



# City of Sacramento City Council

915 I Street, Sacramento, CA, 95814  
[www.CityofSacramento.org](http://www.CityofSacramento.org)

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**Meeting Date:** 7/31/2012

**Report Type:** Public Hearing

**Title:** Development Agreement for Gateway West Planned Unit Development (P12-020)  
(Noticed on 7-19-12)

**Report ID:** 2012-00610

**Location:** District 1

**Recommendation:** Conduct a public hearing and upon conclusion, pass 1) a Resolution determining the project exempt per the California Environmental Quality Act; 2) an Ordinance approving a Development Agreement Amendment to extend the term of an approved Development Agreement.

**Contact:** Evan Compton, Associate Planner, (916) 808-5260, Community Development Department;  
Greg Bitter, Principal Planner, (916) 808-7816, Community Development Department

**Presenter:** Greg Bitter, Principal Planner, (916) 808-7816, Community Development Department

**Department:** Community Development Dept

**Division:** Planning

**Dept ID:** 21001221

## **Attachments:**

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- 1-Description/Analysis
- 2-Background.
- 3-CEQA\_Resolution
- 4-DA Amendment Ordinance
- 5-Exhibit A-Description of Landowner's Parcel
- 6-Aerial Map
- 7-Land Use Map
- 8-Gateway West PUD Schematic Plan

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## **City Attorney Review**

Approved as to Form  
Joseph Cerullo  
7/24/2012 10:47:55 AM

## **City Treasurer Review**

Reviewed for Impact on Cash and Debt  
Russell Fehr  
7/9/2012 11:35:11 AM

## **Approvals/Acknowledgements**

Department Director or Designee: Max Fernandez - 7/12/2012 10:55:33 AM

Sandra Talbott, Interim City Attorney

Shirley Concolino, City Clerk  
John F. Shirey, City Manager

Russell Fehr, City Treasurer

## Description/Analysis

**Issue:** The subject property is subject to a North Natomas Development Agreement that was approved on August 26, 1997, and became effective on September 25, 1997 (City Agreement 97-144) (the “**DA**”). The DA was amended on August 12, 1998, to redefine the covered property (City Agreement 97-144-1). The initial term of the DA expires on September 25, 2012. The DA entitles the landowner, Gateway West LLC, to three five-year extensions, requiring only that the landowner notify the City in writing at least 180 days before the expiration the term then in effect. A notice exercising the right to an extension beyond the initial term was submitted on June 5, 2012, after the 180-day deadline, so the landowner has lost the right to an extension. Therefore, the landowner is now requesting that the City agree to extend the initial term of the DA by five years.

At build-out, the Gateway West Planned Unit Development is proposed to include a total of 1,728 dwelling units on 40.6 gross acres and 646 high-density units on 28.3 gross acres. The proposal also includes 19.3 gross acres of commercial uses, 65.1 gross acres of Employment Center 50 uses, 16.9 gross acres of parks, 3.5 acres of open space, a 10.9-acre elementary school site, and 32.3 acres for detention basins.

Extending the term of the DA will benefit the City by continuing the landowner’s contractual obligation to develop the Gateway West project consistently with the original obligations imposed on this property. This extension will also give the landowner certainty about the continuing obligations it must satisfy to complete development of the property.

**Policy Considerations:** The 2030 General Plan designations of the subject site are Suburban Neighborhood High Density and Employment Center Mid Rise. Extending the term of the DA will allow development of a project previously found to be consistent with the City’s General Plan and currently consistent with the policies of the 2030 General Plan for Suburban Neighborhood and Employment Center uses.

**Economic Impacts:** None from the amendment to the DA.

**Environmental Considerations:** The Environmental Services Manager has reviewed the project for compliance with the California Environmental Quality Act (CEQA) and has determined that the proposed amendment to the DA is exempt from CEQA review, since the amendment has no potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, §15061(b)(3).)

**Sustainability:** The proposal extends the term of a DA for thirteen parcels within an approved mixed-use development. There are no effects, on or changes to, sustainability impacts.

**Commission/Committee Action:** On June 28, 2012, the Planning Commission forwarded to the City Council the recommendation for approval by a vote of 10 ayes and 0 nays (1 vacancy).

