

12-0-1080

(Do Not Write Above This Line)

AN ORDINANCE BY TRANSPORTATION COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER A BID IN U.S. BANKRUPTCY COURT TO PURCHASE A LEASEHOLD INTEREST LOCATED ON TWO PARCELS ON THE SOUTHSIDE OF VIRGINIA AVENUE EAST OF TOFFEE TERRACE IN DISTRICT 14, LAND LOT 127, CITY OF HAPEVILLE, FULTON COUNTY NEAR HARTSFIELD JACKSON ATLANTA INTERNATIONAL AIRPORT FOR AN AMOUNT NOT TO EXCEED THE APPRAISED FAIR MARKET VALUE OF THE LEASEHOLD INTEREST INCLUDING CLOSING COSTS TO BE CHARGED TO AND PAID FROM FDOA 5502 (AIRPORT RENEWAL AND EXTENSION FUND) 5223102 (OPERATING LEASE/RENTAL LAND) 180201 (AVIATION CAPITAL PLANNING); AND FOR OTHER PURPOSES.

Filed by full Council

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

Date Referred 9/4/12

Referred To: Transportation

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee Transportation
Date 9-29-12
Chair A
Referred To _____

Committee Transportation
Date 9-12-12
Chair g

Action Fav, Adv, Hold (see rev. side) F. 1/2 Other

Members [Signature]

[Signature]

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

Refer To

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

CERTIFIED

CERTIFIED

SEP 17 2012

COUNCIL PRESIDENT PRO TEM

[Signature]

CERTIFIED

[Signature]
MUNICIPAL CLERK

MAYOR'S ACTION

RCS# 2298
9/17/12
3:41 PM

Atlanta City Council

MULTIPLE

12-O-1080 AND 12-O-1081

FILE

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

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

MULTIPLE

**AN ORDINANCE
BY TRANSPORTATION COMMITTEE**

12- 0 -1080

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER A BID IN U.S. BANKRUPTCY COURT TO PURCHASE A LEASEHOLD INTEREST LOCATED ON TWO PARCELS ON THE SOUTHSIDE OF VIRGINIA AVENUE EAST OF TOFFEE TERRACE IN DISTRICT 14, LAND LOT 127, CITY OF HAPEVILLE, FULTON COUNTY NEAR HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT FOR AN AMOUNT NOT TO EXCEED THE APPRAISED FAIR MARKET VALUE OF THE LEASEHOLD INTEREST _____ INCLUDING CLOSING COSTS TO BE CHARGED TO AND PAID FROM FDOA 5502 (AIRPORT RENEWAL AND EXTENSION FUND) 5223102 (OPERATING LEASE/RENTAL LAND) 180201 (AVIATION CAPITAL PLANNING); AND FOR OTHER PURPOSES.

WHEREAS, The City of Atlanta (the "City") owns and operates Hartsfield-Jackson Atlanta International Airport ("Airport"), which includes a Lot containing approximately 5.324 acres of real property located on Virginia Avenue in Hapeville, Georgia ("Land"); and

WHEREAS, the City leased the Land to Carousel Hotel Corporation pursuant to that certain Restated and Consolidated Lease Agreement dated December 9, 1997 (the "Lease"); and

WHEREAS, the City approved and executed an Amendment to Restated and Consolidated Lease Agreement to permit a sublease of a portion of the Land for the purpose of providing parking to an adjacent restaurant ("Ruby Tuesday's"); and

WHEREAS, the Lease has been assigned several times and was most recently assigned to Kushal Hospitality, Inc. through a federal bankruptcy process; and

WHEREAS, due to various issues, including, without limitation, errors by State Bank of Texas during the recordation of its interest as tenant's mortgagee, the Bankruptcy Trustee has acquired an interest in two (2) of four (4) parcels that comprise the entire leasehold interest in the Land ("Bankruptcy Parcels"); and

WHEREAS, the Bankruptcy Court has authorized the bankruptcy trustee to sell the leasehold interest in the Bankruptcy Parcels; and

WHEREAS, the Bankruptcy Trustee will evaluate bids to purchase the leasehold interest encumbering the Bankruptcy Parcels during a hearing scheduled on August 23, 2012; and

WHEREAS, the City would like to regain possession of the Bankruptcy Parcels in order to among other things increase the rental to current fair market value; and

WHEREAS, the City will enter a bid to purchase the leasehold interest, in an amount not to exceed the fair market value of the leasehold interest _____ to the Bankruptcy Trustee for the leasehold interest in the Bankruptcy Parcels.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, that the Mayor is authorized to execute any and all documents or legal instruments to consummate the transaction whereby the City will purchase the leasehold interest in the Bankruptcy Parcels for a fair market value not to exceed the appraised fair market value of the Leasehold Interest and plus closing costs should the City's bid be accepted by the Bankruptcy Trustee and approved by the Bankruptcy Court.

SECTION 1: That the City Attorney is directed to represent the City at the bankruptcy hearing to bid on the leasehold interest in an amount not to exceed the appraised fair market value of the leasehold interest _____ plus closing costs for the Bankruptcy Parcels.

SECTION 2: That the City Attorney is directed to represent the City at the closing of the purchase of the leasehold interest of the Bankruptcy Parcels and to prepare all appropriate agreements and any appropriate documents or legal instruments, as required, for the purchase of the leasehold interest from the Bankruptcy Trustee.

SECTION 3: That all costs associated with the purchase of the leasehold interest ,including closing costs shall be charged to and paid from 5502 (Airport Renewal and Extension Fund) 5223102 (Operating Lease/Rental Land) 180201 (Aviation Capital Planning).

SECTION 4: That any appropriate agreements shall not become binding on the City and the City shall incur no liability under such agreements until the agreements have been executed by the Mayor, attested to by the Municipal Clerk, and approved as to form by the City Attorney and delivered to the appropriate parties.