

RESOLUTION NO. 10408

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 BE ACQUIRED BY THE CITY OF MESA THROUGH EMINENT DOMAIN AS A MATTER OF PUBLIC NECESSITY FOR THE FIESTA PASEO NODE MICRO PARK IMPROVEMENT PROJECT.

WHEREAS, the Fiesta Paseo Node Micro Park Improvement Project (Project No. C06037) along Southern Avenue between Alma School Road and west of Longmore is to provide pedestrian refuge areas and enhance non-vehicular connectivity within the Fiesta District. The Nodes will include amenities such as seating, signs, lighting, landscaping, hardscape, shade structures and water features; and

WHEREAS, the certain real property described below is necessary to construct improvements along both sides of Southern Avenue from Alma School Road to west of Longmore; 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 are approximately 8 parcels from which rights-of-way and easements are needed for this Project and Real Estate Services began appraising the properties in November of 2013 followed by written offers to each of the owners in January of 2014; and

WHEREAS, to ensure that all of the remaining necessary land 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, 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 land rights; and

WHEREAS, the City Council hereby directs Staff to continue attempts to reach a negotiated value for the necessary land rights, even after filing an action in eminent domain; and

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 Fiesta Paseo Node Micro Park Improvement Project, it is necessary 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 Temporary Construction Easements, Temporary Access 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 Fiesta Paseo Micro Park Improvement Project.

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 to portions of the property 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 real 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 17th day of March, 2014.



APPROVED:

A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

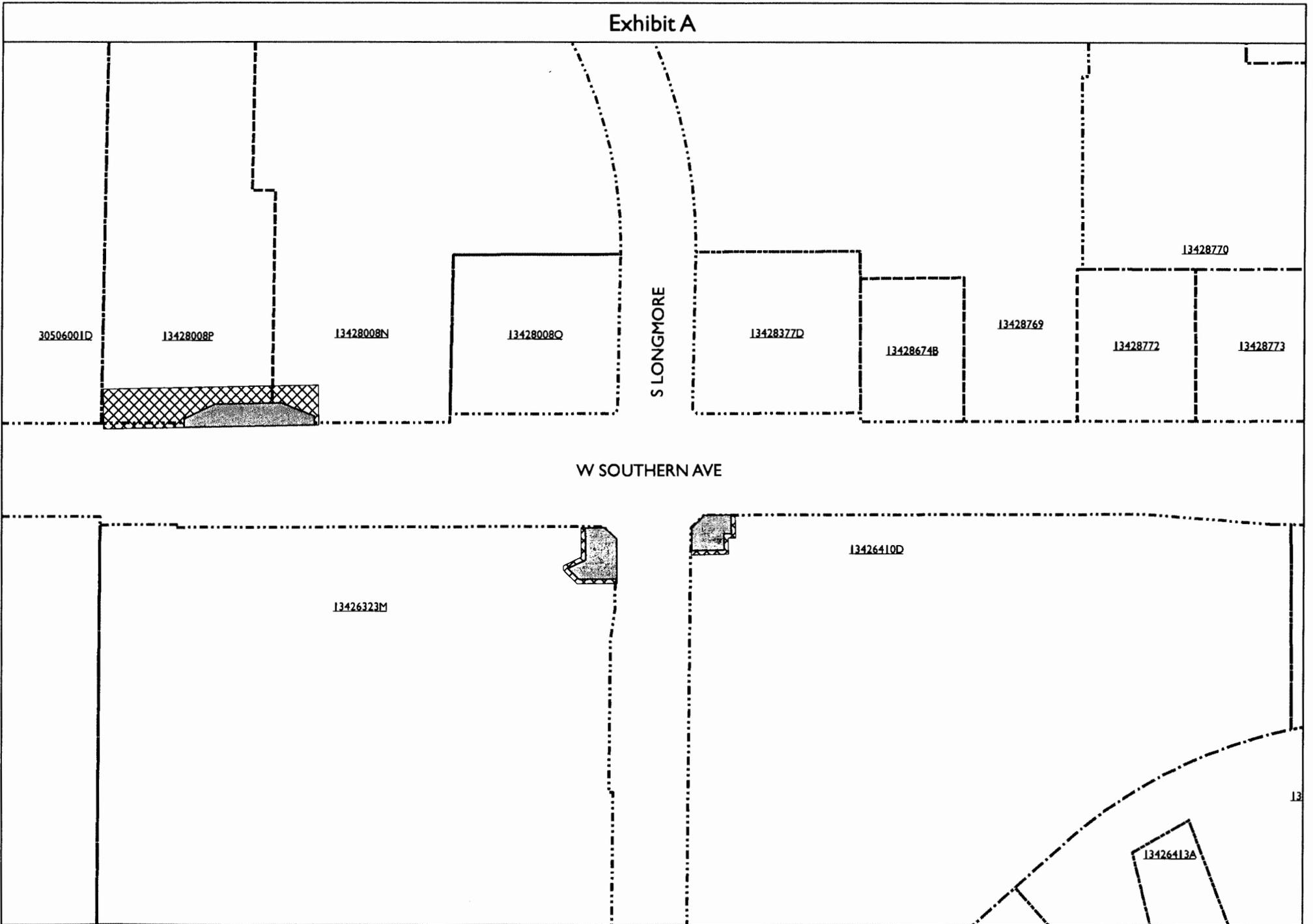
Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'Debra Mickelsen', written over a horizontal line.