**Rationale for Recommendation:** Staff recommends that the City Council approve the proposed amendment to the DA. Staff finds that the proposed amendment is consistent with (1) the policies of the General Plan and the North Natomas Community Plan; and (2) the North Natomas Processing Protocols.

**Financial Considerations:** This action has no fiscal impacts to the City's General Fund or special funds.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased under this report.

## Background

The Council-adopted North Natomas Processing Protocols require all developers in the North Natomas Community Plan area to enter into a standard North Natomas Development Agreement (“**DA**”) with the City. The City Council approved the standard DA format on August 9, 1994 (Resolution No. 94-494).

On August 26, 1997, the City Council approved multiple entitlements to allow the development of 368± acres of undeveloped land known as the Gateway West Planned Unit Development (P96-106) (the “**Gateway West PUD**”) for residential, commercial, park, public-facility, and employment-center uses. Included in those entitlements was a DA designated as City Agreement No. 97-144 (the “**Gateway West DA**”). At build-out, the Gateway West PUD proposed to include 1,728 dwelling units on 40.6 gross acres and 646 high-density units on 28.3 gross acres. The proposal also included 19.3 gross acres of commercial uses, 65.1 gross acres of Employment Center 50 uses, 16.9 gross acres of parks, 3.5 acres of open space, a 10.9-acre elementary school site, and 32.3 acres for detention basins.

Subsequently, on August 18, 1998, the City Council amended the PUD Guidelines and Schematic Plan (P98-046) with the Gateway West-North project, which effectively reduced the low-density residential and commercial acreage and increased the medium-density residential and park acreage.

On February 13, 2001, the City Council approved multiple entitlements for the development of the Cambay West Planned Unit Development (P99-135). One entitlement amended the Gateway West PUD Guidelines to include the Cambay West PUD. The Gateway West and Cambay West PUD Guidelines now cover both areas.

On March 25, 2003, the City Council approved a Planned Unit Development Schematic Plan Amendment to allocate office and support retail square footage on the Gateway West Schematic Plan (P00-064). On December 20, 2002, the Planning Commission also approved a Tentative Map to subdivide 41± gross acres into 11 parcels and a Special Permit to develop 216,000 square feet of office space in three buildings. On February 24, 2005, the Planning Commission approved a PUD Schematic Plan Amendment to the Gateway West and Cambay West PUD and a PUD Special Permit to depict a 169,504-square-foot vocational school, which in the Employment Center community-plan designation is a primary use. The Planning Commission also approved the revocation (voiding) of a previously approved Special Permit to develop 216,000 square feet of office in three buildings (P00-064) for this same area. On May 11, 2006, the Planning Commission approved a PUD Schematic Plan Amendment and PUD Special Permit Major Modification to increase the square footage for Phase II of the Universal Technical Institute (UTI) from 52,461 square feet to 128,900 square feet.

On June 5, 2012, the property owners submitted an application to extend the initial term of the Gateway West DA from 15 to 20 years.

**Public/Neighborhood Outreach and Comments:** The proposed amendment to the Gateway West DA does not impact the current development entitlements for the site. The public notice for the Planning Commission's meeting was sent to all property owners within a 500-foot radius of the project site. At the time of writing this report, staff had not received any comments from the public about the project.

### **Development Agreement Amendment**

The standard North Natomas DA allows termination upon the conclusion of development. Before a DA can be terminated, the City must find that a parcel has been fully developed and that all of the landowner's obligations (e.g., land dedication, payment of fees) have been satisfied. In the case of the Gateway West DA, development has not been completed, and some but not all of the landowner's obligations have been satisfied.

Like all standard North Natomas DAs, the Gateway West DA has a 15-year initial term and grants the owner the right to extend the term unilaterally, in 5-year increments, for up to 15 more years. To exercise this right, the owner must notify the City in writing at least 180 days before the expiration date.

The Gateway West DA's initial term expires on September 25, 2012, so the 180-day deadline for the owner, Gateway West LLC, to submit a notice exercising the right to extend the term another 5 years passed in March 2012. But Gateway West LLC did not submit its notice until June 5, 2012, well after the deadline. City staff explained to Gateway West LLC that the deadline had passed but offered to process a formal amendment to extend the initial term. Gateway West LLC subsequently submitted an application to extend the initial term of the Gateway West DA from 15 to 20 years. The maximum term will remain at 30 years, i.e., Gateway West LLC will have the right to 2 more 5-year extensions.

