

12-0-0292

(Do Not Write Above This Line)

AN ORDINANCE  
BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN PROPERTY HAVING AN ADDRESS OF 0 BOWEN CIRCLE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF 14-0073-11-074-9 THROUGH THE EXERCISE OF CONDEMNATION, PURSUANT TO THE DECLARATION OF TAKINGS METHOD, O.C.G.A. § 22-3-140 OR OTHER CONDEMNATION METHOD, AS MAY BE APPLICABLE, PURSUANT TO O.C.G.A. §22-2-1 ET SEQ. TO COMPLETE THE MCDANIEL BRANCH WATER-SHED IMPROVEMENT PROJECT, PURSUANT TO THE REQUIREMENTS OF THE CITY'S COST SHARING AGREEMENT WITH THE U.S. CORPS OF ENGINEERS FOR THE MCDANIEL BRANCH WETLAND IMPROVEMENT PROJECT AND TO MEET THE CITY'S WASTEWATER TREATMENT REQUIREMENTS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY, INCLUDING USE OF OUTSIDE COUNSEL WHERE NECESSARY; THAT ALL AMOUNTS ASSOCIATED WITH THESE ACTIONS SHALL BE CHARGED TO AND PAID FROM PROJECT TASK AWARD AND ORGANIZATION NUMBER 17110944 (MCDANIEL BRANCH WETLANDS) 101 TASK) 505221391 (WATER & WASTEWATER R & E FUND) 411001 (LAND) COA (CITY OF ATLANTA) AND FUND DEPARTMENT ORGANIZATION AND ACCOUNT NUMBER 052 (WATER & WASTEWATER R & E FUND) 170602 (DWM FRENCHWAY PLANNING & ACQUISITION) 5411001(LAND) 410000 (PLANNING & ZONING); AND FOR OTHER PURPOSES.

*As Amended*

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

Date Referred 3/19/12  
 Referred To: City Utilities  
 Date Referred  
 Referred To:  
 Date Referred  
 Referred To:

Committee City Utilities  
 Date 3/19/12  
 Chair John P. ...  
 Referred To City

City Committee  
 Date 3/22/2012  
 Chair ...

Action AS APPROVED  
 Fav. Adv. Hold (see rev. side)  
 Other

Members ...  
 Refer To ...

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

ADOPTED BY  
APR 16 2012  
**COUNCIL**  
 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
  - Consent
  - V Vote
  - RC Vote

CERTIFIED

CERTIFIED  
 APR 16 2012  
 ATLANTA CITY COUNCIL PRESIDENT  
*[Signature]*

CERTIFIED  
 APR 16 2012  
 MUNICIPAL CLERK  
*[Signature]*

APPROVED

APR 25 2012

MAYOR'S ACTION

WITHOUT SIGNATURE  
 BY OPERATION OF LAW



AN AMENDED ORDINANCE

12-O-0292

BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE ACQUISITION CERTAIN PROPERTY HAVING AN ADDRESS OF 0 BOWEN CIRCLE, ATLANTA, GEORGIA AND A FULTON COUNTY TAX IDENTIFICATION NUMBER OF 14-0073-LL-074-9 THROUGH THE EXERCISE OF CONDEMNATION, PURSUANT TO THE DECLARATION OF TAKINGS METHOD, O.C.G.A. § 22-3-140 OR OTHER CONDMENATION METHOD, AS MAY BE APPLICABLE, PURSUANT TO O.C.G.A. §22-2-1 *ET SEQ.* TO COMPLETE THE MCDANIEL BRANCH WATERSHED IMPROVEMETN PROJECT, PURSUANT TO THE REQUIREMENTS OF THE CITY'S COST SHARING AGREEMENT WITH THE U.S. CORPS OF ENGINEERS FOR THE MCDANIEL BRANCH WETLANT IMPROVEMENT PROJECT AND TO MEET THE CITY'S WASTEWATER PERMITTING REQUIREMENTS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY, INCLUDING USE OF OUTSIDE COUNSEL WHERE NECESSARY FOR AN AMOUNT NOT TO EXCEED \$210,000.00; THAT ALL AMOUNTS ASSOCIATED WITH THESE ACTIONS SHALL BE CHARGED TO AND PAID FROM PROJECT TASK AWARD AND ORGANIZATION NUMBER 17110944 (MCDANIEL BRANCH WETLANDS) 101 (TASK) 505221391 (WATER & WASTEWATER R & E FUND) 5411001 (LAND) COA (CITY OF ATLANTA) AND FUND DEPARTMENT ORGANIZATION AND ACCOUNT NUMBER 5052 (WATER & WASTEWATER R & E FUND) 170602 (DWM GREENWAY PLANNING & ACQUISITION) 5411001(LAND) 7410000 (PLANNING & ZONING); AND FOR OTHER PURPOSES.

