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1.0 Summary

On May 20, 2008 the Denver Regional Transit District (RTD) Board of Directors approved the Final Environmental Impact Statement (FEIS) for the Denver Union Station Improvement Project. The Federal Transit Administration (FTA), as the lead federal agency, and the Denver Regional Transit District (RTD) released the Denver Union Station Final Environmental Impact Statement on August 15, 2008. The Federal Railroad Administration (FRA) acted as a cooperating agency throughout the production of the FEIS. The Draft EIS (DEIS) and the FEIS together considered two build alternatives in addition to a no-build alternative. The FTA issued its Record of Decision (ROD) approving the project on October 17, 2008. In the ROD, FTA selected to proceed with the project under the Build Alternative.

On April 15, 2009, RTD submitted an application to the FRA seeking a \$152,125,849 loan under the FRA's Railroad Rehabilitation and Improvement Financing (RRIF) program. RTD would use the loan proceeds to fund development of the regional passenger rail facility at Denver Union Station (DUS). Under the RRIF program, FRA is authorized to make loans and loan guarantees for eligible railroad improvement projects. FRA's decision on the loan application is subject to the requirements of the National Environmental Policy Act (NEPA) and related environmental and historic preservation laws and regulations (see 49 C.F.R. § 260.35). After carefully considering all of the information in the public record, including technical support documents, the FEIS, all public and agency comments on the DEIS, the FRA as a cooperating agency has decided to proceed with the project under the Build Alternative. The Build Alternative, which approaches the proposed improvements in a non-phased approach, was identified as the FTA's and RTD's preferred alternative in the FEIS. This ROD explains the FRA's decision. FRA's decision on the loan application will be made subsequent to the issuance of this ROD in accordance with the agency's RRIF program requirements.

2.0 Background

The FEIS was prepared by the RTD and the FTA and, in cooperation with the Federal Highway Administration (FHWA), FRA, City and County of Denver (CCD), Denver Regional Council of Governments (DRCOG), and Colorado Department of Transportation (CDOT). The Final EIS focused on public transportation improvements planned at Denver Union Station, the different alternatives available to achieve the project's purpose and need, and the impacts of each proposed transportation element. The transportation elements described in this ROD are referred to as the Build Alternative.

The project elements which make up the Build Alternative fall into three general categories:

- Transportation facilities including new or relocated RTD, Amtrak and Ski Train facilities;
- Infrastructure repairs and upgrades necessary to accommodate the transportation facilities; and,
- User access to and egress from the facilities.

These primary elements include:

- Light Rail
- Passenger Rail
- Regional Bus Facility
- 16th Street Mall Shuttle
- Access improvements for a Downtown Circulator
- Pedestrian Access and Circulation
- Street and Infrastructure Reconstruction
- Parking Structure
- Bicycle Access

3.0 Purpose and Need

The proposed project's purpose is to enhance the function of DUS as a multimodal transportation center for both the Metro Denver Region and the State of Colorado. Improving DUS will allow for the various regional and state modes of transportation to be brought together into one place, providing efficient and convenient access to and from Downtown Denver.

The DUS project addresses a range of transportation-related issues facing the current Denver metropolitan area. Denver Metropolitan area concerns include the need to optimize the region's transportation system effectiveness and to improve mobility and access to employment, recreational, and other major regional activity centers. The redevelopment of DUS will help achieve these ends by facilitating connectivity and transfers between transportation modes and services within the region, improving passenger rail experiences and services, and providing a variety of modal choices to the public to reach a broad range of downtown and regional destinations.

Planning studies within the region have demonstrated an anticipated 50% increase in employment and population levels within the metropolitan Denver area by 2030. To address this anticipated growth, the region has identified several transportation mode solutions, including bus rapid transit (BRT), light rail transit (LRT), passenger rail, and high occupancy vehicle (HOV) lanes to help lessen anticipated road congestion, improve air quality by avoiding some new vehicular emissions, and offer additional transportation options to regional citizens by diversifying available transportation modes.

To this end, RTD has developed FasTracks, a 12-year comprehensive plan and funding program to improve and expand the Denver region's existing transit system and related

facilities. Voters approved this plan in November 2004, establishing a 0.4 percent sales tax increase as a source to fund implementation. A portion of this dedicated FasTrack revenue, along with funds from federal, state, and other local sources, is dedicated to the construction of transportation improvements on-site at DUS.

The FEIS discusses the potential environmental, social, and economic impacts associated with the No-Action Alternative, the Build Alternative, and the Phase 1 Alternative. As a cooperating agency in the production of the FEIS, the FRA examines the impacts resulting from these Alternatives identified in the EIS in this Record of Decision (ROD).