Extending the term of the Gateway West DA will benefit the City by continuing Gateway West LLC's contractual obligation to develop the Gateway West project consistently with the original obligations imposed on this property. This extension will also give Gateway West LLC certainty as to continuing obligations it must satisfy to complete development of the property.



## RESOLUTION NO. 2012-

Adopted by the Sacramento City Council

### **DETERMINING PROJECT EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (P12-020)**

#### **BACKGROUND**

On July 31, 2012, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code section 17.200.010(C)(2) (a), (b), and (c) (publication, posting, and mail (500 feet)), and received and considered evidence concerning the Second Amendment to City Agreement No. 97-144 (Gateway West Development Agreement Amendment).

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received at the hearing on the Project, the City Council finds that the Project is exempt from review under the California Environmental Quality Act ("**CEQA**"), as follows:

- A. It can be seen with certainty that there is no possibility that approval of the Second Amendment to City Agreement No. 97-144 may have a significant effect on the environment.
- B. The Second Amendment to City Agreement No. 97-144 is thus covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment.
- C. Accordingly, under section 15061(b)(3) of the CEQA Guidelines, approval of the Second Amendment to City Agreement No. 97-144 is not subject to CEQA.



## ORDINANCE NO.

Adopted by the Sacramento City Council

July 31, 2012

### APPROVING A SECOND AMENDMENT TO CITY AGREEMENT NO. 97-144 A NORTH NATOMAS DEVELOPMENT AGREEMENT (GATEWAY WEST)

#### BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

##### Section 1. Incorporation of Agreement.

This ordinance incorporates the *Second Amendment to City Agreement No. 97-144* between the City and Gateway West LLC (“**Landowner**”), a copy of which is attached to this ordinance as Exhibit A.

##### Section 2. Hearing before the Planning Commission.

On June 28, 2012, in accordance with Government Code section 65867 and Sacramento City Code chapter 18.16, the Planning Commission conducted a noticed public hearing on an application to amend City Agreement No. 97-144 (the “**Original Agreement**”) by extending its initial term. The Original Agreement is a North Natomas Development Agreement that covers the Gateway West Planned Unit Development; was approved on August 26, 1997; and became effective on September 25, 1997. During the hearing, the Planning Commission received and considered evidence and testimony. After the hearing concluded, the Planning Commission forwarded to the City Council a recommendation to approve the proposed amendment.

##### Section 3. Hearing before the City Council; Findings.

On July 31, 2012, in accordance with Government Code section 65867 and Sacramento City Code chapter 18.16, the City Council conducted a noticed public hearing on the application to amend the Original Agreement. During the hearing, the City Council received and considered evidence and testimony concerning the proposed amendment. Based on the information in the application and the evidence and testimony received at the hearing, the City Council finds as follows:

- (a) The proposed amendment to the Original Agreement is consistent with the City’s general plan and the goals, policies, standards, and objectives of any applicable specific or community plan.
- (b) The proposed amendment will facilitate Landowner’s development of the property subject to the amendment, which should be encouraged in order to

meet important economic, social, environmental, or planning goals of the applicable specific or community plan.

- (c) Without the amendment, Landowner would be unlikely to proceed with development of the property subject to the amendment in the manner proposed.
- (d) Landowner will incur substantial costs to provide public improvements, facilities, or services from which the general public will benefit.
- (e) Landowner will participate in all programs established or required under the general plan or any applicable specific or community plan and all of its approving resolutions (including any mitigation-monitoring plan) and has agreed to the financial participation required under the applicable financing plan and its implementation measures, all of which will accrue to the benefit of the public.
- (f) Landowner has made commitments to a high standard of quality and has agreed to all applicable land-use and development regulations.

#### Section 4. Approval and Authorization.

The City Council hereby approves the *Second Amendment to City Agreement No. 97-144*. The City Council hereby authorizes the Director of the Community Development Department to sign on the City's behalf, on or after the effective date of this ordinance, the *Second Amendment to City Agreement No. 97-144*.

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Exhibit A – Second Amendment to City Agreement No. 97-144

Recorded for the benefit of the City of Sacramento and thus exempt from documentary-transfer tax under Revenue and Taxation Code section 11928 and from recording fees under Government Code section 6103.

