



04-O-2260

**AN ORDINANCE
BY COUNCIL MEMBER NATALYN ARCHIBONG
AS AMENDED BY FINANCE/EXECUTIVE COMMITTEE**

AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF ATLANTA, GEORGIA (THE "AUTHORITY") AND THE CITY OF ATLANTA PERTAINING TO THE PERFORMANCE OF CERTAIN PUBLIC IMPROVEMENTS BY THE AUTHORITY FOR THE BENEFIT OF THE CITY OF ATLANTA; TRANSFERRING APPROPRIATIONS IN THE AMOUNT OF \$5,369,370 TO FUND SAID PUBLIC IMPROVEMENTS; AND FOR OR PURPOSES.

WHEREAS, The Housing Authority of the City of Atlanta, Georgia (the "Authority") (together with its development partner, Capitol Gateway, LLC, a joint venture of Integral Properties, LLC, a Georgia limited liability company, TCR Georgia Housing Limited Partnership, and Urban Realty Partners is engaged in the revitalization of the Capitol Homes public housing community ("Capitol Homes") into a new mixed-use, mixed-income community known as Capitol Gateway; and

WHEREAS, the revitalization includes the demolition of 694 distressed units and related facilities and the redevelopment of Capitol Homes into a new master planned, mixed income, mixed finance, mixed use community, including approximately 857 onsite multifamily rental units of which approximately 274 (32%) will be reserved for public housing, approximately 45,000 sq. ft. in retail space, a new early childhood learning facility, as well as approximately 90 newly constructed for-sale homes to be located off-site and 40 of which will be reserved for sale to families who have graduated from the public housing or other AHA affordable housing programs with first priority to families who formerly lived at Capitol Homes; and

WHEREAS, Phase I of the revitalization of Capitol Homes is the 90 off-site single family for-sale home component and currently 3 homes are complete including two market rate for-sale homes and one affordable for-sale home; and

WHEREAS, Phase II of the revitalization of Capitol Homes will encompass the redevelopment of the MLK Village rental property owned by the Ebenezer Charitable Foundation and located adjacent to Capitol Homes, which has received an allocation of AHA Project based Section 8 vouchers and a Low Income Housing Tax Credit award from the State of Georgia, the phase includes 122 rental units designated for senior living and is scheduled to close before the end of the year; and



WHEREAS, Phase III of the revitalization of Capitol Homes is located on-site and includes 266 mixed income rental units, scheduled for a financial closing in February 2005; and

WHEREAS, the revitalization will include an array of social and economic development projects including retail, daycare, counseling, educational training and recreational activities; and

WHEREAS, the revitalization of this community is of enormous importance to the economic health of the City and the well-being of its residents; and

WHEREAS, as part of the revitalization of Capitol Homes, the City and the Authority have agreed that in order to support the development timetable set forth for the revitalization and simultaneously accomplish the City's long term goal for storm and sanitary sewer separation within the Intrachment Creek Basin, the City has authorized the Authority to perform, on behalf of the City, the public improvements in the public right of way around and within Capitol Homes necessary to separate the existing combined sewers and also support the revitalization, as more fully described in the Public Improvements Budget attached as Exhibit A; and

WHEREAS, the City and the Authority are working together to develop plans for the 2004 Capitol Homes Revitalization Public Improvements; and

WHEREAS, the City and the Authority acknowledge and agree that the most efficient and economical manner in which to perform the 2004 Capitol Homes Revitalization Public Improvements is to have such work performed by the Authority (through its private sector development partners) and to have the City contribute \$5,369,370 to the Authority for the costs incurred or to be incurred by the Authority in performing such work; and

WHEREAS, the 2004 Capitol Homes Revitalization Public Improvements budget, work scope and design have been reviewed and developed with input from the City's Department of Watershed Management and the Department of Parks, Recreation and Cultural Affairs; and

WHEREAS, the City now wishes to make a contribution to the Authority for a portion of the cost of said improvements.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

Section 1. The Mayor is authorized to enter into an intergovernmental agreement with the Authority for the construction of the 2004 Capitol Homes Revitalization Public Improvements.



