

AGENDA
STUDY SESSION MEETING OF THE CITY COUNCIL
VIRTUAL MEETING
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
FEBRUARY 2, 2026
7:00 PM

To watch the Council meeting live, please use either one of the following links:

City of Lakewood Website: [Lakewood.org/CouncilVideos](https://lakewood.org/CouncilVideos)

Lakewood Speaks: Lakewoodspeaks.org

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How to Connect to Provide Public Comment: Online participants may post written comments of any length to LakewoodSpeaks.org, an online forum for public comments.

ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – ROW ACQUISITION PROCESSES

ITEM 4 – COMMITTEE REPORTS

ITEM 5 – ADJOURNMENT

STAFF MEMO

DATE OF MEETING: FEBRUARY 2, 2026 / AGENDA ITEM NO. 3

To: Mayor and City Council
From: Maria D'Andrea, Director of Public Works
Subject: **Property Acquisition Processes for Capital Improvement Projects**

SUMMARY STATEMENT: This memo and the related presentation are intended to provide the City Council with an understanding of the processes that city staff undertake when it is necessary to acquire private property. No specific properties will be discussed in this memo or the presentation, as both are intended to be informational only.

Government infrastructure projects designed to benefit the public may result in the need to use the power of eminent domain to acquire interests in private property and, in some cases, the displacement of private property owners and tenants from their residences or businesses. The decision to use eminent domain is not made lightly; instead, every effort is made to limit the need to acquire private property by evaluating alternative designs and construction methods.

If the City Council gives staff the authority to acquire interests in private property, the City is legally required and does begin every effort to acquire necessary private property through good faith negotiations before attempting to utilize its eminent domain authority. In all cases, the City commits to:

- Minimizing the amount of land needed to be acquired from private property owners;
- Minimizing the impact of the acquisition, to the extent possible, on the remaining property;
- Providing respectful, professional, clear, consistent, and timely communications and materials to property owners;
- Conducting good faith negotiations with property owners and making reasonable efforts to achieve mutual agreement so that litigation, additional project costs, and project delays can be avoided;
- Explaining the process thoroughly to all interested parties, including explanations of the rights of private property owners;
- Ensuring equitable treatment and payment of just compensation for all property owners involved in the project;
- Considering the interests of the property owner(s), the City, and the taxpayers when negotiating property acquisition terms and conditions; and
- Following all applicable laws, regulations, and policies pertaining to property acquisitions and any applicable relocation obligations.

BACKGROUND INFORMATION: Lakewood only purchases the amount of property and the type of property interest (easement versus fee simple title) that are necessary for the project. The "interests in property" (aka: property interests) that the City may seek to purchase include "fee simple" (fee simple) which is an interest involving the full title to a property, as well as partial interests such as "permanent easements" (PE), which last in perpetuity, or "temporary construction easements" (TE),

which are typically valid only for the duration of the project.

Fee simple acquisition results in the City obtaining complete and unrestricted ownership of the land and reduces the size of the owner's remaining property. An easement, whether permanent or temporary, grants one party the legal entitlement to use the land owned by another party for a specific purpose. An easement creates an encumbrance on the owner's property but does not change the boundary of the owner's overall property. When an easement encumbers a property, the property owner still gets to enjoy the use of the easement area, so long as such use does not interfere with the terms of the easement. The purpose of an easement is to reserve, convey, or dedicate the use of property, or an area above or below it, for a specialized or limited purpose without the transfer of fee title. Such specified purposes may include, but are not limited to, transportation facilities, utilities, access, stormwater drainage, signage, etc. The majority of property interests that the City acquires for public improvement projects are easements.

The ultimate use of the property interest being acquired determines whether the City will acquire a fee simple interest or an easement interest. For example, if the property interest will be used to widen a roadway or construct a new right-turn lane, the City would typically acquire a fee-simple interest (total ownership) in that land because the owner who would grant the easement would not be able to use or enjoy the area after the road improvement is constructed. If the City needed land for an underground stormwater pipe, it would typically acquire just an easement because the owner could still use the easement area after the project is completed, subject to certain limitations.

The following terms are important ones related to the property acquisition process:

Just Compensation

Just compensation is the price the City must pay to acquire private property when using its eminent domain powers. "Fair market value" is how just compensation is determined. The City will typically obtain an appraisal to determine the "just compensation" owed for a property interest it seeks to acquire. If the City and the property owner cannot agree on the amount of just compensation to be paid for the property needed, and it becomes necessary for the City to use the condemnation process, a jury or a commission will determine the just compensation at trial.

Eminent Domain

Eminent domain means the power of a government entity to take privately owned property and convert it to a public use, subject to reasonable compensation for the taking.