4.0 Alternatives Considered

The Alternative Development and screening process was initiated concurrent with the Denver Union Station Master Plan, to ensure that alternatives explored for the project could meet the objectives identified within the Plan. Initiation followed the publication of the June 4, 2002 Notice of Intent (NOI) to prepare an EIS in the Federal Register. The partner agencies crafted a Vision Statement, developed as part of the DUS Master Plan, to guide the formulation of purpose and need and potential project alternatives. The project team developed screening criteria and reviewed the criteria with the Union Station Advisory Committee (USAC) to evaluate each alternative's relative ability to meet the articulated DUS Master Plan goals and objectives and purpose and need for the project. Conceptual engineering was completed for each alternative to the level necessary to evaluate each alternative's ability to accommodate all transportation program requirements and modes efficiently, as set forth in the Vision Statement and the DUS Master Plan.

Over forty Alternatives were considered in the Draft EIS. Of these 40, 14 were developed by the project team to address the project's articulated needs, 9 were publicly submitted alternatives based on comments received after the public review of the initial 14 project team alternatives, and over 20 were conceived as additional design options based on the initial 14 and subsequent nine publicly submitted alternatives.

Each of these alternatives was subjected to a four-tier screening process, with the three alternatives surviving the four-tier screening process and undergoing more substantial engineering and review. This further examination resulted in the elimination of one alternative as not feasible. Project experts eliminated one additional alternative from future study upon realization that the improvements/objectives of the alternative could be completed through a Phased approach of the ultimate buildout. A phased approach was determined to be necessary given the funding constraints that faced the DUS project and the Project Management Team (PMT) approved the phasing approach, shaping the reasonable alternatives that were presented and analyzed in the DEIS. This alternative is referred to as the Phase 1 Alternative in the FEIS and this ROD.

Following the publication of the DEIS but prior to the publication of the FEIS, the transportation needs for DUS shifted, based on additional funding availability and on other RTD FasTracks corridors' selection of vehicle and transportation technologies that altered passenger service requirements at DUS. These new factors not analyzed in the DEIS altered the funding constraints originally influencing a phased implementation plan, and therefore a new combined alternative was developed that could be entirely funded in one phase. This alternative integrated the construction of the regional bus facility, promoting the relocation and expansion of the RTD regional bus facility from its current location and allowing for the already planned Downtown Circulator service and room for commercial operators. This alternative is referred to as the Build Alternative in the FEIS and this ROD.

In developing alternatives to be considered, the project team initially explored the development of a Transportation Systems Management (TSM) Alternative for evaluation. TSM Alternatives generally assume low-cost improvements to already established transportation systems to provide benefits beyond those projected under a No-Action Alternative. However, as DUS project scoping progressed, it became apparent that the likely impacts of the TSM Alternative would differ very little from those of the No-Action Alternative because of the limited number of low-cost improvements that could help achieve the project's purpose and need. As such, the Final EIS examined and compared the impacts projected under the No-Action Alternative, the Phase 1 Alternative, and the Build Alternative.

The Build Alternative does not encompass the anticipated but subsequent private redevelopment of the DUS property. The subsequent redevelopment will not require federal approvals and will not use federal funds. This redevelopment of the DUS property, anticipated to occur subsequent to and separate from the discussed DUS improvements under the Build Alternative, does not depend on the transportation improvements contemplated under the Build Alternative and does not affect the selection of the Preferred Alternative in any manner. As such, only the secondary and cumulative impacts of the private development are considered within the FEIS.

4.1 No-Action Alternative

The No-Action Alternative acts as the baseline for comparison of impacts to both the Phase 1 Alternative and the Build Alternative. The No-Action Alternative is comprised of existing and committed regional land use planning measures and transportation projects contained in the DRCOG 2030 Regional Transportation Plan (RTP).

Comparison of the No-Action Alternative with the Build Alternative relies on travel modeling, and assumes the existing and committed 2030 road network and 2005 transit network. Comparison of the No-Action Alternative with the Phase 1 Alternative relied on travel modeling that assumes the 2000 road network and the 2005 transit network. See

Table 1-1 for the major elements of the No-Action Alternative grouped by major subject area.