Section 2. That the \$5,369,370 required funding for the 2004 Capitol Homes Revitalization Public Improvements was allocated in the 2004 Water and Wastewater Bond Fund Budget per approved City Council Ordinance 04-O-1728 and the funds will be transferred to the Authority.

Section 3. The City Attorney is authorized to prepare and review all necessary contractual agreements, and the Mayor is authorized to execute all necessary agreements after approval by the City Attorney as to form.

Section 4. Said agreements shall not be binding on the City until executed by the Mayor and delivered to the contracting party.

Section 6. The Chief Financial Officer be and is hereby authorized to make payment for said contractual agreements from the 2004 Water and Wastewater Bond Fund Budget in the aggregate amount not to exceed \$5,369,370. Said amount should be charged from Fund account center number 2J28-774001-Q38103229999.

A true copy,

Rhonda Daughlin Johnson
Municipal Clerk, CMC

ADOPTED as amended by the Council
APPROVED by the Mayor

Jan 03, 2005
Jan 10, 2005

04-0

December 14, 2004

EXHIBIT A



**CAPITOL GATEWAY
PUBLIC IMPROVEMENTS AND INFRASTRUCTURE
FUNDING ALLOCATIONS**

PHASE I

LINE ITEM	AMOUNT	FUNDING SOURCE	AMOUNT ALLOCATED	REMAINING AMT NEEDED
Storm Sewer	\$ 2,021,450.00	WSBF	\$ 2,021,450.00	\$ -
Sanitary Sewer	\$ 999,005.00	WSBF	\$ 999,005.00	\$ -
Water	\$ 705,950.00	WSBF	\$ 656,610.00	\$ 49,340.00
Streets, Curb & Gutter	\$ 175,988.00	UNIDENTIFIED		\$ 175,988.00
Streetscape & Landscape	\$ 791,358.00	UNIDENTIFIED		\$ 791,358.00
Lighting	\$ 331,414.00	UNIDENTIFIED		\$ 331,414.00
Relocate Overhead Service	\$ 440,540.00	UNIDENTIFIED		\$ 440,540.00
TOTAL	\$ 5,465,705.00		\$ 3,677,065.00	\$ 1,788,640.00

PHASE II

LINE ITEM	AMOUNT	FUNDING SOURCE	AMOUNT ALLOCATED	REMAINING AMT NEEDED
Storm Sewer	\$ 2,875,888.00	WSBF	\$ 1,353,845.00	\$ 1,522,043.00
Sanitary Sewer	\$ 298,360.00	WSBF	\$ 114,230.00	\$ 184,130.00
Water	\$ 353,850.00	WSBF	\$ 224,230.00	\$ 129,620.00
Streets, Curb & Gutter	\$ 961,780.00	UNIDENTIFIED		\$ 961,780.00
Streetscape & Landscape	\$ 451,810.00	UNIDENTIFIED		\$ 451,810.00
Lighting	\$ 87,362.00	UNIDENTIFIED		\$ 87,362.00
Relocate Overhead Service	\$ 168,445.00	UNIDENTIFIED		\$ 168,445.00
TOTAL	\$ 5,197,495.00		\$ 1,692,305.00	\$ 3,505,190.00

Total Phase I & II Budget \$ 10,663,200.00

Total Designated Funds Allocated for Phase I & II \$ 5,369,370.00

Total Remaining Amount Needed: \$ 5,293,830.00

Total Allocated & Remaining Balance \$ 10,663,200.00

Funding Source Legend (WSBF) Water / Sewer Bond Fund
 2J28 774001 Q38103229999 AHA - Capitol Redevelopment \$ 1,333,958.00
 2J28 774001 Q38103229999 AHA - Capitol Redevelopment \$ 4,035,412.00
 Total Appropriated Funds \$ 5,369,370.00

Execution Copy (2004 Capitol Homes Revitalization)

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the "Agreement"), entered into as of the ___ day of December, 2004, by and between **The Housing Authority of the City of Atlanta, Georgia** (herein called the "Authority") and the **City of Atlanta, Georgia** (herein called the "City").