Condemnation

Condemnation means the exercise of eminent domain by a governmental entity. The City will typically exhaust all attempts to reach a mutually satisfactory agreement through negotiations before requesting the City Council's authorization to institute condemnation proceedings in court.

Legal Authority for Property Acquisition

The following laws outline the City's authority to acquire property for public purposes and, if necessary, exercise the power of eminent domain:

- The Fifth Amendment of the United States Constitution states that private property shall not be taken for public use without just compensation.
- Article II, Section 15 of the Colorado Constitution provides property owners with more protection regarding eminent domain than the U.S. Constitution by providing that private property shall not be taken or damaged without just compensation. The Colorado Constitution further allows judges to review the question of whether the real property at issue will truly serve

a public purpose.

- Article XX, Section 1 of the Colorado Constitution authorizes Home Rule Municipalities, such as Lakewood, to condemn private property for a public purpose.
- C.R.S. §§ 38-1-101 *et seq.* and 38-6-101 *et seq.* provide the general statutory procedures for eminent domain and condemnation. The statutes reiterate that private property cannot be taken or damaged through the power of eminent domain without just compensation. C.R.S. § 38-1-101(1)(a).
- The City must make a good-faith effort to negotiate with the property owner before it may seek to exercise its power of eminent domain. C.R.S. § 38-1-102.
- Pursuant to C.R.S. § 31-15-101 and City of Lakewood Charter §§ 2.15(c)(3) and 11.6, the City Council has the authority to acquire real property through purchase or lease.
- City Charter § 14.4 states that the City has the authority to use eminent domain.

Additional Property Acquisition Policies, Standards, and Protections for Private Property Owners
Congress passed the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (1970) (42 U.S.C. 4601), referred to as the Uniform Act, and amended it in 1987 to provide uniform and equitable treatment for persons whose property is acquired for public use. All federal, state, and local government agencies receiving federal financial assistance for public projects that require the acquisition of real property must comply with the policies and provisions outlined in the Uniform Act and its regulations. Colorado's Relocation Assistance and Land Acquisition Policies (C.R.S. §§ 24-56-101 to 121) impose additional considerations impacting the timing of the condemnation action. These laws apply to all public projects involving federal funding and have various pre-condemnation requirements that governmental entities must follow.

The City of Lakewood developed a Real Estate Transaction Manual (2024), which establishes "... a uniform set of standards that the City Council, or another authorized City official or party, should follow when acquiring or disposing of City-owned real property. This Manual contains references to specific legal authority that both grants and limits the City's ability to perform certain actions pertaining to real property." The processes detailed in this Manual generally follow the Uniform Act.

Process

The City enters each property acquisition negotiation with the goal of mutual agreement, without the need for any legal action. City staff interact with all property owners with the assumption that such owners are unfamiliar with the eminent domain process and are, therefore, potentially suspicious and dubious of the City's intent. Therefore, it is critical to ensure that property owners feel comfortable with the purpose of the project, the intent of the negotiations, and, ultimately, that the City is not taking advantage of them in any way. This is demonstrated through honest and forthright communications whereby staff answer questions, provide timely responses, and explain the steps in the process as it progresses. This can be a time-consuming endeavor, and therefore staff builds in adequate time in the project schedule to conduct these trust-building conversations.

The City also obtains professional appraisals from an independent, certified appraiser as another means by which the City ensures that 1) the property owner is receiving fair compensation and 2) that the City is not overpaying for the needed property to avoid unnecessary cost to taxpayers.

An overview of the steps in the acquisition process are included as an attachment.

BUDGETARY IMPACTS: No specific budget impacts are associated with this item. Capital project estimates include funding to acquire all necessary property to construct the project.

STAFF RECOMMENDATIONS: None

ALTERNATIVES: None

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None

ATTACHMENTS:

1. Property Acquisition Process
2. Sample Property Map

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

PROPERTY ACQUISITION PROCESS/STEPS

The following steps are required to ensure equitable treatment for all property owners:

