

**APPENDIX E**  
**MEMORANDUM OF AGREEMENT**



**MEMORANDUM OF AGREEMENT  
REGARDING THE WEST CORRIDOR LIGHT RAIL PROJECT  
IN DENVER AND JEFFERSON COUNTIES, COLORADO**

The Parties to this agreement are the Federal Transit Administration (FTA), the Denver Regional Transportation District (RTD), a regional transit authority organized and existing under the laws of the State of Colorado, the Colorado Department of Transportation (CDOT), and the Colorado State Historic Preservation Officer (SHPO).

**WHEREAS**, §106 of the National Historic Preservation Act, 16 USC 470 et seq. requires Federal Agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (the Council) a reasonable opportunity to comment on such undertakings; and

**WHEREAS**, the proposed federally assisted undertaking is the construction of the West Corridor Light Rail Transit Line (the Project) for which the National Environmental Policy Act (NEPA) process is currently underway; and

**WHEREAS**, the FTA has determined that construction of the West Corridor Light Rail Transit Line (the Project) in Denver, Lakewood and Golden, Colorado, will have an effect upon properties which are included in or have been determined to be eligible for inclusion in the National Register of Historic Places, and has consulted with the Colorado State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 USC 470f); and

**WHEREAS**, the SHPO is authorized to enter into this Agreement in order to fulfill its role of advising and assisting Federal agencies in carrying out their Section 106 responsibilities under the following federal statutes: Section 101 and 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470f, and pursuant to 36 CFR Part 800, regulations implementing Section 106 at §§ 800.2(c)(1)(i) and 800.6(b); and

**WHEREAS**, the Project consists of the construction of a two-track light rail line that will begin at the reconstructed Auraria West Station located on the existing Central Platte Valley LRT Line in the central business district in Denver, Colorado, and will extend westward along the existing Associated Railroad right-of-way to West 6<sup>th</sup> Avenue near Simms/Union, at which point the alignment will continue west in the northern portion of West 6<sup>th</sup> Avenue right-of-way for a total distance of approximately 12.1 miles and terminate at the Jefferson County Government Center Station in Golden, Colorado; and

**WHEREAS**, the FTA has determined, in consultation with the SHPO and Council that the construction of the Project will have no effect on the following historic properties: Western Elaterite Roofing Company Building (1425 W. 13<sup>th</sup> Avenue); Zuni Power Plant (West 13<sup>th</sup> Avenue at Zuni Street); Denver Terminal Transformer House (2500 West Myrtle Place); Kit House (7020 West 13<sup>th</sup> Avenue); 1918 Farmhouse (7900 West 13<sup>th</sup> Avenue); Agricultural Ditch

– North Crossing (West 13<sup>th</sup> Avenue at Quail Street); and the Under Ground House (635 Joyce Street); and

**WHEREAS**, the FTA has determined, in consultation with the SHPO and the Council, that the construction of the Project will have no adverse affect on the following historic properties: International Style House (1290 Pierce Street); and the Agricultural Ditch – South Crossing (West 9<sup>th</sup> Avenue at Quail Street); provided that certain conditions outlined in the Stipulations below are fulfilled; and

**WHEREAS**, the FTA has determined, in consultation with the SHPO and the Council, that the construction of the Project will have an adverse effect on the Denver and Intermountain Railroad Line (D&IM) right-of-way (also known as the Associated Railroad right-of-way); the Federal Boulevard Bridge over Lakewood Gulch; and the munitions bunker located in the Denver Federal Center (Building 84A); and further, whereas, the parties have developed the measures outlined in the Stipulations below to reduce or mitigate the identified adverse effects of the Project; and

**WHEREAS**, RTD has participated with the FTA in the consultation with the SHPO and has been invited to concur in the Memorandum of Agreement to reflect its commitment to the measures described in this agreement and to its obligations in a grant that will fund the construction of this Project;

**NOW, THEREFORE**, the FTA, SHPO, and the Council agree that the proposed federally assisted undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the West Corridor LRT Project on historic properties as identified in the Final Environmental Impact Statement:

## **Stipulations**

The FTA shall ensure that the following stipulations are implemented:

I. FTA has determined in consultation with the SHPO that the construction of the Project will have no adverse effect on the following historic properties provided that certain conditions outlined below are fulfilled:

- A. **International Style House (1290 Pierce Street)**: Near Pierce Street and West 13<sup>th</sup> Avenue, the street right-of-way will be shifted a short distance to the south, closer to the eligible property. The LRT tracks will be approximately 60 feet from this property. RTD will install vibration ballast mats to mitigate minor vibration impacts associated with the operation of the Project.
- B. **Agricultural Ditch – South Crossing (West 9<sup>th</sup> Avenue at Quail Street)**: The construction of the Project does not require any change to the existing toe of slope where the ditch crosses the right-of-way. RTD will incorporate special conditions into the construction documents to ensure that the affected resource is protected during construction.

