

CITY COUNCIL
ATLANTA, GEORGIA

04-O-0126

A SUBSTITUTE ORDINANCE

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 OR LESSER INTERESTS IN 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-JACKSON ATLANTA INTERNATIONAL AIRPORT, IN AN AMOUNT NOT TO EXCEED \$72,226,979.33, 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 Hartsfield-Jackson Atlanta International Airport, (hereinafter "Airport") has undertaken the construction of an additional runway and associated improvements, 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 certain properties within Clayton County's jurisdiction for the Fifth Runway Project; and

WHEREAS, since Clayton County and the City of Atlanta entered into the March 16, 2000 Intergovernmental Agreement consenting to the City acquiring by condemnation certain properties within Clayton County's jurisdiction for the Fifth Runway Project, the City has determined that certain additional properties within Clayton County are needed for the Fifth Runway Project and those properties are identified in Exhibits A (the "Additional Properties") and B (map), which is herein incorporated and made part hereof, and as shown on file with the Program Manager for the Hartsfield Development Program; and

WHEREAS, the City and Clayton County entered into the First Amendment to Intergovernmental Agreement, dated December 2, 2003, granting the City permission, consent and authority to acquire by condemnation the Additional Properties within Clayton County's jurisdiction for the Fifth Runway Project by amendment to the March 16, 2000 Intergovernmental Agreement; and

WHEREAS, time is of the essence for the acquisition of the Additional Properties identified herein; and

WHEREAS, given the circumstances and need to immediately acquire title to the Additional Properties, the City desires to condemn the Additional Properties as soon as practicable; 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, which authorized acquisition of property for the Fifth Runway Project, not exceed \$149,000,000.00 without additional approval of the City; and

WHEREAS, the City will first pay the cost of condemning the Additional Properties from the \$149,000,000.00 allocated by City of Atlanta Ordinance 01-O-1867 the remaining balance being \$72,226,979.33; and

WHEREAS, it is anticipated that the cost of condemning all of the properties set forth in City of Atlanta Ordinance 01-O-1867 and the Additional Properties, will not exceed \$149,000,000.00, and therefore no further funds must be presently allocated for the condemnation of the Additional 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 Additional Properties identified in Exhibits A and B (which is herein incorporated and made part hereof) and as shown on file with the Program Manager for the Hartsfield Development Program 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 or lesser interests in the Additional Properties, as identified in 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, with respect to the Additional Properties, to institute condemnation proceedings in the name of the City of Atlanta for the condemnation of the required interests in said Additional Properties, 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 Additional 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 and the Additional Properties 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 and the Additional Properties 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 prior to exceeding \$149,000,000, as required by law, but no further condemnation actions regarding any of the Additional 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
APPROVED by the Mayor

FEB 16, 2004
FEB 24, 2004

EXHIBIT A

Additional Properties Needed for
Fifth Runway in Clayton County

Airport Parcel No.	Rights to be Acquired	Last Known Owner	Tax Id.	Address/Location
460RE	Lease Fee & Leasehold Interest, Avigation Easement Rights	American Tower/Danny J Allgood System Capital Real Property Corp.	13-054B-B004	450 Circle 85, Atlanta, Ga.
507RE	Right of Way & Easements	River Walk Assoc. LP	13-072A-H016	5174 Riverdale Rd, Atlanta, Ga.
508RE	Right of Way & Easements	Juan J. Perez	13-072C-F004	5239 Riverdale Road, Atlanta, Ga.
510RE	Fee Simple Title	Don Clay Graves	13-072A-A006	1465 Shoreham Drive, Atlanta, Ga.
511RE	Fee Simple Title	Companion Mtg. Corp/Lion Heart Investments	13-072A-A007	1459 Shoreham Place, Atlanta, Ga.
512RE	Right of Way & Easements	Vickie R. Garrett	13-072A-A008	1449 Shoreham Place, Atlanta, Ga.
519RE	Right of Way & Easements	Janice Renae Parsons	13-072A-A015	5117 Seaborn Place, Atlanta, Ga.
520RE	Fee Simple Title	Cecil Sims	13-072A-A016	5111 Seaborn Place, Atlanta, Ga.
521RE	Fee Simple Title	Edwin & Pamela Daniel	13-072A-A017	Vacant Lot at end of Seaborn Place
524RE	Right of Way & Easements	W. Hinton Stone, Jr.	13-072A-H017	5186 Riverdale Rd., Atlanta, Ga.
525RE	Right of Way & Easements	Bobby Clark	13-072A-H018	5194 Riverdale Rd., Atlanta, Ga.
526RE	Right of Way & Easements	Michael H. Bond	13-072A-H019	5200 Riverdale Rd., Atlanta, Ga.
527RE	Right of Way & Easements	William Paul Smith	13-072A-H020	5208 Riverdale Rd., Atlanta, Ga.
528RE	Right of Way & Easements	Lewis M. Lee	13-072A-H021	5214 Riverdale Rd., Atlanta, Ga.
529RE	Right of Way & Easements	Arthur G. Dudgeon	13-072A-H022	5220 Riverdale Rd., Atlanta, Ga.
530RE	Right of Way & Easements	Charles M. Harrington	13-072A-H023	5228 Riverdale Rd., Atlanta, Ga.
531RE	Right of Way & Easements	Joie K. Wong	13-072A-H024	5236 Riverdale Rd., Atlanta, Ga.
532RE	Easements		13-072A-H025	5265 Kingswood Cir., Atlanta, Ga.