Table 1-1
Major Elements of the No-Action Alternative

Existing Land Use Systems

- 19.5-acre site comprised of the DUS building and adjacent land and tracks

Existing Transportation Elements

- Southwest Corridor LRT (C-line)
- Southeast Corridor LRT (E-line)
- 16th Street Mall Shuttle
- Amtrak (passenger rail) at DUS
- Ski Train at DUS
- Special event trains
- RTD north HOV Busway on 19th and 20 Streets connecting to the 16th Street Mall
- Pedestrian/bike bridges at 16th Street and I-25, 16th Street and Platte River, and 16th Street and Consolidated Mainline.
- City of Denver Bike Trails
- Regional buses (bus stops for RTD and commercial carriers)
- Local RTD Buses

DRCOG 2030 Regional Transportation Plan

- West Corridor LRT

Private Transportation Projects

- Pedestrian bridge at 18th Street over the Consolidated Mainline
- 15th Street and Delgany Street will be improved with an additional right turn lane from southbound Delgany Street to westbound 15th Street. This turn lane will remove on street parking spaces.

4.2 Build Alternative

Based on the results of a detailed screening process together with the elimination of certain funding constraints motivating a phased approach, the Build Alternative was found to best meet the purpose and need for the project and was analyzed within the FEIS as the preferred construction alternative for DUS.

The Build Alternative will include all the major transportation modes as envisioned in the DUS Master Plan, including light rail, passenger rail, and regional and express bus service, as well as turnaround areas for the 16th Street Mall Shuttle and future Downtown Circulator service. Unlike the Phase 1 Alternative, the Build Alternative will not utilize a phased project approach to achieve all the full-build objectives; instead the Build

Alternative would integrate all improvement aspects identified in the Vision Plan as one comprehensive project. Figure 1-1 presents a conceptual view of the Build Alternative, showing the light rail, passenger rail and a regional bus facility and includes modes that will be used by the future FasTracks transit corridors. Figure 1-2 presents a cross-section view of the Build Alternative.

The Build Alternative involves the following major elements, as described in the FEIS:

- Light Rail: RTD will construct two LRT tracks and platforms so that they are adjacent to the Consolidated Mainline and will serve the Southeast, Southwest and West Corridors.
- Passenger Rail: RTD will construct eight at-grade passenger rail tracks for service provided by Amtrak, Ski Train and RTD's East, North Metro, Northwest, and Gold Line Corridors. The FRA continues to engage in ongoing discussions with Amtrak, RTD and local regulatory agencies regarding the design and operation details for the passenger service, as well as construction staging. Amtrak will operate on track four (4), which will be extended to approximately 1600' in length. Storage of Amtrak fleet cars and locomotives calls for 1000' of double track, which will be provided under the Park Avenue West viaduct. Additional discussion regarding the passenger rail service and about processes in place to resolve final design and operation details is found in this ROD at Section 5.0 Environmental Consequences and Mitigation.
- Regional and Commercial Bus Facility: RTD will construct a bus facility under 17th Street. The facility will extend from the LRT station to the DUS building. Twenty-two bus bays will be constructed, two of which will be for commercial buses and the remaining 20 for RTD services. Access to the facility will be provided via the HOV ramp at 18th Street, and where 18th Street ends at the CML.
- 16th Street Mall Shuttle: RTD will extend the shuttle service along 16th Street with a turnaround at the LRT station, and will stop at DUS to provide connectivity and service to passenger rail. Downtown Circulator: A separate project from the Build Alternative, RTD plans to implement a new downtown circulator to provide service on 18th and 19th Streets, and provide access to the below-grade bus facility with access via the inbound ramp at the east end of the regional bus facility.
- Pedestrian Access and Circulation: The Build Alternative calls for at-grade pedestrian access at all facilities, except the regional bus facility, where access will be provided below-grade and will serve as a climate controlled concourse with connections to the light rail and passenger rail stations. There will be access to the bus facility through escalators, elevators, and stairs. The Build Alternative calls for construction of a pedestrian deck crossing over the passenger rail tracks for access to passenger rail services and parking.
- Bicycle Access: Existing bicycle routes will remain under the Build Alternative and a new connection on 16th street between Wynkoop Street and the Millennium Bridge will be constructed. Bicycle racks and lockers will be provided around the

