

RESOLUTION NO. 10308

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DIRECTING STAFF TO CONTINUE NEGOTIATIONS TO ACQUIRE CERTAIN PROPERTY, AND IF NECESSARY TO AVOID CONSTRUCTION DELAYS, AUTHORIZING AND DIRECTING THAT FEE TITLE, EASEMENTS OR OTHER INTERESTS IN AND POSSESSION OF CERTAIN REAL PROPERTY AND/OR PERSONAL PROPERTY BE ACQUIRED BY THE CITY OF MESA THROUGH EMINENT DOMAIN AS A MATTER OF PUBLIC USE AND NECESSITY FOR THE CENTRAL MESA LIGHT RAIL EXTENSION PROJECT.

WHEREAS, the Central Mesa Light Rail Extension Project (Project No. 09-046-001) is a cooperative project between the City of Mesa, Valley Metro Rail and Valley Transit Constructors that will provide an extension of the Light Rail from the current Sycamore Station to Edgemont Street east of Hobson Street along Main Street through downtown Mesa; and

WHEREAS, the certain real property and/or personal property described below is necessary to enable the contractor to complete construction of the proposed improvements along both sides of Main Street from Sycamore Street to Edgemont Street east of Hobson; and

WHEREAS, before the improvements can be constructed, it is necessary that fee simple title to certain real property be vested in the City of Mesa; and that the City of Mesa acquire easements in, over, under and across portions of certain real property identified in Section One herein; and

WHEREAS, there were approximately 122 properties from which rights-of-way and easements were needed for this Project at the time Real Estate Services began obtaining independent appraisals of the properties in February of 2012, followed by written offers to each of the owners between June and December of 2012; and

WHEREAS, City Staff has successfully acquired 106 of 122 properties through negotiations with the property owners; and

WHEREAS, to ensure that all of the remaining necessary real and/or personal property rights are acquired in time to meet the construction schedule, Staff seeks City Council authorization to acquire the property rights specified in this resolution through eminent domain; and

WHEREAS, pursuant to Arizona law, cities may exercise the right of eminent domain for railways; and

WHEREAS, the City Council hereby directs Staff to continue negotiations with the property owners with the goal of reaching a mutual agreement as to the just compensation for those property rights; and

WHEREAS, the City Council hereby directs Staff to continue to use good faith efforts to reach a negotiated price for the necessary land rights, even after filing an action in eminent domain; and

WHEREAS, the City Council hereby directs Staff to return to the City Council for further authorization if staff cannot obtain final acquisition of the necessary property rights on those parcels not authorized for acquisition in this Resolution.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That it is deemed necessary and essential that in order to construct the improvements for the Central Mesa Light Rail Extension Project, for the City of Mesa to acquire fee simple title to a portion of the real property depicted on attached Exhibit "A", and permit the City of Mesa or its contractors to enter upon adjacent lands so work related to the project such as grading, landscaping, irrigation, fences, walls, utility relocations or other improvements can be completed.

Section 2: That it is necessary for the City of Mesa to obtain Public Utilities Easements, Temporary Construction Easements, and other easements that may deemed necessary in, over, under and across portions of the real property depicted on the attached Exhibit "A" for the completion of the Central Mesa Light Rail Extension Project, and, further, it is necessary for the City to acquire and extinguish certain easements, leaseholds and/or other property interests pursuant to which billboards have been constructed and operated on three (3) of the parcels depicted on Exhibit "A."

Section 3: That the City Attorney of the City of Mesa is hereby authorized and directed to acquire title in fee simple and any necessary easements, leaseholds and/or other property interests with regard to portions of the properties depicted in Exhibit "A" in the name of the City of Mesa under the power of Eminent Domain, and the City Attorney is further authorized and directed to do and perform all acts necessary to acquire title and interests in and to said property in the name of the City of Mesa for said public purposes.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 8th day of July, 2013.

