 52' 18" West a distance of 199.46 feet) along the north line of Lot 14 to a made corner marking the northwest corner of Lot 14; thence North 100 feet (said call being shown on the attached plat as being North 00° 32' 25" West a distance of 100.72 feet) to a made corner marking the southwest corner of Lot 12; thence East 200 feet (said call being shown on the attached plat as being South 86° 01' 05" East a distance of 199.67 feet) along the south line of Lot 12 to a made corner marking the southeast corner of Lot 12 on the west side of Milan Drive; thence South along same 100 feet (said call being shown on the attached plat as being South 00° 32' 25" East a distance of 97.74 feet) to the POINT OF BEGINNING.

Said property consisting of 0.453 acres according to that certain survey dated June 28, 2002, prepared by Patterson & Dewar Engineers, Inc. for Atlanta-Hartsfield International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being bounded on the north by property now or formerly owned by the City of Atlanta, on the east by Milan Drive F/K/A Terrell Street, on the south by property now or formerly owned by Fogg Group South, Inc., and on the west by property now or formerly owned by Robert D. Collins, and being the same property as that conveyed to Kenneth O. Fogg by Warranty Deed recorded in Deed Book 1313, Page 727, Clayton County records.

LEGAL DESCRIPTION
Commonly Known As 4883-4901 Milan Drive
Tax ID Nos. 13-055B-C-009, 13-055B-C-010 and 13-055B-C-011
Parcel No. 475

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being Lot 14 of J. D. McElroy's Subdivision (formerly Terrell Property), and being more particularly described as follows:

BEGINNING at an iron pin placed on the west side of Milan Drive, having a 30 foot right-of-way (also known as Terrell Street), which pin is located 130 feet North of the intersection of the west side of Milan Drive with the centerline of Weems Street, if the western side of Milan Drive were extended to intersect with the center of Weems Street (said point also being shown on the attached plat as being North 149.15 feet from the intersection of the west side of Milan Drive with the south side of Weems Street, and North 87° 05' 03" West a distance of 1.78 feet from an iron pin found in the right-of-way of Milan Drive), and which pin also marks the northeast corner of Lot 15 of J. D. McElroy's Subdivision; running thence Westerly along the northerly line of said Lot 15 for a distance of 200 feet to an iron pin found (said call being shown on the attached plat as being North 87° 05' 03" West a distance of 199.41 feet to a point) in the northwest corner of said Lot 15; running thence Northerly for a distance of 100 feet to an iron pin found (said call being shown on the attached plat as being North 00° 32' 25" West a distance of 100.72 feet to a point) in the southwest corner of Lot 13 of J. D. McElroy's Subdivision; running thence Easterly along the southerly line of said Lot 13 for a distance of 200 feet to an iron pin placed (said call being shown on the attached plat as being South 86° 52' 18" East a distance of 199.46 feet to a point located North 86° 52' 18" West a distance of 1.48 feet from an iron pin found in the right-of-way of Milan Drive) in the southeast corner of said Lot 13 on the west side of Milan Drive; running thence South 00° 41' East along the west side of Milan Drive, and forming an interior angle of 94° 06' with the preceding course for a distance of 100 to the iron pin placed (said call being shown on the attached plat as being South 00° 32' 25" East a distance of 99.98 feet to a point) at the POINT OF BEGINNING, being improved property containing a one story frame dwelling according to the survey for Fogg Trucking Company by Eston Pendley & Assoc., Inc., R.L.S., dated 8/29/84.

Said property consisting of 0.459 acres according to that certain survey dated June 28, 2002, prepared by Patterson & Dewar Engineers, Inc. for Hartsfield-Atlanta International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being bounded on the north by property now or formerly owned by Kenneth O. Fogg, on the east by Milan Drive, on the south by property now or formerly owned by Kenneth O. Fogg., and on the west by property now or formerly owned by Robert D. Collins, and is the same property conveyed to Fogg Group South, Inc. by Warranty Deed recorded in Deed Book 1184, Page 729, Clayton County records, said deed having mistakenly referred to tax parcel numbers instead of the correct lot numbers according to the recorded plat.