- transit facilities. A site between 15th and 16th serves as a potential location for a bike station assuming an operator and supplemental funding can be identified. Since publication of the FEIS, the City and County of Denver has committed to work with this project to provide unprogrammed Wewatta Street right-of-way in this area to serve as a bike station. Bicycles will also be able to share general purpose lanes on the additional street infrastructure described in the next section.
- **Street Infrastructure and Reconstruction:** Portions of Chestnut Place, and 16th, 17th, 18th and Wewatta Streets will be reconstructed to accommodate the proposed transit improvements, as well as auto, bicycle and pedestrian circulation in the area. The 16th Street right-of-way will be widened between Wynkoop and Wewatta Streets and rebuilt between Wewatta Street and the Millennium Bridge. Seventeenth Street will be rebuilt over the below-grade regional bus facility. Since publication of the Final EIS, the proposed cross-sections for 16th Street (between Wewatta Street and Chestnut Place) have changed. Both proposed changes provide additional space for pedestrian movements and improve traffic circulation. Neither of the proposed changes creates additional environmental impacts. These changes were presented at the Final EIS Public Hearing and made available on the project's website. An extension of the 18th Street alignment west of Wynkoop Street will provide access to the parking garage and below-grade bus facility as well as the modifications to at-grade transit infrastructure and rights-of-way.
 - **Parking Structures:** One level of elevated parking over the passenger rail station will provide approximately 50 market-rate parking spaces accessible by the general public.

4.3 Phase 1 Alternative

The Phase 1 Alternative would implement all the above summarized improvements in separate phases. Under the Phase 1 Alternative plan, the above listed improvements would be implemented gradually over the course of 20 years. The specific order of phasing/improvements of the Phase 1 Alternative is outlined in the DEIS.

5.0 Environmental Consequences and Mitigation Measures

Environmental consequences and recommended mitigation measures for the Build Alternative are described in this section. No separate discussion of environmental consequences is provided in this ROD for the Phase 1 Alternative since the environmental consequences are essentially the same as the Built Alternative but are spread out over a longer period of time.

5.1 Construction

It is anticipated that the majority of adverse impacts associated with construction at DUS will be temporary and not of a permanently adverse nature. Impacts will be typical of heavy transit-oriented construction, and will include noise, vibration and dust/particulate matter increase in and around the area of the station. Short term congestion related to construction activities will likely be caused, due to necessary vehicular detours and construction equipment in and around the study area. There will also be short term business impacts in the Lower Downtown area during the construction period. These construction impacts cannot be avoided, but they are not expected to produce long term adverse effects within the study area. Construction is scheduled to span a four year period.

Amtrak and Ski Train passenger train operations will be maintained during the reconstruction of the existing track throat north of 18th Street and during the construction of the passenger rail station. To maintain continued operations, a temporary platform between 18th and 29th Streets will be constructed. Amtrak was provided with design options for this temporary platform in June, 2008. Neither of these options would alter the projected environmental impacts. The Project team will continue to coordinate with both Amtrak and Ski Train prior to and throughout construction, to ensure that all provisions for existing train service operations and passenger needs are met at the temporary station site.

5.2 Traffic

A supplemental transportation study for RTD for the City and County of Denver analyzing the Build Alternative was made available after the FEIS was published. RTD believes this study to be a more accurate prediction of area vehicle and pedestrian movements than the model used in the FEIS. The results of this study have replaced the 2030 DRCOG model household and employment estimated traffic projections with data representative of the specific development projects in the Central Platte Valley. The new number of housing units is projected at 1790 and the amount of office space is projected at 2,775,000 square feet. It is also estimated that 345,000 square feet of retail and restaurant uses and 350 hotel rooms will be constructed in the Central Platte Valley. These projected land use estimates are based on the latest zoning-compliant development scenarios, but are not necessarily approved development projects. Though the results of the supplemental transportation study identified impacts at several study area intersections, only four require mitigation under the Build Alternative.

The Build Alternative is expected to impact the following four intersections. The project will mitigate these impacts by construction improvements as described in Appendix A.

- 20th Street and Chestnut Place
- 17th Street and Wewatta Street

- 16 Street and Wynkoop Street
- 15th Street and Wewatta Street.

The Build Alternative is also expected to impact the intersections listed below. The only reasonable improvements to these intersections are signal timing adjustments. These adjustments will be completed by the City and County of Denver independent of the Build Alternative. As such independent improvements, the signal timing adjustments listed below are not included in the mitigation table in Appendix A.