City Clerk

Exhibit A

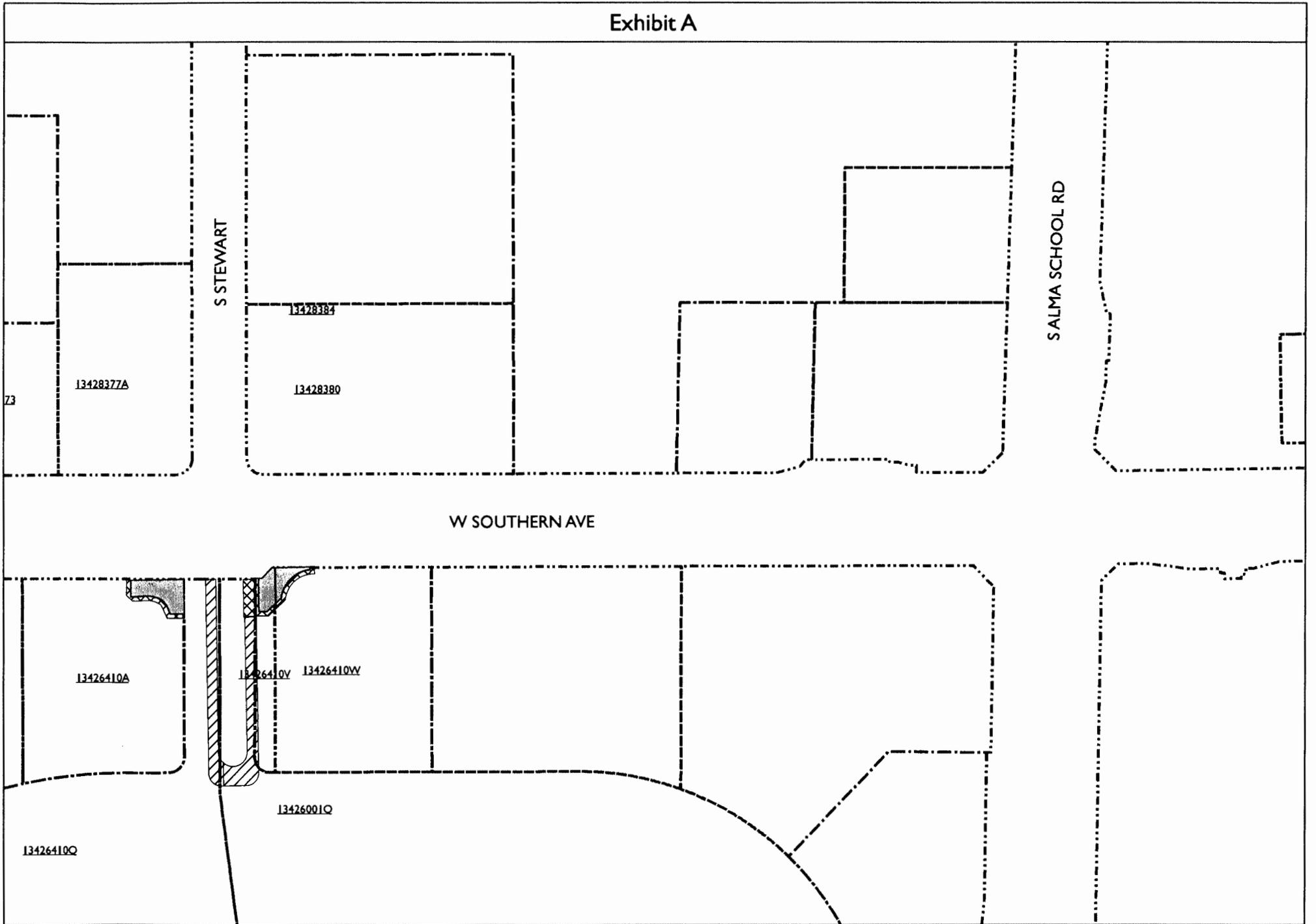


 Temporary Access Easement
 Temporary Construction Easement

 Paseo Nodes - Acquisition

Fiesta Paseo Nodes Micro Parks
on Southern Avenue

Exhibit A



-  Temporary Access Easement
-  Temporary Construction Easement
-  Paseo Nodes - Acquisition