LEGAL DESCRIPTION
Commonly Known As 4883-4901 Milan Drive
Tax ID Nos. 13-055B-C-009, 13-055B-C-010 and 13-055B-C-011
Parcel No. 476

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, being designated as Lot 15, Block "D", of J. D. McElroy's Subdivision of the Terrell property, plat of said property being recorded in Plat Book

"Three" (3), Page 82, Clayton County Land Records, and being more particularly described as follows:

BEGINNING at a point on the westerly right-of-way line of Milan Drive F/K/A Terrell Street, having a 30 foot right-of-way, which point is located 49.15 feet North of the intersection of the westerly right-of-way line of Milan Drive with the southerly right-of-way line of Weems Street, said point marking the northeast corner of Lot 16; running thence West 200 feet along the north line of Lot 16 to the western line of said subdivision (said call being shown on the attached plat as being North 87° 17' 26" West a distance of 199.37 feet to an iron pin found) and the northwest corner of Lot 16; thence North along the western line of said subdivision 100 feet to a point on the western boundary line of said subdivision as shown on said plat (said call being shown on the attached plat as being North 00° 32' 25" West a distance of 100.72 feet to a point), such point being located 410 feet South of the northwest corner of said subdivision and marking the southwest corner of Lot 14; thence East 200 feet along the south line of Lot 14 (said call being shown on the attached plat as being South 87° 05' 03" East a distance of 199.41 feet) to a point on the westerly right-of-way line of Milan Drive marking the southeast corner of Lot 14, said point being North 87° 05' 03" West a distance of 1.78 feet from an iron pin found in the right-of-way of Milan Drive; thence South (said call being shown on the attached plat as being South 00° 32' 25" East) along the westerly right-of-way line of Milan Drive a distance of 100.00 feet to the POINT OF BEGINNING.

Said property consisting of 0.459 acres according to that certain survey dated June 28, 2002, prepared by Patterson & Dewar Engineers, Inc. for Hartsfield-Atlanta International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being bounded on the north by property now or formerly owned by Fogg Group South, Inc., on the east by Milan Drive, on the south by property now or formerly owned by William F. Griffith, and on the west by property now or formerly owned by Robert D. Collins, and is the same property conveyed to Kenneth O. Fogg by Warranty Deed recorded in Deed Book 1914, Page 276, Clayton County records.

LEGAL DESCRIPTION

Commonly Known As The Vacant Tract of Land Located on the South East Side of Terrell Mill Road, Tax ID No. 13-055A-B-001 Parcel No. 499RE

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at an iron pin found on the northeastern right-of-way line of Sullivan Road (80 foot right-of-way) 962.7 feet Southeasterly along said northeastern right-of-way line of Sullivan Road from its intersection with the centerline of Lee's Mill Road; thence N 00° 38' 56" W a distance of 1,028.90 feet to a point and the POINT OF BEGINNING.

FROM THE POINT OF BEGINNING AS THUS ESTABLISHED, run thence N 79° 20' 50" W a distance of 77.23 feet to an iron pin found on the southeastern right-of-way line of Lee's Mill Road (80 foot right-of-way); thence Northeasterly 90.90 feet along the arc of a curve to the left (said curve having a radius of 194.49 feet and being subtended by a chord having a length of 90.08 feet and a bearing of N 56° 34' 23" E) to a point; thence leaving the southeastern right-of-way line of Lee's Mill Road and running S 00° 38' 56" E a distance of 63.90 feet back to the POINT OF BEGINNING.

Said tract consisting of 0.048 acres according to that certain Survey for City of Atlanta dated October 11, 2002, prepared by Patterson & Dewar Engineers, Inc., bearing the seal of George E. Ingram, Ga. R.L.S. 1980.

Said tract being bounded on the North and West by Lee's Mill Road, on the East by property now or formerly owned by Robert D. Collins, and on the South by property now or formerly owned by the City of Atlanta.