***When recorded, return to—***

Office of the City Clerk  
Historic City Hall  
915 "I" Street, First Floor  
Sacramento, CA 95814

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## **Second Amendment to City Agreement No. 97-144 North Natomas Development Agreement Gateway West**

This amendatory agreement, dated July 31, 2012, for reference, is between the City of Sacramento, a California municipal corporation (the "**City**") and Gateway West, LLC, a California limited-liability company ("**Landowner**").

### **Background**

- A. The City and Landowner are parties to a North Natomas Development Agreement that is dated August 26, 1997; designated as City Agreement No. 97-144; and recorded with the Sacramento County Clerk/Recorder in Book 19970908 at Page 0384 (the "**Original Agreement**").
- B. The real property covered by the Original Agreement was redefined by an agreement that is dated August 12, 1998; designated as City Agreement No. 97-144-1; and recorded with the Sacramento County Clerk/Recorder in Book 19980915 at Page 1208 (the "**First Amendment**").
- C. The real property covered by this amendatory agreement is identified in Exhibit A to this amendatory agreement and is only a portion of that covered by the Original Agreement as amended by the First Amendment.
- D. The effective date of the Original Agreement was September 25, 1997, and the initial fifteen-year term of the Original Agreement expires on September 25, 2012. Although section 3 in article II of the Original Agreement entitles Landowner to extend the initial term by giving the City notice at least 180 days before the initial term expires, Landowner did not exercise that right before it expired on March 29, 2012. Landowner nevertheless desires to extend the initial term as if notice had been given, and the City is willing to agree to that extension by amending section 3 in article II of the Original Agreement as set forth below.

***With these background facts in mind, the City and Landowner agree as follows:***

**1. Amendment of Section 3, Article II.** Section 3 in article II of the Original Agreement is amended to read in its entirety as follows, but only with respect to the real property identified in Exhibit A to this amendatory agreement:

**3. Term.**

a. **Initial Term.** The term of this Agreement shall commence on the Effective Date, which is September 25, 1997, and shall extend for a period of twenty (20) years thereafter, that is, until September 25, 2017, unless it is sooner terminated or modified by the mutual consent of the parties.

b. **Renewal Options.** Subject to the provisions of this subparagraph, LANDOWNER shall have the right to renew this Agreement on its same terms and conditions, taking into account any amendments hereto mutually agreed upon after the Effective Date. The term of this Agreement shall mean and include the initial term, plus any renewal periods. The specific conditions for exercise of the renewal options are as follows:

(1) On the Exercise Date, LANDOWNER shall not be in default in any material respect under this Agreement, including any amendments hereto. For purposes of this subsection, "Exercise Date" shall mean the date that LANDOWNER or LANDOWNER's successor in interest gives written notice of intention to exercise the option to renew this Agreement, in accordance with the provisions of Section 20 hereof.

(2) The option to renew shall be exercisable by giving CITY written notice of LANDOWNER's intention to exercise the option on or before the Exercise Date, which notice shall be given not later than one hundred eighty (180) days prior to expiration of the initial term or any renewal term.

(3) LANDOWNER shall be limited to two (2) renewal periods of five (5) years each; the parties specifically intend that under no circumstances shall the term of this Agreement extend beyond thirty (30) years, unless this Agreement is amended in accordance with the procedures set forth herein for Agreement amendments.

**2. All Other Terms Remain in Force.** Except as amended by section 1 above and the First Amendment, the Original Agreement remain in full force.

**3. Effective Date.** This amendatory agreement takes effect on the effective date of the ordinance that approves it (Government Code, § 65868; Sacramento City Code, §§ 18.16.120 & 18.16.130).

4. **Recording.** Either party may record this amendatory agreement with the Sacramento County Recorder.
5. **Counterparts.** The parties may execute this amendatory agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
6. **Entire Agreement and Modification.** This amendatory agreement sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those matters (whether written, oral, express, or implied) and may be modified only by another written agreement signed by both parties. This amendatory agreement will control if any conflict arises between it and the Original Agreement.