- Speer Boulevard and Wewatta Street: The additional northbound left turn lane and the southbound turn lane on Wewatta Street are no longer part of the mitigation.
- 15th Street at Wynkoop Street and Wazee Street: The project team decided not to include the addition of a left turn lane from northbound Wazee Street to westbound 5th Street because modeling indicated it would require the removal of parking spaces supporting a larger downtown system located on the east side of Wazee Street.
- 16th Street at Wewatta Street, Wazee Street and Market Street
- 17th Street at Chestnut Place and Blake Street
- 18th Street at Chestnut Place Wewatta Street and Blake Street
- 19th Street at Chestnut Place, Wewatta Street, Wazee Street and Blake Street

The Build Alternative is no longer expected to impact these intersections and as such no improvements are planned:

- 20th Street and Wazee Street
- 17th Street and Wynkoop Street
- 18th Street and Wynkoop Street

5.3 Railroad Operations

The FEIS described the eight track passenger rail facility and documents two options to accommodate different operating scenarios. Based on the updated operations and analysis results, the RTD selected the Option 1 operating scenario for implementation. This scenario places Amtrak operations on Track 4 within DUS, and provides Amtrak with a minimum track length of 1585' while offering a passenger platform that can be protected from the elements. The Build Alternative provides for all servicing and operational needs Amtrak currently performs at DUS. Fueling, watering, toilet servicing and inspections will all remain at DUS. RTD has determined, through additional design work, that the Track 4 location within DUS also provides passenger access from the station building to the Amtrak platform that is at least equivalent to the level of access provided to the current station/platform location.

Amtrak has identified the need for a layover storage area for setoff cars and locomotives not currently provided at DUS, in order to accommodate future service levels. Since

publication of the FEIS, additional analysis has determined that placement of the storage track will be under the Park Avenue West viaduct, immediately north of the track through and extending approximately 1000 feet. This storage site was presented at the Final EIS Public Hearing and information regarding the location was published on the Project website. The site in total is approximately 50,000 square feet (1.5 acres) and will provide space for a two track storage/runaround stub with switches to connect directly into the track throat. While environmental impacts of this specific storage track location were not separately analyzed in the FEIS, the operation of a storage track was included in the base assumptions. Therefore, impacts from noise, vibration and air quality are already accounted for in those analyses presented in the FEIS. Storage track construction at this location will require acquisition of currently undeveloped and unused right-of-way from Union Pacific Railroad. RTD will adhere to all federal guidelines for acquisition and relocation assistance. Shallow soil excavation will be required to construct the tracks, and provide for the possibility of encountering contaminated soil and groundwater. The excavation of approximately 20,000 cubic yards of soil will follow the same procedural system to assess, contain, treat and dispose of contaminated that will be undertaken for the other 160,000 cubic acres of soil to be removed by this project not in relationship to the creation of the new storage track. These modifications to the passenger rail element of the DUS project are consistent with the scope of improvements as provided by the FEIS and will not result in significant environmental impacts.

Amtrak and several other FEIS commenters suggested the importance of providing or preserving capacity to connect the passenger rail station to the southbound Consolidated Main Line tracks. This connection, however, is not part of this project's purpose and need and RTD has determined is not necessary to provide adequate capacity for the rail services to be funded or planned for the 2030 horizon year. RTD realized, however, that the current design serving the purpose and need creates and would support future potential connections that could be used by Amtrak at future stations adjacent to the CML tracks or connected to the CML by a short connection track. Therefore, RTD continues to engage Amtrak and FRA in conversations to address specific design details, including a detailed analysis of passenger movements through the station. This would confirm the adequacy of capacity and passenger comfort levels on major routes and vertical circulation elements. If this coordination suggests the need for additional design refinements, the FRA will reevaluate the potential change in environmental impacts in coordination with the FTA and RTD.

5.4 Noise

The increase in passenger rail traffic to DUS will result in moderate noise impacts at two residences within the IceHouse Lofts. No mitigation measures are required for moderate impacts. The FEIS Errata, which made technical edits to the FEIS and is found in Appendix D to this document, includes two additional tables, since minor discrepancies were found in FEIS Table 5-9 for Noise Impact Assessment and Results, and FEIS Table

5-10 for Predicted 50 foot Reference Noise Levels for the Build Alternative. The Noise Impact Assessment Results reported outdated information regarding the noise impacts at the IceHouse Lofts and One Wynkoop Plaza; the new information identifies a lesser impact at these locations than originally calculated.

5.5 Air Quality

Under the Build Alternative, the air quality analysis indicates that mobile source impacts and stationary source impacts are both within the limits established by the national Ambient Air Quality Standards (NAAQS). Air toxic levels for the 2030 Build Alternative are less than what exists for current conditions, but are slightly higher than what would be achieved under the No-Action alternative. This is due to the increased passenger rail activity associated with the Build Alternative. Mitigation is not required for air quality impacts.

Hot spot analysis performed for the FEIS evaluated local air quality impacts caused by the DUS project. This analysis shows that the NAAQS are not expected to be violated in either the opening year or the design year for the project at any analyzed location.