1. **PRE-ACQUISITION MEETING.** Staff holds a pre-acquisition meeting with the affected property owner or a group of owners within the project area to familiarize them with all aspects of the project and the proposed acquisition(s). At these meetings, staff communicate that any acquisition of property is subject to approval of the City Council. These meetings typically occur soon after the City has determined that it will need to acquire property interests for a planned project, but before staff brings an intent to acquire ordinance to the City Council for consideration.
2. **INTENT TO ACQUIRE ORDINANCE.** The City Council considers an ordinance that describes the specific parcels of land to be acquired and declares the City's intent to acquire property interests, authorizes the negotiation process, authorizes acceptance of conveyance instruments, and, if needed, condemnation of property interests, subject to further City Council approval. Thus, the City cannot commence a condemnation proceeding in court or inform the property owner that the City will condemn the necessary property interests until additional City Council approval is sought, at a future date, via resolution.
3. **TITLE COMMITMENT/ENVIRONMENTAL HAZARD ASSESSMENTS:** The City verifies current ownership of the affected properties by inspecting the most recent vesting deed and/or obtaining a title commitment from a title insurance company to ensure it is communicating with all individuals who hold an interest in the property during the property acquisition process. The City will also assess any environmental hazards on the property prior to accepting any interest in real property.
4. **NOTICE OF INTENT TO ACQUIRE LETTER.** A Notice of Intent to Acquire Letter is sent to every landowner affected by the acquisition. This "Intent Letter" provides an overview of the acquisition process. As required by Colorado law, the Intent Letter also informs the property owner that the City will pay the reasonable costs of an appraisal obtained by the property owner if the property to be acquired has an estimated value over five thousand dollars (\$5,000), and if the appraisal is completed using sound, fair, and recognized appraisal practices.

If federal funds are involved, both the City's appraisal and the property owner's appraisal are submitted to the Colorado Department of Transportation (CDOT) for an independent review. CDOT's Chief Appraiser reviews both appraisals and issues a Fair Market Value (FMV) determination, which will establish the amount of the

City's offer. The City may not engage in negotiations until CDOT has issued a FMV determination. If federal funds are not involved, the City reviews the owner's appraisal to ensure it complies with professional appraisal standards and/or retains a qualified review appraiser to provide an independent assessment of both appraisals.

5. **GOOD FAITH NEGOTIATIONS.** Case law provides that the good faith negotiation prerequisite is satisfied when the condemning authority makes a reasonable, good faith effort to purchase the property from the owner and allows the owner sufficient time to respond¹. The City begins negotiations by sending an initial offer letter, which contains an offer based on an appraisal or other valuation method approved by law². The City typically gives property owners 30-45 days to consider the initial offer. The owner is authorized to submit a written counteroffer, and if the City rejects the counteroffer, the City may draft a revised offer letter in an attempt to bridge the divide between the initial offer and the counteroffer. If the City and the property owner cannot agree on the fair market value of the property interest, the City will send a final offer letter, which will state that it is the City's last and final offer prior to commencing a condemnation action in court (again, subject to City Council's approval).
6. **COUNTEROFFER OF INITIAL OFFER LETTER.** The property owner may submit a written counteroffer in response to the initial offer. The City will review the counteroffer and determine if continued negotiations are advisable.
7. **FURTHER NEGOTIATION.** If the counteroffer is rejected, the City may elect to propose a revised offer, based on further information. This revised offer may include an administrative settlement. An administrative settlement is an amount of compensation above the FMV, which may be utilized to avoid project delays or additional costs that could be incurred through litigation, and/or to reconcile legitimate differences of opinion of value between the property owner and the City.
8. **FINAL OFFER LETTER.** If there is no response or the negotiations have yielded unsatisfactory results, a Final Offer letter will be sent to the property owner. This letter states the City's last and final offer to purchase the property.

¹ *Sheridan Redevelopment Agency v. Knightsbridge Land Co.*, 166 P.3d 256, 266 (Colo. App. 2007).

² The City is required to pay just compensation (fair market value) for the property interests it intends to acquire (unless an owner voluntarily donates the property interests). If a project is funded by federal dollars, fair market value will be determined by following the requirements of the Uniform Act, otherwise, the City follows state law in determining fair market value. Typically, fair market value is determined via appraisal, though there are exceptions for lower value properties.

9. **AGREEMENT.** When the City and property owner reach an agreement on the offer, a purchase agreement will be signed, and a closing date will be set, if needed. Payment will be made at the closing or upon execution of all necessary documents.

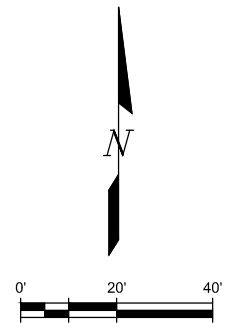
10. **CONDEMNATION.** If the final offer is rejected by the property owner, the City will re-evaluate its decision to acquire the property. At this point, the City may choose to terminate the acquisition or pursue condemnation of the property.

Prior to initiating a condemnation action, the City Council must consider a resolution to authorize the City Attorney to initiate such proceedings. Typically, the first step in a condemnation action will be an immediate possession hearing, where, subject to approval by the court, the City can make payment of a security to deposit, obtain possession of the subject property, and begin project construction. Next, there will be a valuation hearing before a jury or a commission, which will determine the “fair/reasonable market value” that the City must pay for the property as just compensation.

Regardless of the outcome, the City will be required to pay the landowner’s reasonable litigation costs and will further have to reimburse the property owner its reasonable attorney fees if the award of just compensation equals or exceeds one hundred thirty percent (130%) of the last written offer given to the property owner prior to the filing of the condemnation action.