APPROVED:



Mayor

ATTEST:



City Clerk

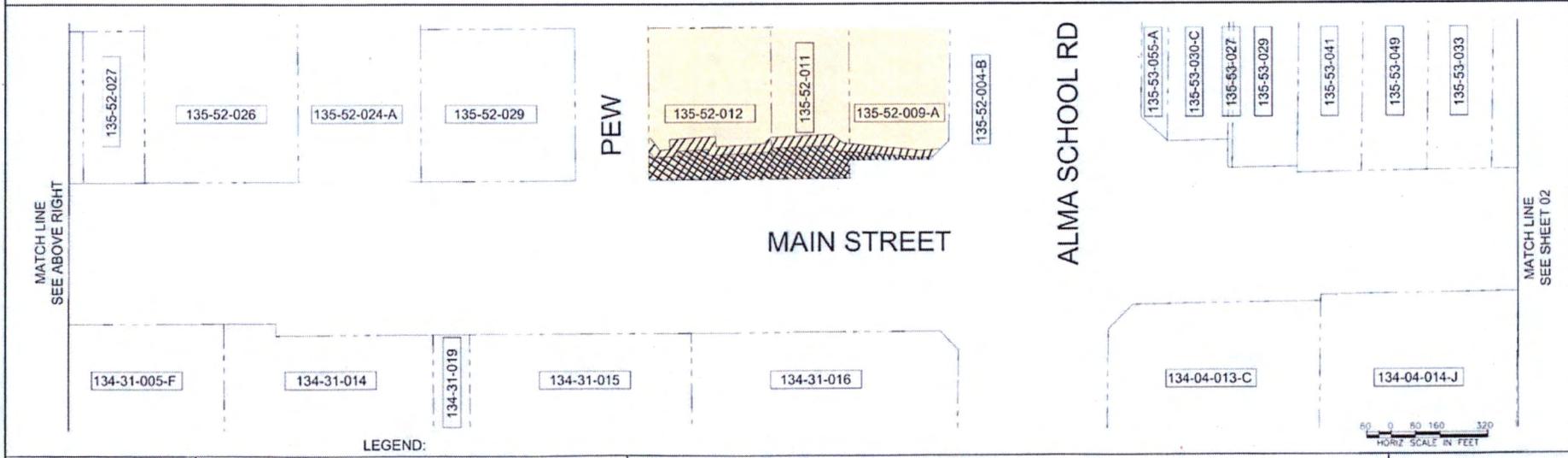
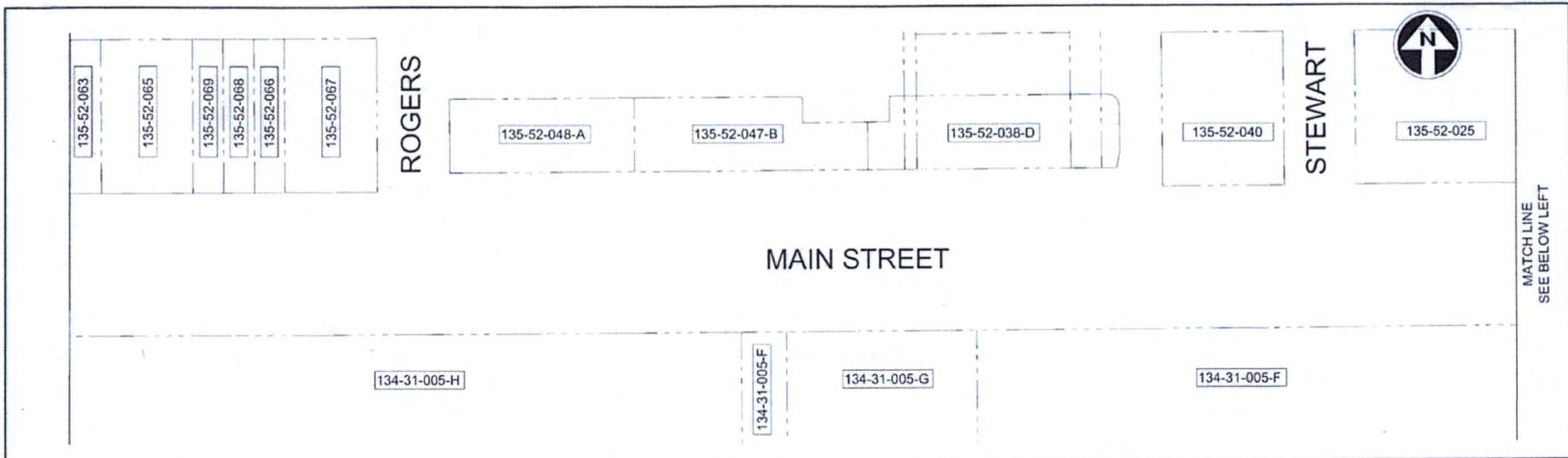


