


Recommended by: The Mayor and the Budget and Finance Committee  
Submitted by: The City Attorney and the Department of Planning, Engineering and Permits

ORDINANCE NO. 04-101

  
20041005000551380 Pg 1/7 29.00  
Shelby Cnty Judge of Probate, AL  
10/05/2004 16:06:00 FILED/CERTIFIED

**AN ORDINANCE TO ALTER, REARRANGE, AND EXTEND THE CORPORATE LIMITS OF THE CITY OF BIRMINGHAM, ALABAMA, SO AS TO EMBRACE AND INCLUDE WITHIN THE CORPORATE AREA OF SAID CITY ALL TERRITORY NOW WITHIN SUCH CORPORATE LIMITS AND ALSO CERTAIN OTHER TERRITORY CONTIGUOUS TO SAID CITY AND TO PROVIDE CERTAIN TAX EXEMPTIONS AND OTHER TERMS.**

**WHEREAS**, a certain petition signed by **Daniel J. Minahan**, President of Continental 120 Fund LLC, as authorized agent for Air Engineers, LLC, being the owner of all of the land within the territory therein described and proposed to be annexed to the City, together with a map of said territory showing its relationship to the corporate limits of the City has been filed with the City Clerk of the City of Birmingham; and,

**WHEREAS**, this Council has determined and found that the matters set forth and alleged in said petition are true, that said territory is contiguous to the corporate limits of the City of Birmingham, and that it is in the public interest that said property be annexed to the City of Birmingham to the extent that such territory lies closer to the present boundary line of the City of Birmingham than to the present boundary line of any other municipality;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Birmingham as follows:

Section 1. That said Council hereby assents to the annexation of said contiguous territory to the City of Birmingham, Alabama, and the corporate limits thereof are hereby extended and rearranged pursuant to the provisions of Chapter 42, Article 2, Code of Alabama 1975 (Sections 11-42-20 through 11-42-23, as amended) so as to embrace and include said contiguous territory, in addition to the territory already within its present corporate limits, within the corporate area of said City, which said territory, while it may be within police jurisdiction of another municipality, the new

boundary line does not lie at any point beyond the point which is equidistant between the old City boundary of the City of Birmingham and the present corporate boundary of any other municipality. Said territory is described in **Attachment A** hereto.

Section 2. Pursuant to the City's authority under the provisions of Chapter 42, Article 2, Code of Alabama 1975, (Sections 11-42-20 through 11-42-23, as amended), the annexation of the aforesaid property shall be subject to certain terms and conditions requested by the owner/petitioner as well as included in said owner's Petition for Annexation, which terms and conditions are hereby accepted and approved:

A. The annexation shall be contingent upon the owner/petitioner being able to de-annex all or a portion of the annexed land if said owner/petitioner is unable to obtain the desired zoning and utilities to the property; however, if the owner/petitioner has secured and obtained the extension of sewer services to the property or if there is a current agreement for the extension of sewer services to the property which is enforceable at the time of the request for de-annexation, the city shall not be obligated to de-annex the property.

B. In the event the petitioner, Continental 120 Fund LLC, or its assigns, does not close on the sale of the property within 365 days from the effective date of this annexation, the owner, Air Engineers, LLP, shall have the right to de-annex the property.

Section 3. The City of Birmingham hereby agrees to comply with those provisions of Act No. 604 enacted at the 1976 Regular Session of the Legislature of Alabama pertaining to the assumption and payment of a fire district's debt by the City, or the payment to said fire district by the City of an amount equal to six times the amount of dues that the portion of a fire district being annexed paid to said fire district during the year preceding the annexation of all or any portion thereof to the City of Birmingham.

Section 3. The provisions of this ordinance are intended to be severable and the invalidity of any provision hereof shall not be deemed to affect the validity of any other provision herein.

Section 4. That the City Clerk shall file a certified copy of this ordinance containing an accurate description of said annexed territory, together with a map of such territory with the Probate Judge of Shelby County, Alabama, and also cause a copy of this ordinance to be published in a newspaper of general circulation in the City of Birmingham.

ADOPTED BY THE  
CITY COUNCIL OF  
BIRMINGHAM  
September 21, 2004

APPROVED BY THE  
MAYOR  
ON  
September 28, 2004

  
CITY CLERK



# ATTACHMENT A

## PROPOSED ANNEXATION

Portions of tracts 1,2,3 & 4 of D.N. Lee Estates as recorded in Map Book 3, Page 115, in the Office of the Judge of Probate, Shelby County, Alabama, and acreage, all being in the South half of the South half of Section 29, Township 18 South, Range 1 West, being more particularly described as follows:

Commence at the Southwest corner of the Southwest quarter of the southeast quarter of Section 29, Township 18 South, Range 1 West; thence run North along the West line of said quarter-quarter Section for a distance of 309.85 feet to an iron pin found at the point of beginning, said point being on the Northwest right of way of Alabama Highway No. 119 known as Cahaba Valley Road; thence turn an angle to the right of 27 degrees, 54 minutes, 59 seconds and run in a Northeasterly direction along said Northwest right of way for a distance of 131.41 feet to an iron pin found on a curve to the left, having a central angle 03 degrees, 36 minutes, 08 seconds and a radius of 5,530.14 feet; thence turn an interior clockwise angle to the right of 178 degrees, 22 minutes, 28 seconds to the chord of said curve and run in a Northwesterly direction along the arc of said curve and also along said Northwest right of way for a distance of 347.69 feet to a concrete monument found; thence turn an interior clockwise angle to the right of 178 degrees, 12 minutes, 00 seconds from the chord of last stated curve and run in a Northeasterly direction along said Northwest right of way for a distance of 93.82 feet to an iron pin found; thence turn an interior clockwise angle to the right of 101 degrees, 23 minutes, 58 seconds and run in a Northwesterly direction for a distance of 314.01 feet to an iron pin found on the West line of said quarter-quarter Section; thence turn an interior clockwise angle to the right of 234 degrees, 06 minutes, 35 seconds and run in a Northerly direction along the West line of said quarter-quarter Section for a distance of 320.53 feet to an iron pin found at the Northeast corner of the Southeast quarter of the Southwest quarter of said Section 29, also said point being on the present corporate boundary of the City of Birmingham; thence turn an interior clockwise angle to the right of 89 degrees, 22 minutes, 09 seconds and run in a Westerly direction along the North line of said quarter-quarter Section, and along said present corporate boundary for a distance of 709.75 feet to an iron pin found at a PI point on Lot 27, Courtside at Brook Highland, A Condominium, as recorded in Map Book 28, on Page 103 in the Office of the Judge of Probate, Shelby County, Alabama; thence turn an interior clockwise angle to the right of 146 degrees, 24 minutes, 41 seconds and run in a Southwesterly direction along Lots 27, 29, 30, future Lot, 32 & 33 of said subdivision a distance of 294.91 feet to an iron pin found at a PI point on Lot 33; thence turn an interior clockwise angle to the right of 144 degrees, 18 minutes, 19 seconds and run Southwesterly along Lots 33 through 37 of said subdivision for a distance of 189.97 feet to an iron pin found at a PI point on Lot 37; thence turn an interior clockwise angle to the right of 159 degrees, 54 minutes, 09 seconds and run in a Southerly direction along Lots 37 through 49 of said subdivision for a distance of 736.70 feet to the Southeast corner of Lot 49; thence turn an interior clockwise angle to the right of 89 degrees, 23 minutes, 23 seconds and run in an Easterly direction for a distance of 986.77 feet to an iron pin found on the Northwest right of way of said Alabama Highway No. 119; thence turn an interior clockwise angle to the right of 118 degrees, 32 minutes, 03 seconds and run in a Northeasterly direction along said Northwest right of way for



a distance of 68.38 feet to the point of beginning; said parcel containing 26.43 acres, more or less.

Also one half of the adjacent right-of-way of Alabama Highway No. 119 known as Cahaba Valley Road more particularly described as follows; Commence at the Southwest corner of the Southwest quarter of the Southeast quarter of Section 29, Township 18 South, Range 1 West; thence run North along the West line of said quarter-quarter Section for a distance of 309.85 feet to an iron pin found at the point of beginning, said point being on the Northwest right of way of Alabama Highway No. 119 known as Cahaba Valley Road; thence turn an angle to the right of 27 degrees, 54 minutes, 59 seconds and run in a Northeasterly direction along said Northwest right of way for a distance of 131.41 feet to an iron pin found on a curve to the left, having a central angle 03 degrees, 36 minutes, 08 seconds and a radius of 5,530.14 feet; thence turn an interior clockwise angle to the right of 178 degrees, 22 minutes, 28 seconds to the chord of said curve and run in a Northwesterly direction along the arc of said curve and also along said Northwest right of way for a distance of 347.69 feet to a concrete monument found; thence turn an interior clockwise angle to the right of 178 degrees, 12 minutes, 00 seconds from the chord of last stated curve and run in a Northeasterly direction along said Northwest right of way for a distance of 93.82 feet to an iron pin found; thence turn an angle to the right of 101 degrees, 23 minutes, 58 seconds and run in a Southeasterly direction for a distance of 40.81 feet to the point of intersection with the centerline of said Highway No. 119 known as Cahaba Valley Road; thence turn an angle to the right and run in a Southwesterly direction along said centerline 614 feet more or less to the point of intersection with a Easterly projection of the South line of the above described property; thence turn an angle to the right and run in a Westerly direction along said projection 45.53 feet to the point of intersection with the Northwest right of way of Alabama Highway No. 119 known as Cahaba Valley Road; thence turn an angle to the right of 118 degrees, 32 minutes, 03 seconds as shown above and run in a Northeasterly direction along said Northwest right of way for a distance of 68.38 feet to the point of beginning; said parcel containing 0.545 acres, more or less.

The above described properties contain 26.975 acres or 0.042 sq.mi., more less

Address: Cahaba Valley Road (undeveloped)

PID: 58-03-29-0-002-011.000

PID: 58-03-29-0-002-012.000

PID: 58-03-29-0-002-013.000

PID: 58-03-29-0-002-013.001