**WHEREAS**, the City of Atlanta entered into an intergovernmental cost sharing agreement ("Agreement") with the U.S. Army Corps of Engineers ("USACE") to fund a constructed wetlands project, known as the McDaniel Branch Watershed Improvement project ("Project"), pursuant to Resolution No. 10-R-0236; and

**WHEREAS**, the Agreement was amended to increase the amount of the Agreement to cover the costs associated with the purchase of additional property needed to complete the Project, pursuant to Resolution No. 10-R-2122, said property having an address of 14-0073-LL-074-9 and being more particularly described in Exhibit "A" ("Property"); and

**WHEREAS**, pursuant to the Agreement, the City engaged in good faith negotiations with the owner of the Property to acquire the Property based upon a certified appraisal of the Property; and



**WHEREAS**, the owner of the Property is unable to transfer good and marketable title to the City, as the Property is encumbered by numerous and significant liens and outstanding judgments affecting the Property, which appraised value is \$165,000.00; and

**WHEREAS**, the City must acquire the Property to complete the Project or face losing the funding provided by the USACE for the Project; and

**WHEREAS**, condemnation, including use of the Declaration of Takings method, pursuant to O.C.G.A. § 22-3-140 or other appropriate method, as provided in O.C.G.A. § 22-2-1 *et seq.*, is necessary to acquire clear title to the Property to meet the requirements of the Project under the Agreement.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**Section 1.** Pursuant to Section 2-1542 of the City’s Code of Ordinances, the City Attorney is authorized to institute condemnation or other legal proceedings, as may be necessary to clear existing liens and encumbrances on the Property and acquire good and marketable title to the Property, without further authorization by City Council, including engagement and/or use of outside counsel as may be necessary for the purpose of completing the Project in accordance with the Agreement for an amount not to exceed \$210,000.00 for litigation, acquisition and associated costs.

**Section 2.** The Declaration of Takings Method, pursuant to O.C.G.A. O.C.G.A. § 22-3-140, or, alternatively, other condemnation proceeding authorized by O.C.G.A. § 22-2-1 *et seq.* is authorized to acquire good and marketable title to the Property for purposes of completing the Project.

**Section 3.** The City Attorney, or her designee, is authorized to monitor and supervise the transactions associated with all legal proceedings and actions concerning the acquisition of the Property.

**Section 4.** The Mayor, or his designee, is authorized to execute all documents on behalf of the City as may be necessary to effectuate the purposes of this Ordinance, including without limitation, acquisition of good and marketable title to the Property.

**Section 5.** All costs related to acquisition of the Property, as authorized by this Ordinance will be charged to and paid from Project Task Award and Organization Number 17110944 (McDaniel Branch Wetlands) 101 (Task) 505221391 (Water & Wastewater Renewal & Extension Fund) 5411001 (Land) COA (City of Atlanta) and Fund Department Organization and Account Number 5052 (Water & Wastewater Renewal & Extension Fund) 170602 (DWM Greenway Planning & Acquisition) 5411001 (Land) 7410000 (Planning & Zoning).

**Section 6.** Article X, Division 14, Subdivision II of the City’s Code of Ordinances is waived to the extent such sections apply, such that all authorizations granted in this



Ordinance are granted without the need for prior or further authorization of City Council so that the Property can be acquired in a timely fashion to meet the requirements of the Project under the Agreement.

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk

ADOPTED as amended by the Council  
APPROVED as per City Charter Section 2-403

APR 16, 2012  
APR 25, 2012



**IDENTIFICATION OF REAL ESTATE**



Property: A 3.722-acre flood plain site.

Location: Northwest corner of Bowen Circle and Arthur Langford Jr. Place; Atlanta, Fulton County, Georgia.

Land Size: 3.722 Acres (per Survey).

Identifying Exhibits in Addenda:

Exhibit I:	Survey
Exhibit II:	Legal Description
Exhibit III:	Subject Photographs
Exhibit IV:	Flood Maps

RCS# 1860  
4/16/12  
2:25 PM

Atlanta City Council

CONSENT I

CONSENT AGENDA SECTION I  
MONDAY, APRIL 16, 2012; EXCEPT 12-R-0451  
ADOPT

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

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

CONSENT I

		04-16-12
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
1. 12-O-0298	38. 12-R-0416	
2. 12-O-0306	39. 12-R-0417	
3. 12-O-0307	40. 12-R-0418	
4. 12-O-0447	41. 12-R-0419	
5. 12-O-0459	42. 12-R-0420	
6. 12-O-0292	43. 21-R-0421	
7. 12-O-0206	44. 12-R-0422	
8. 12-O-0291	45. 12-R-0423	
9. 12-O-0235	46. 12-R-0424	
10. 12-O-0373	47. 12-R-0425	
11. 12-R-0196	48. 12-R-0426	
12. 12-R-0393	49. 12-R-0427	
13. 12-R-0394	50. 12-R-0428	
14. 12-R-0395	51. 12-R-0429	
15. 12-R-0396	52. 12-R-0430	
16. 12-R-0403	53. 12-R-0431	
17. 12-R-0404	54. 12-R-0432	
19. 12-R-0405	55. 12-R-0433	
20. 12-R-0406	56. 12-R-0434	
21. 12-R-0460		
22. 12-R-0461		
23. 12-R-0462		
24. 12-R-0463		
25. 12-R-0390		
26. 12-R-0441		
27. 12-R-0407		
28. 12-R-0456		
29. 12-R-0435		
30. 12-R-0436		
31. 12-R-0413		
32. 12-R-0414		
33. 12-R-0415		
34. 12-R-0467		
35. 12-R-0468		
36. 12-R-0469		
37. 12-R-0470		