RECITALS

WHEREAS, the Authority (together with its development partner, Capitol Gateway, LLC, a joint venture of Integral Properties, LLC, a Georgia limited liability company (f/k/a The Integral Group, L.L.C.), Trammell, and the Authority) is engaged in the revitalization of the Capitol Homes public housing community ("Capitol Homes") into a new mixed-use, mixed-income community; and

WHEREAS, the revitalization includes the demolition of 694 distressed public housing rental units and related facilities and the redevelopment of Capitol Homes into a new master planned, mixed income, mixed finance, mixed use community, including approximately 857 onsite multifamily rental units of which approximately 32% will be reserved for public housing, approximately 45,000 sq. ft. in retail space, an early childhood learning facility, as well as approximately 90 newly constructed for-sale homes to be located off-site and 40 of which will be reserved and affordable for-sale to families who have graduated from the public housing or other AHA affordable housing programs with first priority to families who formerly lived at Capitol Homes and who otherwise qualify for homeownership; and

WHEREAS, Phase I of the revitalization of Capitol Homes includes 90 off-site single family for-sale homes and currently 3 homes are complete, including two market rate for-sale homes and one affordable for-sale home; and

WHEREAS, Phase II of the revitalization of Capitol Homes will encompass the redevelopment of the MLK Village rental property owned by the Ebenezer Charitable Foundation and located adjacent to Capitol Homes, which has received an allocation of Project Based housing choice vouchers and a Low Income Housing Tax Credit award from the State of Georgia, the phase includes 122 rental units designated for senior living and is scheduled to close before the end of the year; and

WHEREAS, Phase III of the revitalization of Capitol Homes is located on-site and includes 266 mixed income rental units, scheduled for a financial closing in February 2005; and

WHEREAS, the revitalization will include an array of social and economic development

projects including retail, daycare, counseling, educational training and recreational activities; and

WHEREAS, the revitalization of this community is of enormous importance to the economic health of the City and the well-being of its residents; and

WHEREAS, as part of the revitalization of Capitol Homes, the City and the Authority have agreed that in order to support the development timetable set forth for the revitalization and simultaneously accomplish the City's long term goal for storm and sanitary sewer separation within the Intrenchment Creek Basin, the City has authorized the Authority to perform, on behalf of the City, the public improvements in the public right of way around and within necessary to separate the existing combined sewers and also support the revitalization, as more fully described in the Public Improvements Budget attached as Exhibit A to be known as the 2004 Capitol Homes Revitalization Public Improvements (the " 2004 Capitol Homes Revitalization Public Improvements"); and

WHEREAS, the City and the Authority are working together to develop plans for the 2004 Capitol Homes Revitalization Public Improvements supporting the revitalization of Capitol Homes; and

WHEREAS, the City and the Authority acknowledge and agree that the most efficient and economical manner in which to perform the 2004 Capitol Homes Revitalization Public Improvements is to have such work performed by the Authority (through its private sector development partners) and to have the City contribute \$5,369,370 to the Authority for the costs incurred or to be incurred by the Authority in performing such work; and

WHEREAS, the City now wishes to make a contribution to the Authority for a portion of the cost of improvements to be paid from the 2004 Water and Wastewater Bond Fund Budget; and

WHEREAS, subject to the terms and conditions set forth herein, the City and the Authority have agreed that the Authority (through its private development partners) would perform the 2004 Capitol Homes Revitalization Public Improvements on behalf of the City, and the City desires to accept such offer and contribute the funds to the Authority for the 2004 Capitol Homes Revitalization Public Improvements.