*(Signature Page Follows)*

**City of Sacramento**

**Gateway West, LLC**

By: \_\_\_\_\_  
Max Fernandez, Director  
Community Development Department  
Date: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title  
Date: \_\_\_\_\_, 2012

Attest  
Sacramento City Clerk

By: \_\_\_\_\_

Approved as to Form  
Sacramento City Attorney

Approved as to Legal Form  
Attorneys for Gateway West, LLC

By: \_\_\_\_\_  
Joseph Cerullo Jr.  
Senior Deputy City Attorney

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name



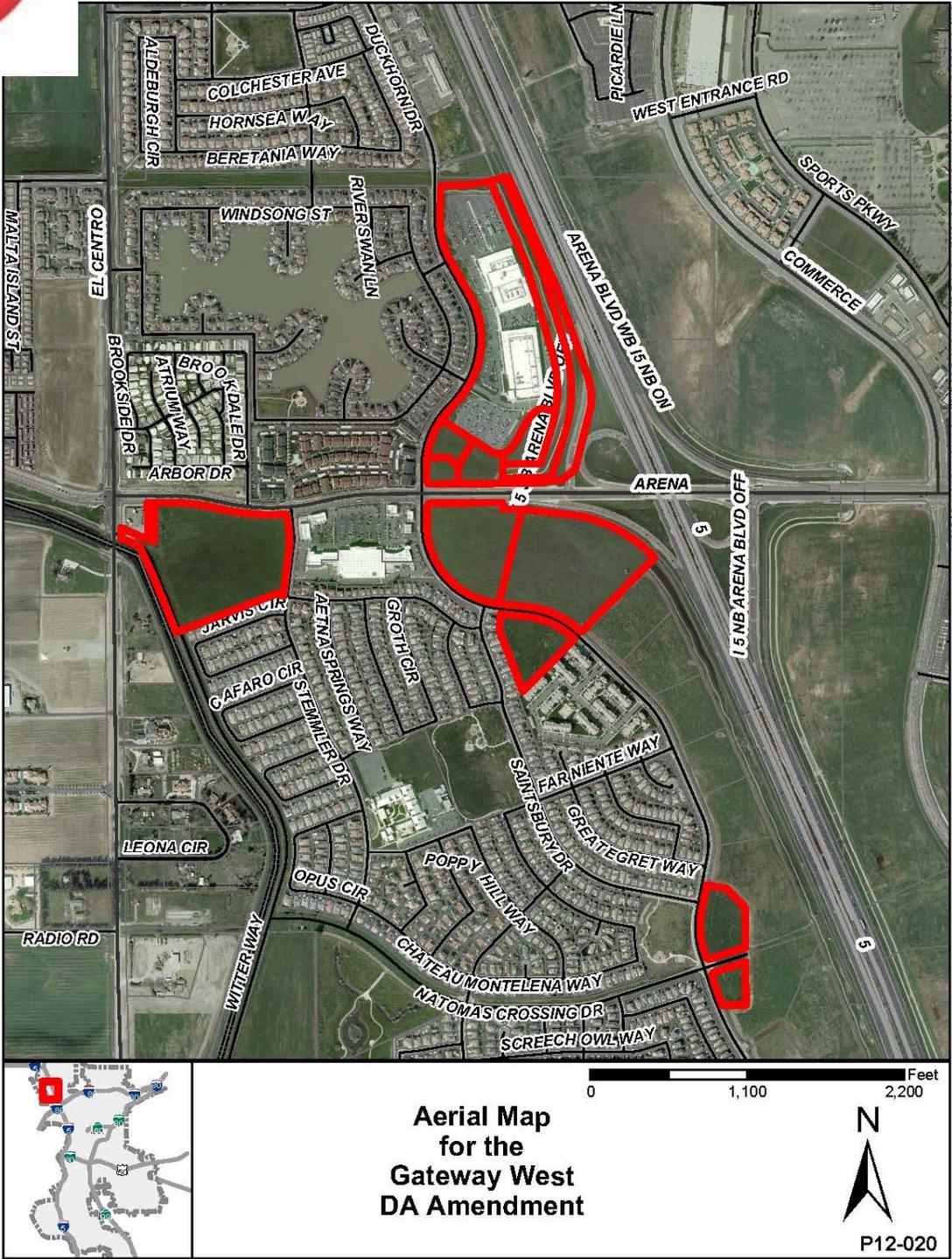
**Second Amendment to City Agreement No. 97-144  
North Natomas Development Agreement  
Gateway West**