Fiesta Paseo Nodes Micro Parks
on Southern Avenue

Exhibit A

| Paseo Node # | Parcel No. | Property Address | Owner | Fee Title | Temporary Construction Easement | Temporary Access Easement | Comments |
|--------------|-------------|---------------------|---|-----------|---------------------------------|---------------------------|---|
| 1 | 134-26-323M | 1230 S LONGMORE | TARGET CORPORATION | 2,527 sf | 654 sf | NA | Offer was sent on 1/2/14. Per an email from Target's representative dated 1/30/14, they were reviewing the offer with their attorneys and anticipated having their response submitted "soon." Owner advised of project timing, but no further response has been received. |
| 2 | 134-26-410D | 1457 W SOUTHERN AVE | ARCHER MESA, LLC; TENDLER MESA, LLC; OBRADOVICH MESA, LLC; RIELLY MESA, LLC; ROSEVILLE MESA, LLC; and H J MESA, LLC | 1,734 sf | 478 sf | NA | Offer was sent on 1/2/14. Call on 1/22/14 with owners' representative who confirmed their overall support of this and other projects in the area. The representative advised that their multiple investor-owned entities and lender requirements may delay processing this transaction within the project schedule. Owner representative recognizes and is not adverse to the potential need for eminent domain activities. |
| 4 | 134-26-410A | 1331 W SOUTHERN AVE | ARIZONA BANK AND TRUST | 1,758 af | 479 sf | NA | Offer was delivered on 1/7/14. Owner's representative is supportive of the project and has indicated the appraised per square foot value seems fair. However, the offer is still under review by the owner. Owner's representative advised of project timing. |
| 5 | 134-26-410Q | 1445 W SOUTHERN AVE | BACM 2005-3 RETAIL 1445 LLC | NA | NA | 3,120 sf | Offer was sent on 1/2/14. Per email from owner's property manager dated 1/22/14, they are in agreement with the offer. TAE doc and Claim for Payment forwarded to property manager for owner's review and signature. |

Exhibit A

| Paseo Node # | Parcel No. | Property Address | Owner | Fee Title | Temporary Construction Easement | Temporary Access Easement | Comments |
|--------------|-------------|---------------------|-------------------------------|-----------|---------------------------------|---------------------------|---|
| 5 | 134-26-001Q | 1425 W SOUTHERN AVE | SEARS ROEBUCK & CO | NA | 670 | 3,489 sf | Offer was sent on 1/28/14. Per previous calls with owner contact, they generally support this and other projects in the area. Owner representative spoke with the appraiser about potential ownership issues on neighboring property (Homart Development Co). No further responses to communications attempts received. |
| 5 | 134-26-410V | 1425 W SOUTHERN AVE | HOMART DEVELOPMENT CO | 879 sf | 323 sf | NA | Offer sent on 1/28/14 to all listed addresses in title report for Homart Dev Co, and also sent to Treasurer's Tax Address. Tax liens exist on property. Notice of offer will need to be posted due to liens (taxes 2009-2011) and unresolved ownership interests. |
| 5 | 134-26-410W | 1325 W SOUTHERN AVE | OLLAGNIER LIMITED PARTNERSHIP | 713 sf | 351 sf | NA | Offer was sent on 1/2/14. Property owner is reviewing offer. Indicated their support for project and willingness to reach agreement, though they will most likely present a counteroffer as they believe the appraised value was too low. Owner advised of project timing but to date, no further response received. |

| Paseo Node # | Parcel No. | Property Address | Owner | Fee Title | Temporary Construction Easement | Temporary Access Easement | Comments |
|--------------|-----------------|---------------------|-------------------------|-----------|---------------------------------|---------------------------|---|
| 6 | 134-28-008P & N | 1550 W SOUTHERN AVE | WINDSAIL PROPERTIES LLC | 3,613 sf | 8,564 sf | NA | Offer was sent on 1/2/14. Property owner representative advised that this parcel is currently under contract/ While they anticipate remaining owner through completion of City's project acquisition, they are including their buyer on the review of offer. Buyer is also supportive of Project. Owner representative stated that they will submit their collective questions/concerns following the further review of the offer package. Owner advised of project timing, but no further response received. |

| Parcel No. | Property Address | Owner | Parcel No. | Temporary Contribution | Temporary Address | Comments |
|------------|------------------|-------|------------|------------------------|-------------------|----------|
|------------|------------------|-------|------------|------------------------|-------------------|----------|