NOW, THEREFORE, in consideration of ten dollars (\$10) and the mutual agreements and covenants hereinafter set forth and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto hereby agree as follows:

1. City Legislation and Funding. The City hereby acknowledges and agrees that pursuant to Ordinance No.04-O-____, adopted by the City Council on _____ and approved by the Mayor on _____, that the Mayor is authorized to execute this Agreement. (Copy of Ordinance No. 04-O-____ is attached).
2. Performance of Work; Inspection. The City hereby authorizes the Authority and its

contractors and the Authority hereby agrees to perform or cause its contractors to perform the 2004 Capitol Homes Revitalization Public Improvements work on behalf of the City. The Authority shall cause an independent inspecting engineer to periodically inspect the 2004 Capitol Homes Revitalization Public Improvements work and confirm that the relevant portion of the public improvements has been satisfactorily completed. The Authority shall cause a copy of such report to be delivered to the City's Department of Public Works and Department of Watershed Management. Upon completion of all of the 2004 Capitol Homes Revitalization Public Improvements work, the Authority shall cause said inspecting engineer to deliver a final report which complies with the specifications required by the City's Department of Public Works to the City's Department of Public Works and Department of Watershed Management confirming that the 2004 Capitol Homes Revitalization Public Improvements work was completed satisfactorily.

3. Contribution by the City.

a. Contribution. The City hereby agrees to contribute to the Authority an amount equal to \$5,369,370 (the "Contribution") for the cost of performing the 2004 Capitol Homes Revitalization Public Improvements work. The City shall make such contribution as soon as practicable, but in no event later than February 15, 2005 (the "Commitment Date"). The City acknowledges that its commitment to provide sufficient funding for the public improvements required to support the revitalization of Capitol Homes is clearly established in Ordinance 04-O-1728 approving the 2004 Water and Wastewater Bond Fund Budget which includes \$5,369,370 for improvements needed to support the 2004 Capitol Homes Revitalization Public Improvements.

b. Acknowledgment of Purpose of the Contribution. The City hereby acknowledges that the purpose of the Contribution is to make a contribution to the Authority to pay the cost of performing the 2004 Capitol Homes Revitalization Public Improvements work. The Authority (through its private sector development partners) will be performing such work on behalf of the City. The Authority through its private sector development partners has become financially obligated to contractors, and will be affected by deadlines concerning the construction of the 2004 Capitol Homes Revitalization Public Improvements. If the Authority has not received the Contribution by the Commitment Date, then the Authority will be at risk for becoming liable for, or subject to liens, fines and penalties and other monetary damages in connection with unpaid construction costs incurred with respect to the 2004 Capitol Homes Revitalization Public Improvements. Accordingly, the City agrees to indemnify and hold harmless the Authority from any damages, losses, expenses, liens, penalties or fines incurred or that are placed in existence by reason of the City's failure to provide fully and timely the Contribution to the Authority as provided in the above-paragraph.

c. Refund to the City. The Authority and the City hereby acknowledge that the cost of performing the 2004 Capitol Homes Revitalization Public Improvements work may exceed \$5,369,370. The Authority and the City further acknowledge that the cost of public improvements for all phases of public improvements work related to the 2004 Capitol Homes Revitalization is

likely to exceed contributions from the City. Accordingly, the Authority and the City agree as follows: (1) the excess contribution on any phase will first be used to offset cost overruns on other phases, and (2) if the cost of the public improvements for all phases of the Capitol Homes redevelopment does not exceed the total contributions from the City for such public improvements, then the Authority shall refund to the City all unexpended funds. The City acknowledges that it owns and has responsibility for furnishing and performing the 2004 Capitol Homes Revitalization Public Improvements. The Authority is willing to perform the 2004 Capitol Homes Revitalization Public Improvements under the terms and conditions of this Agreement.