5.6 Water

The Build Alternative will increase impervious surface area with a corresponding increase in storm runoff. All increased storm runoff can be accommodated in the existing stormwater system, which will not require modification under this project. Additions to impervious surface area will increase the potential for new pollutants to enter surface water resources, which could affect local water quality. Mitigation measures to include temporary and best management practices will be implemented under the Build Alternative to minimize the potential to water resource impacts within the project area.

Because of known existing contamination at the DUS site, it is expected that encountering contaminants cannot be avoided during project construction. Therefore, hazardous materials and groundwater existing at the site may be disturbed. If the groundwater is contaminated and the conditions for permit acquisition are met, a groundwater remediation permit from the Colorado Department of Public Health and Environment (CDPHE) will be obtained.

5.7 Right-of-way

Most elements of the Build Alternative will be constructed exclusively on the DUS site. Minor right-of-way acquisitions of .04 acre will be required at the IceHouse Lofts in order to widen access on 18th Street to the regional bus facility and proposed parking structure. This need for right-of-way was discussed in the FEIS.

Since the publication of the FEIS, RTD has decided to place the storage track under the Park Avenue West viaduct, immediately north of the track throat. This will require the permanent acquisition of approximately 1.15 acres of right-of-way from Union Pacific Railroad. As design of this storage track element progresses, additional right-of-way acquisitions, including those for temporary construction easements, may be determined necessary. All other property necessary for the Build Alternative at the station and adjacent to the CML is owned by RTD.

5.8 Cumulative Impacts

Cumulative impacts were calculated for each affected resource, and can be found in resource specific discussions within the FEIS document. Cumulative impact is the impact “on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions.” (40 C.F.R. § 1508.7). Cumulative impacts for this project include impacts resulting both from public and private projects related to the redevelopment of DUS. The geographic boundaries of areas of cumulative impacts analysis differed with the specific resources being evaluated.

Overall, the cumulative impacts of the Build Alternative will not result in a significant incremental impact when added to the other past, present and reasonably foreseeable future actions in the area.

5.9 Section 106 Historic Resources

The FEIS documents 23 historic properties within the Area of Potential Effects (APE). The project sponsors in consultation with the Colorado State Historic Preservation Office (SHPO) determined that the Build Alternative will have an adverse impact to three historic resources: The Denver Union Station tunnels, the Delgany Street Sewer, and the railroad tracks west of Union Station (tail tracks). Each of these three sites will be directly and adversely affected by the redevelopment of DUS into a multi-modal transportation hub under the Build Alternative. None of the other properties within the APE will be adversely affected by the Build Alternative. Mitigation measures have been identified for each impact and are described in Section 5.11, below. A Memorandum of Agreement (MOA) between FTA, RTD, SHPO and ACHP was developed and signed to complete the Section 106 Process. FRA petitioned FTA as the lead federal agency and the other signatories to the MOA to amend this MOA to add the FRA as a signing party. The amended MOA with the FRA signature was executed in February, 2010 and is attached to this ROD as Appendix B.

5.10 Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303)

Section 4(f) applies to the proposed project because it involves the use of several properties on or eligible for the National Register of Historic Places. The FEIS included

a section 4(f) finding which concluded that no feasible and prudent alternatives exist to the use of the three resources identified above. In order to achieve the stated Purpose and Need for the project, the use of the Denver Union Station tunnels, the tracks located behind Denver Union Station, and the Delgany Street Sewer is required.

Only the passenger rail station and regional bus facility components of the Build Alternative involve the use of the Denver Union Station tunnels, located at historic Denver Union Station. To avoid a use of the DUS tunnels, the passenger rail station facilities would need to be developed adjacent to the CML. All alternatives that placed the passenger rail facilities adjacent to the CML were deemed infeasible by the project sponsors because the grade separations necessary to bring the corridors into a station at that location could not be constructed as a matter of sound engineering judgment. It was also determined that rerouting passenger rail service either over or under the Prospect neighborhood, the adjacent rail yards and the Park Avenue and HOT Lane viaducts was not a feasible alternative. The regional bus facility has limited options for placement in and around DUS. Project alternatives that constructed the regional bus facility below the parking lots between the historic station and Wynkoop Street are no longer practical. To preserve multi-modal connectivity, the project would have to construct a grade separated pedestrian connection and Downtown Circulator facilities between the light rail and commuter rail facilities, adding significant expense to the overall project. The regional bus facility can also not be constructed on a second level deck as studies suggested in some alternatives, because this construction method would impinge upon the protected 17th Street view corridor from Union Station to the CML. Construction of a second level deck between 18th and 19th Streets is also not feasible based on significant safety concerns. Based on these considerations, there is no prudent and feasible alternative to the use of the Denver Union Station tunnels.