II. FTA has determined in consultation with the SHPO that the construction of the Project will have an adverse affect on the D&IM Railroad right-of-way, the Federal Boulevard Bridge, and the Denver Federal Center bunker. The parties have developed the following mitigation measures to reduce or mitigate the identified adverse effects on the properties:

A. **D&IM Railroad Right-of-Way:** The Project will re-use the right-of-way that was historically used for the Denver and Intermountain Railroad Line. The Project will replace five deteriorated single-track bridges along the abandoned railroad line with new modern two-track bridge structures. Prior to the removal of these five bridges, RTD will conduct Level II HABS/HAER documentation to accurately record the features of the D&IM Railroad right-of-way historic resource.

B. **Federal Boulevard Bridge over Lakewood Gulch:** The Colorado Department of Transportation plans to replace the Federal Boulevard Bridge over Lakewood Gulch due to its poor structural condition and the associated safety concerns for motorists on Federal Boulevard and bicycle/pedestrian users that pass below the bridge structure. The replacement of the Federal Boulevard Bridge is identified in the *2003-2008 Transportation Improvement Program* prepared by the Denver Regional Council of Governments (DRCOG). Construction of the West Corridor LRT Project may be close to the time that CDOT intends to replace the Federal Boulevard Bridge. The West Corridor LRT Project will require the replacement of the existing bridge in order to accommodate drainage improvements and pedestrian trails under the bridge. RTD and CDOT have coordinated on this matter with RTD agreeing to fund the incremental costs of the bridge's replacement that may be associated with the West Corridor LRT Project. CDOT may, however, reconstruct the Federal Boulevard Bridge prior to the West Corridor LRT Project if funding is not available to RTD as anticipated. Because of this potential circumstance, CDOT is an invited signatory to this Memorandum of Agreement (MOA).

CDOT's planned replacement of the Federal Boulevard Bridge and/or the West Corridor LRT Project will require the replacement of the Federal Boulevard Bridge. The Federal Boulevard Bridge will be replaced with a bridge structure that will be designed by CDOT. Prior to the removal of the existing Federal Boulevard Bridge, CDOT and/or RTD will conduct Level II Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) documentation to accurately record the features of the Federal Boulevard Bridge historic resource. If the timing of the bridge replacement is such that the West Corridor LRT Project is advancing in the same timeframe, CDOT and RTD will jointly prepare HABS/HAER documentation. Alternatively, if the bridge replacement is scheduled to occur independent of the Project, CDOT will prepare HABS/HAER documentation.

The design of the Federal Boulevard Bridge replacement structure will be developed by CDOT in consultation with the SHPO during the design development process.

C. **Denver Federal Center Building 84A - Munitions Bunker:** This earthen and wood structure is an example of one of the two types of munitions bunkers specially designed and constructed for the Remington Arms Company in 1941. The structure was part of the large munitions manufacturing complex, later to become the Denver

Federal Center that remains a physical reminder of America's response to World War II. This property will be removed due to the construction of the Quail Street extension from the Denver Federal Center Station to West Alameda Avenue. Prior to the removal of the historic property, RTD will conduct Level II HABS/HAER documentation to accurately record the features of the munitions bunker.

III. RTD shall afford the SHPO thirty (30) days from the date of transmittal to review and respond to any reports, plans, specifications or other documentation provided for review pursuant to this MOA. Should the SHPO object, RTD shall consult further with the SHPO to resolve the objection. If RTD determines that the objection cannot be resolved, RTD shall notify the FTA, which will follow MOA Stipulation (IV.E) for "Resolving objections".