4. Dedication of Public Improvements to City. The City and the Authority hereby acknowledge that the revitalization of Capitol Homes is being accomplished in five or more phases. At such time as the revitalization of Capitol Homes is complete, or at such earlier time as may be practicable given the construction schedule for the 2004 Capitol Homes Revitalization Public Improvements, the Authority, as appropriate, shall cause the 2004 Capitol Homes Revitalization Public Improvements work to be dedicated to the City, and the City shall accept such dedication, subject to the improvements being completed in accordance with City standards.

5. Miscellaneous.

a. Insurance. The Authority and its contractors shall maintain such property, casualty, fire, hazard and liability insurance as the City may reasonably require and on all such insurance policies, the City shall be named as an additional insured as its interests may appear. The Authority and the City hereby acknowledge that the cost of such insurance will be considered a cost of the 2004 Capitol Homes Revitalization Public Improvements.

b. Indemnity. To the extent that the Authority is the beneficiary of any warranties, representations or indemnifications made by any contractor, subcontractor or supplier in connection with the 2004 Capitol Homes Revitalization Public Improvements work, the Authority agrees to indemnify and hold harmless the City, its officers, agents and employees from any and all losses, expenses, demands and claims (collectively, "Losses") against the City, its officers, agents and employees sustained or alleged to have been sustained in connection with or as a result from the gross negligence or willful misconduct of the Authority in performing the 2004 Capitol Homes Revitalization Public Improvements work; provided, that any claim for indemnification must be submitted to the Authority within thirty (30) days of the date on which the City's Department of Law becomes aware that a Loss is sustained or alleged to be sustained by the City. The City hereby agrees to cause the Department of Law to notify the Authority in the manner described in Section 5.f hereof on the date that the Department of Law becomes aware of a sustained or alleged Loss. The City hereby acknowledges that the Authority is acting as an Agent in this instance and agrees that the indemnification provided above is limited solely to the indemnification provided to the Authority by contractors, subcontractors or suppliers who perform such work. The parties agree that any indemnification or obligation to indemnify under this paragraph is expressly limited to any insurance proceeds received by the Authority from liability insurance required under this Agreement and to any amounts received by the Authority from contractors, subcontractors or suppliers as a result of

warranties, representations and indemnifications. In the event it is determined that a Loss which was alleged to have been sustained by the City was not actually sustained, the City shall refund any amounts paid to it by the Authority or on behalf of the Authority pursuant to this Section 5.b, to the Authority. This indemnification shall expire two years from the date of the completion of the 2004 Capitol Homes Revitalization Public Improvements work.

c. Contract Budget. Funds of the contract budget may be shifted between water and sewer eligible line items of the 2004 Capitol Homes Revitalization Public Improvements Budget with advance written approval by the City through the Commissioner of Watershed Management.

d. Monitoring Activities. The Authority agrees that the City may carry out inspection, monitoring, evaluation and auditing activities concerning the performance of the 2004 Capitol Homes Revitalization Public Improvements work as the City deems reasonably necessary, provided that City gives reasonable advance notice to the Authority.

e. Records. The Authority and its contractors shall maintain such records and accounts related to the 2004 Capitol Homes Revitalization Public Improvements as are deemed reasonably necessary by the City, and the Authority, upon receipt of five business days prior written notice from the City, shall permit representatives of the City, at the City's sole cost and expense, to have full access to and the right to examine any books, documents, papers and records involving the performance of the Work during normal business hours at the Authority's central office. The Authority's obligation to maintain such records and accounts and the City's right to examine any books, records or other documents shall expire two years after the date of this Agreement.

f. Notices. Notices and reports described herein shall be delivered or sent to the parties as follows.