The Build Alternative requires the use of the historic tracks adjacent to DUS. Removal of 6.9 acres of track between Cherry Creek and 20th Street is required to accommodate the construction of a new passenger rail station and allow for access into that station. The station will require the addition of three new tracks to accommodate projected traffic and rail uses, and streets adjacent to the station will be reconfigured to allow better vehicular access and movements. It is anticipated that these tracks would be affected under the No-Action Alternative as well, since the City of Denver would request removal of some or all of the tail tracks located between 15th and 16th Street, resulting in no functional use of the tracks between Cherry Creek and 15th Street. Based on these considerations, there is no prudent and feasible alternative to the use of the historic tracks adjacent to Denver Union Station.

The Build Alternative will use the Delgany Street Sewer located under Wewatta Street by removing a portion of the abandoned structure to construct the underground bus facility. Alternatives that avoided the use of the Delgany Street Sewer located the bus facility on a second level deck. This alternative was found to be infeasible because the facility would

impinge upon the protected 17th Street view corridor from Union Station to the CML. One additional alternative that located the bus facility underground, parallel to the passenger rail station was eliminated after FRA consultation led to the determination that the location was not feasible based on sound engineering principles. Based on these considerations, there is no prudent and feasible alternative to removing the Delgany Street Sewers.

The Build Alternative includes all possible planning to minimize harm to these Section 4(f) properties resulting from their use for this project. FTA, as the lead federal agency, the SHPO and other consulting parties executed a Memorandum of Agreement (MOA) outlining the measures and commitments to be taken to minimize the harm and mitigate the impacts to these Section 106 and Section 4(f) resources. The MOA was amended in February, 2010 to include the FRA as a signing party.

The FRA has carefully reviewed the Section 4(f) Statement prepared by FTA and included in the FEIS and incorporated in the FTA ROD. FRA has concluded that it fully addresses the requirements of Section 4(f) and includes the information needed to make the findings required under Section 4(f). Since the FRA's action (potential Federal funding under the RRIF program) addresses the identical project covered in the FTA Section 4(f) Statement, FRA has not prepared a separate Section 4(f) Statement but adopts the 4(f) Statement prepared by FTA. On the basis of this statement and FRA's independent evaluation of it, FRA concludes that there are no feasible and prudent alternatives to the identified Section 4(f) uses and that the project (specifically through the MOA) includes all possible planning to minimize harm to the properties resulting from use of the identified Section 4(f) resources.

5.11 Mitigation Measures

Mitigation measures are described in detail in the Final EIS, and mitigation commitments are formally adopted as a part of this document. The full table of mitigation measures is included in Appendix A of this document.

The FEIS provides a comparison of direct impacts and mitigation strategies by alternative for each potential impact area. Specific mitigation commitments will be undertaken as set forth in the mitigation table where impacts are likely under the Build Alternative for identified impact areas.

6.0 Impacts

6.1 Adverse environmental effects which cannot be avoided should the proposed project be implemented under the Build Alternative

Under the Build Alternative, there are some adverse environmental effects that cannot be avoided. Visual aesthetics in the area would be permanently altered from that of generally open, undeveloped area to that of a developed, transportation activity hub. These changes overall will remain consistent with the surrounding urban environment.

Three identified historic properties will be adversely affected through partial or full removal. FRA is party to a MOA outlining mitigation measures for identified impacts to historic properties. Transportation and traffic patterns within the area of DUS will also be permanently altered and increased within the DUS study area. RTD and all involved agencies have established detailed mitigation measures and commitments to address specific identified adverse transportation and/or traffic impacts resulting from the development of DUS.

6.2 Irreversible and irretrievable impacts on the environment which may be involved in the proposed project should it be implemented.

If implemented, the Build Alternative may involve some irreversible and irretrievable impacts on the environment. The Build Alternative would permanently alter the transportation environment at and surrounding DUS, creating a major intermodal transportation hub. Traffic patterns surrounding DUS will be permanently altered to accommodate increases in vehicular and pedestrian trips related to the redevelopment of DUS. The visual appearance of the DUS project area will be altered, as the redevelopment of DUS is anticipated to motivate separate development of the surrounding area, consistent with the aesthetics associated with major metropolitan transportation hubs. RTD and all involved parties have explored the potential for irreversible and irretrievable impacts to the DUS project area under the Build Alternative, and have set forth identified mitigation measures to minimize irreversible and irretrievable impacts.

