

10-R-1395

(Do Not Write Above This Line)

A RESOLUTION

Adopted

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE LAWSUIT STYLED CITY OF ATLANTA V. MERCURY AIR CARGO, INC., CIVIL ACTION NO 1:10 CV-1658 (TWT), FOR \$750,000; COLLECTED FUNDS SHALL BE DEPOSITED INTO FUND ACCOUNT 5501 (AIRPORT REVENUE FUND) 000002 (REVENUE DEPT) 3810008 (BUILDING RENTALS) 7563000 (AIRPORT);AND FOR OTHER PURPOSES

APPROVED BY:

[Signature]

JERRY L. DELOACH
Deputy City Attorney

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

ADOPTED BY

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

AUG 16 2010

COUNCIL

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

PSLA Committee
 7/27/10 Date
[Signature] Chair
 Action
 Fav, Adv, Hold (see rev. side)
 Other
 Members
 Refer To

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
 Refer To

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
- RC Vote

CERTIFIED

CERTIFIED
 AUG 16 2010
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 AUG 16 2010
 Rhonda Daughin Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 AUG 24 2010
[Signature]
 MAYOR



A RESOLUTION BY:

RESOLUTION NO.

THE PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE LAWSUIT STYLED CITY OF ATLANTA V. MERCURY AIR CARGO, INC., CIVIL ACTION NO 1:10 CV-1658 (TWT), FOR \$750,000; COLLECTED FUNDS SHALL BE DEPOSITED INTO FUND ACCOUNT 5501 (AIRPORT REVENUE FUND) 000002 (REVENUE DEPT) 3810008 (BUILDING RENTALS) 7563000 (AIRPORT); AND FOR OTHER PURPOSES

WHEREAS, Mercury Air Cargo, Inc. ("Mercury") was a tenant of the City in the South Cargo Complex at Hartsfield-Jackson Atlanta International Airport under a lease agreement dated February 5, 2001 (the "Lease"), and

WHEREAS, as part of its rent obligation, because the South Cargo Complex is occupied and shared by various tenants, Mercury was to pay the City a pro rata share of Common Area Maintenance ("CAM") charges, and

WHEREAS, the City did not invoice Mercury for, and Mercury did not pay, CAM charges until June 2009, when the City first discovered that CAM charges were unpaid and made a demand for payment; and

WHEREAS, The amount of unpaid CAM charges between 2001 and June 2009 was approximately \$2.1 million; and

WHEREAS, MERCURY also owes the City facility rent and CAM charges for the month of March 2010, the final month Mercury occupied space in the South Cargo Complex; and

WHEREAS, the City filed a lawsuit against Mercury in the Superior Court of Clayton County, on April 26, 2010, styled City of Atlanta v. Mercury Air Cargo, Inc.; Civil Action File No. 2010CV01981, to recover the outstanding CAM Charges and facility rent; and

WHEREAS, Mercury removed the lawsuit to the U.S. District Court for the Northern District of Georgia, which lawsuit is presently styled City of Atlanta v. Mercury Air Cargo, Inc.; Civil Action No. 1:10 CV-1658 (TWT) (the "Lawsuit"); and

WHEREAS, the City and Mercury have negotiated a full compromise settlement of the Lawsuit in the amount of \$750,000, to be paid in six monthly installments of \$125,000; and



WHEREAS, the Department of Aviation and the City Attorney have determined this to be a fair and reasonable settlement of the City's claims and in the best interest of the City of Atlanta; and

WHEREAS, Mercury no longer occupies space in the South Cargo Complex, the Lease has been terminated, and there are no other outstanding claims arising from the Lease;

IT IS HEREBY RESOLVED, that the City Attorney is authorized to settle the Lawsuit for the total amount of \$750,000, to be paid by Mercury in six monthly installments of \$125,000.

BE IT FURTHER RESOLVED that all collected funds shall be deposited into Fund Account 5501 (Airport Revenue Fund) 000002 (Revenue Dept) 3810008 (Building Rentals) 7563000 (Airport).

BE IT FINALLY RESOLVED that the City Attorney or his designee is authorized to execute a Settlement Agreement, Consent Order, Release, Dismissal and/or such other documents deemed appropriate to settle the case under the terms described in this resolution.

A true copy,

Rhonda Daughia Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED by Mayor Kasim Reed

AUG 16, 2010
AUG 24, 2010

RCS# 504
8/16/10
3:57 PM

Atlanta City Council

REGULAR SESSION

10-R-1395

AUTGH.CITY ATTOR.TO SETTLE LAWSUIT OF
CITY OF ATLANTA VS.MERCURY AIR CARGO
ADOPT

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

| | | | |
|-----------|-------------|-----------|-------------|
| Y Smith | Y Archibong | Y Moore | Y Bond |
| NV Hall | B Wan | Y Martin | Y Watson |
| Y Young | Y Shook | Y Bottoms | Y Willis |
| Y Winslow | Y Adrean | Y Sheperd | NV Mitchell |

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