EXHIBIT A

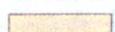
Central Mesa Extension #	PARCEL#	ADDRESS	OWNER	Right-of Way	Public Utilities and Facilities Easement	Temporary Construction Easement	COMMENTS
1244, 1245, 1246	135-52-009A 135-52-011 135-52-0012	1212 W. Main Street	McDonalds	X		X	Offer made 7/11/12 McDonalds is in agreement with the offer, but the process of getting signatures from corporate Attorneys has taken longer than expected. McDonalds has offered to sign a Right of Entry for construction, but signature time frame is too lengthy.
2209	135-53-026A	1104 W. Main St.	City of Mesa Formerly Fracture Fiberglass CBS BILLBOARD				Offer to Charles Huellmantel (CBS representative) March 5, 2013 response requested by April 5th. During March and April nine follow-up phone calls to his office were made-no response. May 9 letter sent Fed Express-request for immediate response. No response to date.
2231	135-57-029	630 W. Main St.	Viral Patel (New Owner as of February 2013)	X	X	X	New Owner in February. Offer made 3/14/13. Owner has been promising counter offer since April - Owner is located in Flagstaff. Has been unresponsive to date.
2134	134-01-029	555 W. Main St.	City of Mesa Formerly Mesa Muffler CBS BILLBOARD				Offer to Charles Huellmantel (CBS representative) March 5, 2013 response requested by April 5th. During March and April nine follow-up phone calls to his office were made-no response. May 9 letter sent Fed Express-request for immediate response. No response to date.
3255	138-38-001B	156 E. Main St.	Brown & Brown Autonaton	X	X		Offer made 12/13/12 Autonaton has been responsive and working through a number of attorneys in Florida now all information is with attorneys in Texas. Counter offer is 3 times more than just compensation amount. Construction is ready to start and we are out of time.

Exhibit A

Central Mesa Extension #	PARCEL#	ADDRESS	OWNER	Right-of Way	Public Utilities and Facilities Easement	Temporary Construction Easement	COMMENTS
4201	138-26-005	410 E. Main St	City of Mesa Formerly Wilky's CBS BILLBOARD				Offer to Charles Huellmantel (CBS representative) March 5, 2013 response requested by April 5th. During March and April nine follow-up phone calls to his office were made-no response. May 9 letter sent Fed Express-request for immediate response. No response to date.



LEGEND:

-  RIGHT OF WAY TO BE ACQUIRED
-  EASEMENTS TO BE ACQUIRED
-  REQUESTING AUTHORIZATION ON THESE PROPERTIES

CENTRAL MESA LRT EXTENSION
 CONTRACT NO: LRT-10-141-MESA

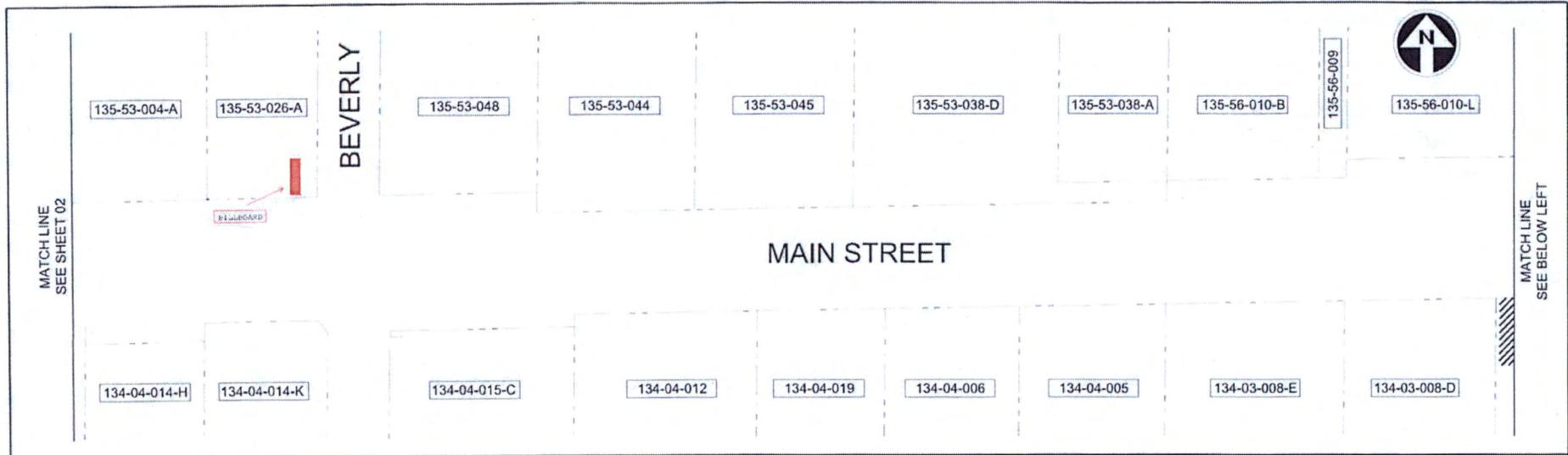


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LEGEND:



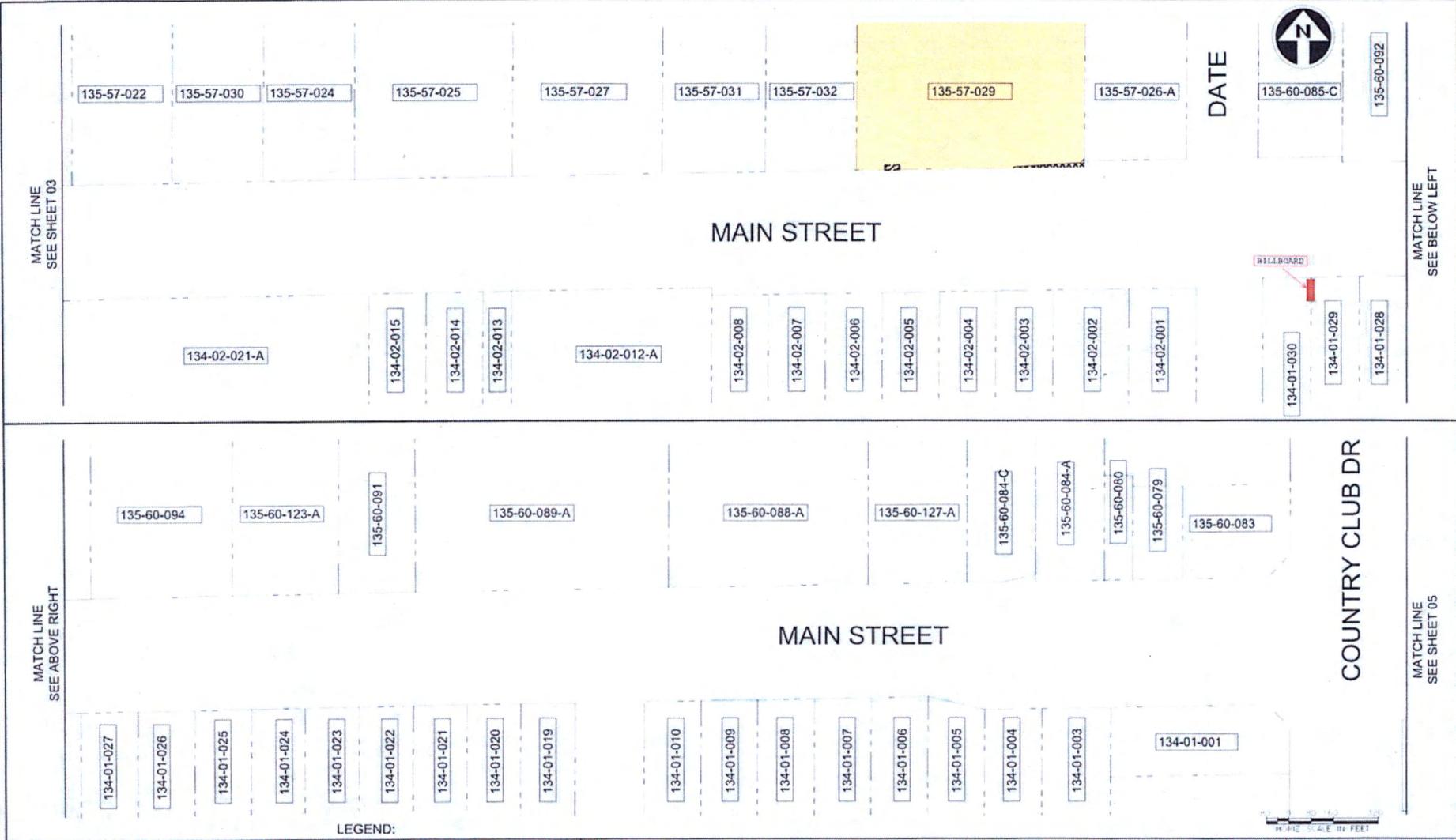
BILLBOARD



CENTRAL MESA LRT EXTENSION

CONTRACT NO: LRT-10-141-MESA





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135-60-085-C

135-60-092

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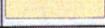
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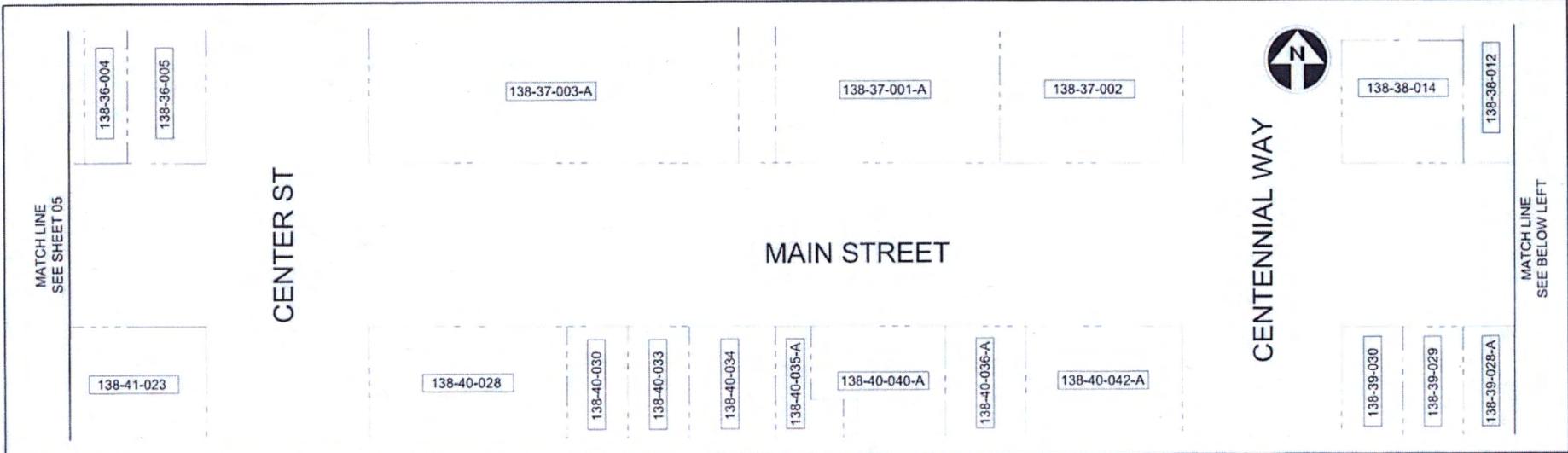
LEGEND:



-  RIGHT OF WAY TO BE ACQUIRED
-  EASEMENTS TO BE ACQUIRED
-  BILLBOARD
-  AUTHORIZATION REQUESTED ON PROPERTY

CENTRAL MESA LRT EXTENSION
CONTRACT NO: LRT-10-141-MESA





LEGEND:

-  RIGHT OF WAY TO BE ACQUIRED
-  EASEMENTS TO BE ACQUIRED
-  REQUESTING AUTHORIZATION ON THESE PROPERTIES

CENTRAL MESA LRT EXTENSION
 CONTRACT NO: LRT-10-141-MESA



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LEGEND:
 BILLBOARD



CENTRAL MESA LRT EXTENSION
CONTRACT NO: LRT-10-141-MESA