#### IV. Administrative Stipulations.

- A. Definition of Parties. For the purposes of this MOA the terms "party" or "parties" means the FTA, the SHPO, CDOT, and RTD, each of which has authority under 36 CFR § 800.7 to terminate the consultant process.
- B. Professional supervision. The FTA shall ensure that all activities carried out pursuant to this MOA are carried out by or under the direct supervision of a person or persons meeting at a minimum the Professional Qualifications Standards set forth in the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (36 CFR 61)*. However, nothing in this stipulation may be interpreted to bar the FTA or any agent or contractor of the FTA from utilizing the properly supervised services of employees and volunteers who do not meet the above standards.
- C. Alterations to project documents. Neither the FTA nor RTD shall alter any plan, scope of services, or other document that has been reviewed and commented on pursuant to this MOA, except to finalize documents commented on in draft form, without first affording the parties to this MOA the opportunity to review the proposed change and determine whether it shall require that this MOA be amended. If one or more such party determines that an amendment is needed, the parties to this MOA shall consult in accordance with 36 CFR § 800.6 to consider such an amendment.
- D. Annual report and review.
  1. On or before 31 December of each year until the FTA and the SHPO agree in writing that the terms of this MOA have been fulfilled, RTD, on behalf of FTA, shall prepare and provide an annual report to the SHPO addressing the following topics:
    - a) Any problems or unexpected issues encountered during the year; and
    - b) Any changes that the FTA or RTD believe should be made in the implementation of this MOA.
  2. RTD shall ensure that its annual report is made available for public inspection, that potentially interested members of the public are made aware of its availability, and that interested members of the public are invited to provide comments to the SHPO, RTD, and to the FTA.
  3. The SHPO shall review the annual report and provide comments to the FTA.

4. At the request of any party to this MOA, a meeting or meetings shall be held to facilitate review and comment, to resolve questions, or to resolve adverse comments.
5. Based on this review, the FTA, RTD, CDOT, and the SHPO shall determine whether this MOA shall continue in force, be amended, or be terminated.

E. Resolving Objections.

1. Should any party to this agreement or a member of the public object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FTA and RTD shall consider the objection. If the FTA determines, within 30 days of the receipt of such written objection, that such objection(s) cannot be resolved, the FTA will:
  - a) Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR § 800.2(b)(2). Upon receipt of this documentation, the Council shall review and advise FTA on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from parties to the MOA, will be taken into account by FTA in reaching a final decision regarding the dispute.
  - b) If the Council does not provide comments regarding the dispute within 30 days after receipt of documentation, FTA may render a decision regarding the dispute. In reaching its decision, FTA will take into account all comments regarding the dispute from the parties to the MOA.
  - c) FTA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. FTA will notify all parties of its decision in writing before implementing that portion of the Project subject to dispute under this stipulation. FTA's decision will be final.

F. Amendments and Noncompliance. Any party to this MOA may request an amendment to its terms or to the provisions of any attachment to the MOA. The party wishing to amend the MOA shall immediately consult with the other party to develop an amendment pursuant to 36 CFR §§ 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all the original signatories is filed with the Council. If the parties cannot agree to appropriate terms to amend the MOA, any party may terminate the agreement in accordance with Stipulation IV.I, below.

G. Unanticipated Discoveries or Effects. In the event that the Project will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner, RTD shall require work in the area of the discovery to cease until actions that will take into account the effects of the undertaking on the property can be implemented. RTD shall immediately notify FTA of the discovery and provide FTA with the information required to request the SHPO's and Council's comments pursuant to 36 CFR § 800.13(b).

H. Substantial Changes to the Project. FTA shall immediately notify the SHPO and Council of any substantial changes to the Project as described in the Final

Environmental Impact Statement. FTA will provide the SHPO and Council with copies of reports developed pursuant to this agreement. FTA will also provide these reports to interested parties upon request.

I. Termination. If the MOA is not amended following the consultation set out in Stipulation IV.F, it may be terminated by any signatory or invited signatory. Within 30 days following the termination, the FTA shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR § 800.6(c)(1) or request the comments of the Council under 36 CFR § 800.7(a) and proceed accordingly.

Execution of this MOA by the FTA, the Colorado SHPO, RTD and CDOT, the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR § 800.6(b)(1)(iv) prior to FTA's approval of this undertaking, and implementation of its terms evidence that the FTA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

FEDERAL TRANSIT ADMINISTRATION, REGION VIII

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Lee O. Waddleton, Regional Administrator

COLORADO STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Georgianna Contiguglia, Colorado State Historic Preservation Officer

REGIONAL TRANSPORTATION DISTRICT

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Clarence W. Marsella, General Manager

COLORADO DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Thomas E. Norton, Executive Director

ACCEPTED:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director