LEGAL DESCRIPTION
Commonly Known As 4917-4927 Milan Drive
Tax ID No. 13-055B-C-008 + 006
Parcel No. 477RE

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being Lots 16 and 17 of McElroy Subdivision (formerly portion of Terrell Estate), according to that certain plat recorded in Plat Book 2, Page 109, Clayton County records, and being more particularly described as follows:

BEGINNING at a point on the westerly right-of-way line of Milan Drive, having a 30 foot right-of-way, which point marks the intersection of the westerly right-of-way line of Milan Drive with the southerly right-of-way line of Weems Street, a 40 foot right-of-way; running thence South 00° 19' 40" East a distance of 150.85 feet to a point marking the northeast corner of Lot 18; thence North 87° 14' 34" West along the north line of Lot 18 a distance of 199.38 feet to a point marking the northwest corner of Lot 18; thence North 00° 19' 40" West a distance of 199.83 feet to an iron pin found marking the southwest corner of Lot 15; thence South 87° 17' 26" East along the south line of Lot 15 a distance of 199.37 feet to a point marking the southeast corner of Lot 15 on the westerly right-of-way line of Milan Drive; thence South 00° 19' 40" East along the westerly right-of-way line of Milan Drive a distance of 49.15 feet to the POINT OF BEGINNING.

Said property designated Tract 1 and consisting of 0.914 acres according to that certain survey dated July 1, 2002, prepared by Patterson & Dewar Engineers, Inc. for Hartsfield-Atlanta International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being bounded on the north by property now or formerly owned by Kenneth O. Fogg, on the east by Milan Drive and another tract now or formerly owned by William F. Griffith, on the south by another tract now or formerly owned by William F. Griffith, and on the west by property now or formerly owned by Robert D. Collins, and is a portion of the property conveyed to William F. Griffith by Warranty Deed recorded in Deed Book 683, Page 746, Clayton County records.

AND ALSO:

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the westerly right-of-way line of Milan Drive, having a 30 foot right-of-way, which point marks the intersection of the westerly right-of-way line of Milan Drive with the southerly right-of-way line of Weems Street, a 40 foot right-of-way, and which point is located on the east line of Lot 16 of McElroy Subdivision (formerly portion of Terrell Estate), according to that certain plat recorded in Plat Book 2, Page 109, Clayton County records; running thence South 00° 19' 40" East along the east line of Lots 16 and 17 a distance of 150.85 feet to a point marking the northeast corner of Lot 18; thence South 00° 19' 40" East a distance of 157.23 feet along the east line of Lots 18 and 19 to a

point; thence North 89° 40' 20" East a distance of 30.02 feet to a point; thence North 00° 19' 40" West a distance of 307.98 feet to a point on the south right-of-way line of Weems Street; thence South 89° 51' 50" West along the south right-of-way line of Weems Street a distance of 30.02 feet to the POINT OF BEGINNING.

Said property designated Tract 2 and consisting of 0.212 acres according to that certain survey dated July 1, 2002, prepared by Patterson & Dewar Engineers, Inc. for Hartsfield-Atlanta International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being the same as that conveyed to William F. Griffith by Quitclaim Deed recorded in Deed Book 698, Page 434, Clayton County records.

LEGAL DESCRIPTION
Commonly Known As 4917-4927 Milan Drive
Tax ID No. 13-055B-C-008 + 006
Parcel No. 478RE

All that tract or parcel of land lying and being in Land Lot 55 of the 13th District of Clayton County, Georgia, and being Lot 18 of McElroy Subdivision (formerly portion of Terrell Estate), according to that certain plat recorded in Plat Book 2, Page 109, Clayton County records, and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at a point on the westerly right-of-way line of Milan Drive, having a 30 foot right-of-way, which point marks the intersection of the westerly right-of-way line of Milan Drive with the southerly right-of-way line of Weems Street, a 40 foot right-of-way; run thence South 00° 19' 40" East a distance of 150.85 feet to a point marking the southeast corner of Lot 17 and the TRUE POINT OF BEGINNING.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, run thence South 00° 19' 40" East a distance of 100.00 feet to a point marking the northeast corner of Lot 19; thence North 87° 13' 07" West along the north line of Lot 19 a distance of 199.38 feet to an iron pin found marking the northwest corner of Lot 19; thence North 00° 19' 40" West a distance of 99.92 feet to a point marking the southwest corner of Lot 17; thence South 87° 14' 34" East along the south line of Lot 17 a distance of 199.38 feet to the POINT OF BEGINNING.

Said property consisting of 0.457 acres according to that certain survey dated July 1, 2002, prepared by Patterson & Dewar Engineers, Inc. for Hartsfield-Atlanta International Airport and sealed by George E. Ingram, Georgia R.L.S. No. 1980.