7.0 Decision

7.1 Basis for Decision

The RTD Board of Directors approved the Final EIS on May 20, 2008. The FTA and RTD then released the Denver Union Station Final EIS on August 15, 2008 for a 45-day public review period ending on September 29, 2008. Thirty-five commenters (both agency and general public) submitted comments on the Final EIS during the comment period. A public hearing for the final EIS was held on September 10, 2008. Comments and responses to comments received on the Final EIS are incorporated into this ROD, and are listed in Appendix C. FTA issued its ROD on October 17, 2008.

7.2 Decision

The FRA, in accordance with NEPA and the NEPA implementing regulations (40 CFR Parts 1500-1508; 64 FR 28545 and 23 CFR Part 771), and by this ROD finds that the requirements of NEPA have been satisfied for the Denver Union Station Improvement Project. The environmental record for the Union Station Project includes the Draft EIS and the Final EIS, the FEIS Comments and Responses, the FEIS Errata and the Amended Memorandum of Agreement between parties. These documents represent the detailed analysis and findings required by NEPA on:

- The environmental impacts of the proposed project
- Alternatives to the proposed project
- Irreversible and irretrievable impacts on the environment which may be involved in the proposed project should it be implemented.

The ROD also documents compliance with other applicable federal environmental laws, rules and regulations as follows:

7.3 Section 106 of the National Historic Preservation Act

Section 106 of the NHPA of 1966 requires that any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking take into account the effect of the undertaking on any district, site, building, structure, or other object that is included on or eligible for including in the National Register of Historic Places. Under this provision, the NEPA lead agency, the State Historic Preservation Officer (SHPO), affected Native American tribes, and other “consulting” parties participate in a consultation process regarding the potential effects of the undertaking on historic resources. Coordination with the Colorado SHPO has determined that the Build Alternative will have an adverse impact to three historic resources: the passenger tunnel and Denver Union Station, the Delgany Street Sewer, and the railroad track west of Union Station. Mitigation measures have been identified for each impact and are described in Section 1.5. A Supplemental Memorandum of Agreement (MOA) between FTA as the lead agency, RDT, SHPO, ACHP, and FRA is attached as Appendix B to this ROD.

7.4 Section 4(f) Determination

Section 4(f) of the Department of Transportation Act (1966) mandates the protection of the “natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.” Any transportation project that uses such Section 4(f) resources must conduct a Section 4(f) evaluation, and the Department of Transportation, including the FRA, may only approve a project requiring the use of such Section 4(f) resources only if there is no prudent and feasible alternative that would avoid the use and if the program or project includes all possible planning to minimize harm to the affected land or resource. Chapter 6 of the FEIS addresses the Section 4(f) evaluation.

Within the Area of Potential Effect (APE) 23 historic properties were identified. The project sponsors determined and FRA agrees that there is no prudent and feasible alternative to the use of the Denver Union Station, the tracks behind the Denver Union Station, and the Delgany Street Sewer. All remaining historic properties within the APE were evaluated and it was determined that the Build Alternative will not use any of these resources.

7.5 Executive Orders 11990 (Wetlands) and 11988 (Floodplain Management)

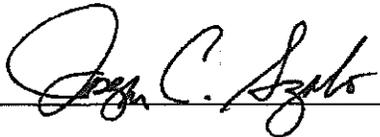
In accordance with Executive Order 11990, "Protection of Wetlands," and USDOT Order 5660.1a, "Preservation of the Nation's Wetlands," federal agencies must avoid undertaking or providing assistance for new construction in wetlands unless there is no practical alternative to such construction and the proposed action includes all practicable measures to minimize harm to the wetland. Executive Order 11988 requires that federal agencies provide leadership and take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains.

FRA finds the project was determined to be consistent with these regulations as discussed in Chapter 3.13 and Chapter 5.16 of the FEIS.

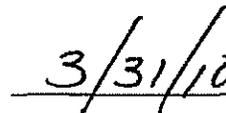
7.6 Conclusion

Concluding the FRA's decision making process for the Denver Union Station Improvement Project FEIS, the FRA makes the following decisions:

1. To select the Build Alternative and to reject the Phased Build Alternative and the No-Action Alternative.
2. To adopt the mitigation commitments, described in Appendix A of this ROD, to minimize harm from the selected alternative.



Joseph C. Szabo
Administrator



Date