RCS# 5425
2/16/04
2:56 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-12, EXCEPT:04-R-0242

RECONSIDER

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

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

CONSENT I

RCS# 5424
2/16/04
2:55 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-12, EXCEPT:04-R-0242

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 1
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

*Reconsidered
see
RCS# 5425*

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

CONSENT I

2-16-04 Council Meeting	
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT
1. 04-O-0049	33. 04-R-0207
2. 04-O-0125	34. 04-R-0208
3. 04-O-0126	35. 04-R-0209
4. 04-O-0143	36. 04-R-0210
5. 04-O-0144	37. 04-R-0211
6. 04-O-0035	38. 04-R-0212
7. 04-O-0067	39. 04-R-0213
8. 04-O-0233	40. 04-R-0214
9. 04-O-0235	41. 04-R-0215
10. 04-O-0251	42. 04-R-0223
11. 04-O-0231	43. 04-R-0224
12. 04-R-0188	ITEMS ADVERSED ON CONSENT
13. 04-R-0190	44. 04-R-0191
14. 04-R-0228	45. 04-R-0192
15. 04-R-0229	46. 04-R-0193
16. 04-R-0222	47. 04-R-0194
17. 04-R-0227	48. 04-R-0195
18. 04-R-0128	49. 04-R-0196
19. 04-R-0129	50. 04-R-0197
20. 04-R-0130	51. 04-R-0198
21. 04-R-0131	52. 04-R-0199
22. 04-R-0189	53. 04-R-0200
23. 04-R-0273	54. 04-R-0201
24. 04-R-0218	55. 04-R-0202
25. 04-R-0219	56. 04-R-0203
26. 04-R-0220	57. 04-R-0204
27. 04-R-0245	58. 04-R-0205
28. 04-R-0246	59. 04-R-0206
29. 04-R-0249	60. 04-R-0225
30. 04-R-0250	
31. 04-R-0274	
32. 04-R-0226	

04-0-0126
 (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 DECLARATION OF TAKING METHOD TO OBTAIN FEE SIMPLE TITLE TO OR LESSER INTERESTS IN 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-JACKSON 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.

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

Date Referred: 2/2/04
 Referred To: Transportation
 Date Referred:
 Referred To:
 Date Referred:
 Referred To:

First Reading
 Committee: TRANSPORTATION
 Date: 1/28/04
 Chair: Dennis C. Hays
 Referred To: TRANSPORTATION

Committee: TRANSPORTATION
 Date: 2/1/04
 Chair: Dennis C. Hays
 Action: Fav, Adv, Hold (see rev. side)
 Other: Substantive
 Members: [Signatures]

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

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

ADOPTED BY
 FEB 16 2004
 COUNCIL
 Refer To:

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

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

CERTIFIED
 FEB 16 2004

CERTIFIED
 FEB 16 2004
 [Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 [Signature]
 FEB 24 2004
 MAYOR