Said property being bounded on the north by another tract now or formerly owned by William F. Griffith, on the east by another tract now or formerly owned by William F. Griffith, on the south by property now or formerly owned by the City of Atlanta, and on the west by property now or formerly owned by Robert D. Collins.

RCS# 5041
10/06/03
2:05 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-14

ADOPT

YEAS:	13
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	2
EXCUSED:	0
ABSENT	1

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	B Boazman	NV Woolard

		10-06-03 Council Meeting
ITEMS ADOPTED ON CONSENT	**ITEMS ADVERSED ON CONSENT**	**ITEMS ADVERSED ON CONSENT**
1. 03-O-1475	37. 03-R-1521	71. 03-R-1555
2. 03-O-1471	38. 03-R-1522	72. 03-R-1556
3. 03-O-1438	39. 03-R-1523	73. 03-R-1557
4. 03-O-1442	40. 03-R-1524	74. 03-R-1558
5. 03-O-1452	41. 03-R-1525	75. 03-R-1559
6. 03-O-1380	42. 03-R-1526	76. 03-R-1560
7. 03-O-1478	43. 03-R-1527	77. 03-R-1561
8. 03-O-1479	44. 03-R-1528	78. 03-R-1562
9. 03-O-0953	45. 03-R-1529	79. 03-R-1563
10. 03-O-1455	46. 03-R-1530	80. 03-R-1564
11. 03-O-1476	47. 03-R-1531	81. 03-R-1565
12. 03-O-1481	48. 03-R-1532	82. 03-R-1566
13. 03-R-1498	49. 03-R-1533	83. 03-R-1567
14. 03-R-1499	50. 03-R-1534	84. 03-R-1568
15. 03-R-1582	51. 03-R-1535	85. 03-R-1569
16. 03-R-1583	52. 03-R-1536	86. 03-R-1570
17. 03-R-1502	53. 03-R-1537	87. 03-R-1571
18. 03-R-1503	54. 03-R-1538	88. 03-R-1572
19. 03-R-1505	55. 03-R-1539	89. 03-R-1573
20. 03-R-1506	56. 03-R-1540	90. 03-R-1574
21. 03-R-1507	57. 03-R-1541	91. 03-R-1575
22. 03-R-1488	58. 03-R-1542	92. 03-R-1576
23. 03-R-1489	59. 03-R-1543	93. 03-R-1577
24. 03-R-1490	60. 03-R-1544	94. 03-R-1578
25. 03-R-1491	61. 03-R-1545	
26. 03-R-1492	62. 03-R-1546	
27. 03-R-1495	63. 03-R-1547	
28. 03-R-1513	64. 03-R-1548	
29. 03-R-1514	65. 03-R-1549	
30. 03-R-1515	66. 03-R-1550	
31. 03-R-1516	67. 03-R-1551	
32. 03-R-1517	68. 03-R-1552	
33. 03-R-1518	69. 03-R-1553	
34. 03-R-1519	70. 03-R-1554	
35. 03-R-1520		
36. 03-R-1579		

Consent I Vote: 13 Yeas; 0Nays: (See RCS #5041)

#16

03-O-1478

(Do Not Write Above This Line)

AN ORDINANCE

BY

AN ORDINANCE AUTHORIZING THE CITY ATTORNEY TO INSTITUTE NECESSARY LEGAL ACTION THROUGH CONDEMNATION BY 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.

ADOPTED BY

OCT 06 2003

COUNCIL

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

Date Referred 09/15/03

Referred To: Transportation

Date Referred

Refferred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred To

Committee	Committee
TRANSPORTATION	Date
10/1/3 Date	Chair
Chair	Action
Action	Fav, Adv, Hold (see rev. side)
Fav, Adv, Hold (see rev. side)	Other
Other EN SUBSTITUTE	Members
Members	
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action	Action
Fav, Adv, Hold (see rev. side)	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

OCT 06 2003

ATLANTA CITY COUNCIL PRESIDENT

Cathy W. Woolard

CERTIFIED

OCT 06 2003

Rhonda Dauphin Johnson

MUNICIPAL CLERK

MAYOR'S ACTION

OCT 09 2003

MAYOR