11. **IMMEDIATE POSSESSION HEARING.** If the City determines “immediate possession” of the property is necessary, it may request an Immediate Possession (IP) Hearing and file an appropriate notice with the District Court. If a hearing is granted by the Court, the City must deposit the FMV amount into an escrow account.

12. **VALUATION HEARING.** The Valuation Hearing is either heard by a jury, or a board of commissioners. A jury trial is presided over by a judge, whereas a board of commissioners acts as both judge and jury as to the issue of value.

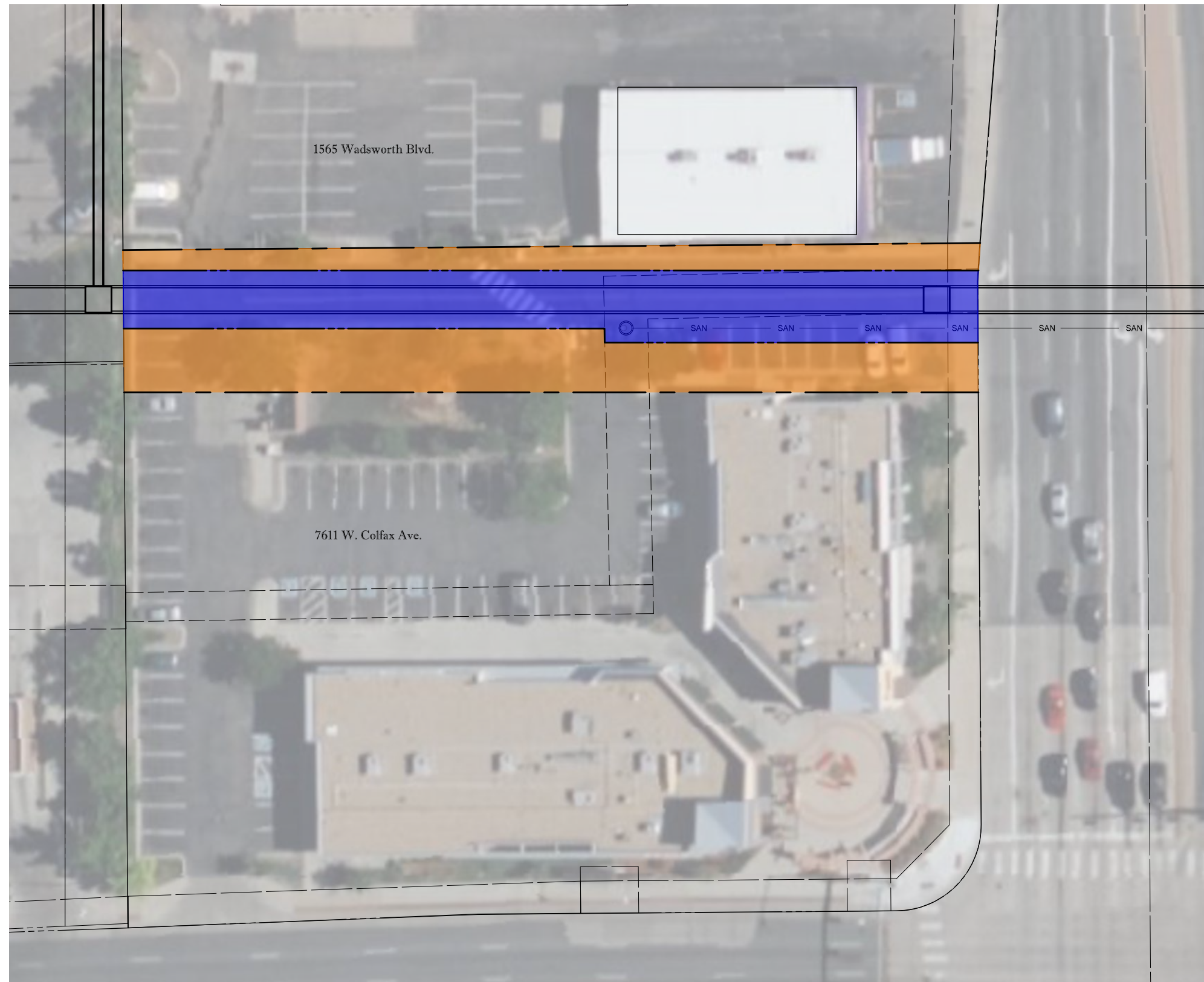


KEY:

TE = TEMPORARY EASEMENT

PE = PERMANENT EASEMENT

RW = RIGHT OF WAY



**CITY OF LAKEWOOD
NORTH DRY GULCH IMPROVEMENTS CP#4 - REACH 4 - WADSWORTH TO YARROW PROJECT
JUNE 2025**