To the Authority:

President and Chief Executive Officer
The Housing Authority of the City of Atlanta, Georgia
230 John Wesley Dobbs Avenue, N.E.
Atlanta, Georgia 30303-2421
Fax: 404-332-0100
Tel: 404-817-7463

With a copy to:

Senior Vice President and General Counsel
Legal and Intergovernmental Affairs
The Housing Authority of the City of Atlanta, Georgia
230 John Wesley Dobbs Avenue, N.E.
Atlanta, Georgia 30303-2421
Fax: 404-332-0104
Tel: 404-817-7293

To the City:

Commissioner
Department of Watershed Management
55 Trinity Avenue, S.W.
Suite 5400
Atlanta, Georgia 30335-0310
Fax: 404-658-7194
Tel: 404-330-6081

With a copy to:

Stacey Abrams, Esq.
Suite 4100, City Hall Tower
68 Mitchell Street, S.W.
Atlanta, Georgia 30335-0332
Fax: 404-658-6894
Tel: 404-330-6400

g. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or by reason of public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of these transactions contemplated hereby is not affected in any manner materially adverse to either party.

h. Entire Agreement; Amendment; Waiver; Counterparts. This Agreement constitutes the entire agreement between the parties; it supersedes any prior agreement or understandings between them, oral or written, with respect to the matters addressed herein, all of which are hereby canceled. This Agreement may not be amended or modified except by an instrument in writing signed by both parties hereto. Waiver of any term or condition of this Agreement shall be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the City and the Authority have executed this Agreement and caused their seals to be affixed and attested as of the day and year first above written.

THE HOUSING AUTHORITY OF
CITY OF ATLANTA, GEORGIA

By: _____ (SEAL)
Renée Lewis Glover
President and Chief Executive Officer

Attest:

Assistant Secretary

CITY OF ATLANTA, GEORGIA

By: _____ (SEAL)
Mayor

Attest:

Municipal Clerk

Recommended:

Chief Operating Officer

Approved as to Form:

Chief Financial Officer

City Attorney

Commissioner, Department of Watershed
Management

RCS# 6370
1/03/05
2:00 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 2-15

ADOPT

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 6
EXCUSED: 0
ABSENT 0

Y Smith	NV Archibong	Y Moore	NV Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	NV Willis
Y Winslow	Y Muller	NV Sheperd	NV Borders

CONSENT I

04 2260

AN ORDINANCE (Do Not Write Above This Line)
 BY COUNCIL MEMBER NATALYN ARCHIBONG
Natalyn Archibong

AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF ATLANTA, GEORGIA (THE "AUTHORITY") AND THE CITY OF ATLANTA PERTAINING TO THE PERFORMANCE OF CERTAIN PUBLIC IMPROVEMENTS BY THE AUTHORITY FOR THE BENEFIT OF THE CITY OF ATLANTA; TRANSFERRING APPROPRIATIONS IN THE AMOUNT OF \$5,369,370 TO FUND SAID PUBLIC IMPROVEMENTS FOR OTHER PURPOSES.

ADOPTED BY

JAN 03 2005

COUNCIL

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

Date Referred 12/10/04
 Referred To: Finance / Executive
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading
 Committee _____
 Date _____
 Chair _____
 Referred To _____

F.W. Pagan
 Date 12-15-04
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____

Walter R. Miller
William G. Foster
 Date 12/15/04
 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 _____

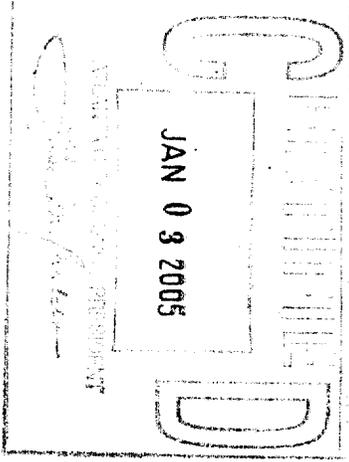
Refer To _____

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

Refer To _____

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

CERTIFIED



CERTIFIED
 JAN 03 2005
Rick Douglas Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

Natalyn Archibong
 JAN 11 2005

MAYOR