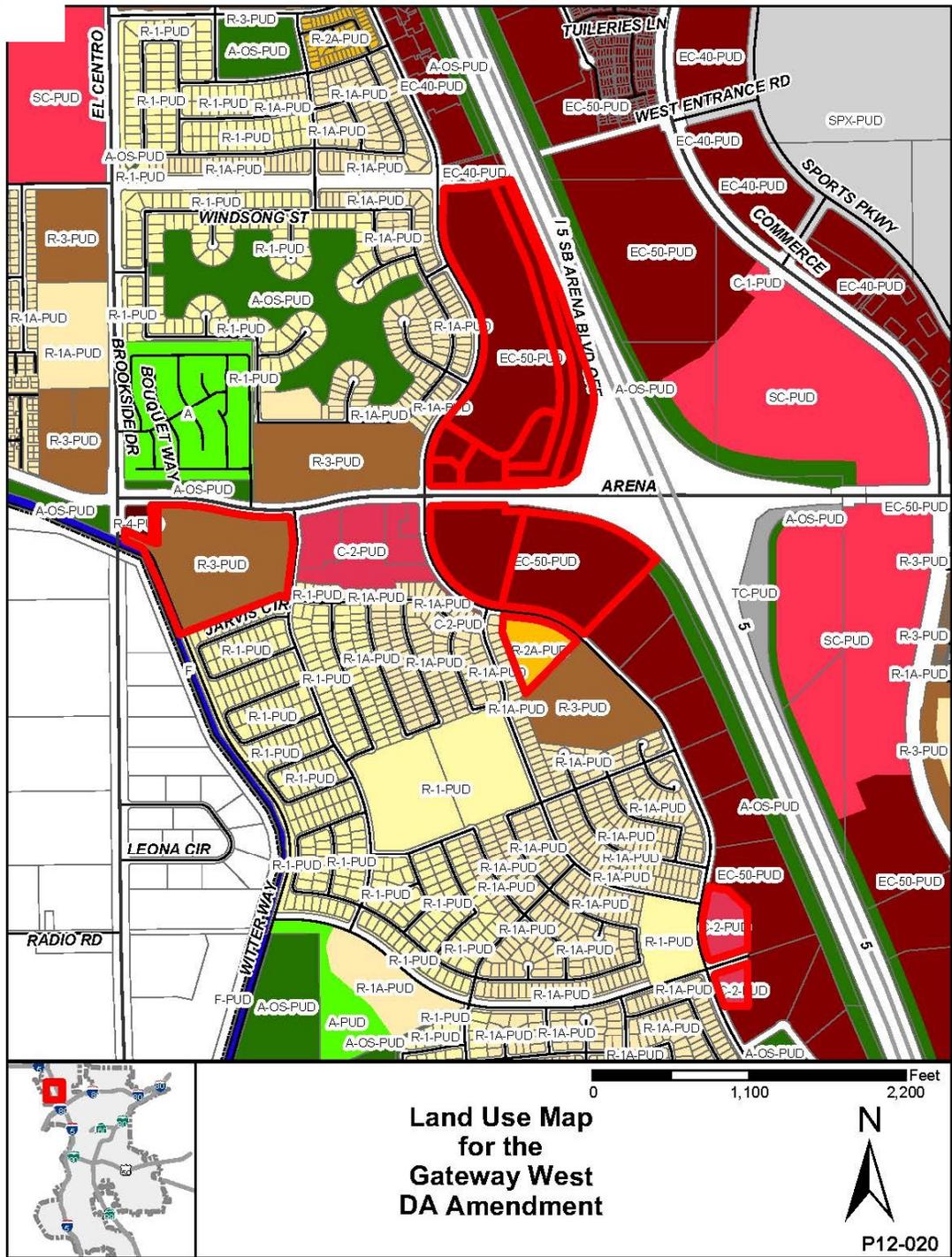
**Exhibit A  
Description of Landowner's Parcel**

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, identified by the following Assessor's Parcel Numbers:

- |              |              |
|--------------|--------------|
| 225-0140-035 | 225-0310-030 |
| 225-0140-040 | 225-0310-031 |
| 225-0140-052 | 225-0310-032 |
| 225-0140-056 | 225-0310-033 |
| 225-0140-057 | 225-0310-034 |
| 225-0140-069 | 225-0310-035 |
| 225-0140-071 |              |

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# PUD SCHEMATIC PLAN GATEWAY WEST

COMPOSITE MAP SHOWING VILLAGES  
AND LARGE PARCELS  
MAY 1997 SCALE: 1"=400'

