

NORTH METRO RAIL LINE INTERGOVERNMENTAL AGREEMENT (Denver-RTD)

THIS INTERGOVERNMENTAL AGREEMENT (this “Agreement” or “IGA”) is made and entered, effective as of the date of the last date on signature blocks for this IGA (“Effective Date”), between the **CITY AND COUNTY OF DENVER**, a home rule municipal corporation of the State of Colorado, organized pursuant to Article XX of the Colorado Constitution (“Denver”), and the **REGIONAL TRANSPORTATION DISTRICT**, a political subdivision of the State of Colorado organized pursuant to the Regional Transportation District Act, C.R.S. § 32-9-101, *et seq.* (“RTD”). Denver and RTD are sometimes jointly referred to as the “Parties.”

WITNESSETH

WHEREAS, this Agreement is executed by Denver under the authority of its Charter and C.R.S. § 29-1-201, and by RTD under the authority of C.R.S. § 32-9-119; and

WHEREAS, RTD was established in 1976 by the Regional Transportation District Act, C.R.S. § 32-9-101 *et seq.*, and is authorized by that statute to develop, maintain, and operate for the benefit of the inhabitants of the district, including Denver’s inhabitants, a mass transportation system which transports the general public by bus, rail, air or any other means of conveyance or any combination thereof, along prescribed routes within the district; and

WHEREAS, the Parties entered into the Light Rail System Master Agreement between RTD and Denver dated March 25, 1993, a copy of which is attached hereto as **Exhibit A** (the “Light Rail Master Agreement”) which governs the general rights, duties and obligations of the Parties arising out of the design, construction, ownership, operation and maintenance of any and all sections, portions, or phases of RTD’s Light Rail system within Denver’s boundaries; and

WHEREAS, the Light Rail Master Agreement contemplated that other agreements would be necessary to implement the Light Rail system consistent with the terms of the Light Rail Master Agreement; and

WHEREAS, in furtherance of the public health, convenience and welfare, and pursuant to its statutory authority, as part of RTD’s FasTracks transit expansion plan approved by voters in November 2004, RTD proposes to construct Light Rail and Commuter Rail Transit services, lines, related stations, maintenance facilities and enhanced bus service throughout the Regional

Transportation District, with five new Light Rail and Commuter Rail corridors located within Denver and converging on a central intermodal facility at Denver Union Station downtown, bus rapid transit, and additional extensions or improvements of existing transit lines; and

WHEREAS, the FasTracks ballot issue required that local governments to be served by FasTracks contribute 2.5% matching funds to the construction of the FasTracks projects; and

WHEREAS, the Light Rail Master Agreement did not require a local agency contribution; and

WHEREAS, RTD proposes to construct the North Metro Rail Line consisting of Commuter Rail transit connecting Denver Union Station in downtown Denver and 162nd Avenue in Thornton (see map attached as **Exhibit B**) as more fully described in the Final Environmental Impact Statement released on January 28, 2011 (“FEIS”) and the Record of Decision dated April 22, 2011 (“ROD”); and

WHEREAS, RTD and Denver propose to engage in such mutually beneficial land transactions, as set forth in this Agreement, to enable the construction and operation of the North Metro Rail Line within Denver’s boundaries while assuring the continued beneficial and productive use of impacted public right of way, trails and park land within Denver’s boundaries; and

WHEREAS, funding opportunities currently enable RTD to construct the North Metro Rail Line to 72nd Avenue in Commerce City, including all portions of the North Metro Rail Line Project within the boundaries of Denver; and

WHEREAS, the Parties concur that it is in their mutual best interests to work cooperatively to plan, implement and promote transit, as well as jointly plan for adjacent land use and development opportunities that complement these transit services in the Denver metropolitan area for the North Metro Rail Line Project; and

WHEREAS, in light of the longstanding success of the Light Rail Master Agreement in governing the general rights, duties and obligations of the Parties with respect to RTD’s Light Rail system within Denver boundaries and similar attributes of Light Rail and Commuter Rail, the Light Rail Master Agreement, as defined and modified herein for the purposes of this Agreement, shall govern the general rights, duties and obligations of the Parties arising out of the

design, construction, ownership, operation and maintenance of those sections, portions or phases of the Commuter Rail system making up the North Metro Rail Line within Denver boundaries.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SCOPE OF AGREEMENT:

A. General. This Agreement provides, among other things, for the credit of Denver’s local agency contribution for the North Metro Rail Line Project and for close coordination of the efforts of Denver and RTD in the planning, surveying, environmental, infrastructure, utilities, land transactions, construction and related matters for the North Metro Rail Line Project, as well as use of the Light Rail Master Agreement as provided in sub-section 1.B and section 5 of this Agreement.

B. Light Rail Master Agreement. The Parties have previously entered into the “Light Rail System Master Agreement between the City and County of Denver and the Regional Transportation District” dated March 25, 1993, a copy of which is attached as **Exhibit A**. The Light Rail Master Agreement shall remain in effect and is not terminated by this Agreement; however, the Light Rail Master Agreement is hereby deemed applicable to this Agreement as modified by this Agreement, solely for the purposes of this Agreement and solely to the extent expressly provided in this Agreement. It is acknowledged and agreed by the Parties that this Agreement does add to, expand upon, subtract from and otherwise modify the terms and conditions specified in the Light Rail Master Agreement but only to the extent expressly provided for the North Metro Rail Line Project in this Agreement. These changes do not apply to any other FasTracks agreement between Denver and RTD.

C. Other Agreements. The Parties understand and agree that portions of the North Metro Rail Line Project converge with portions of other FasTracks Corridors (i.e., in the “Throat” area and at Denver Union Station). Where such convergence occurs, the Parties have identified and have addressed or will address specific issues in the following intergovernmental agreements between these Parties or in future intergovernmental agreements:

- (1) The “Intergovernmental Agreement (Denver-RTD FasTracks East Corridor)” dated March 16, 2010;

(2) The “Intergovernmental Agreement (Denver-RTD FasTracks Gold/NWES Corridor”) dated June 20, 2011; and

(3) Agreements among Denver, RTD, and the Denver Union Station Project Authority concerning the Denver Union Station central intermodal facility.

D. Exhibits. The following exhibits attached hereto are incorporated herein by this reference:

Exhibit A: Light Rail Master Agreement of March 25, 1993

Exhibit B: Anticipated North Metro Rail Line Alignment

Exhibit C: North Metro Rail Line Project Alignment

Exhibit D: Survey and Monumentation Requirements

Exhibit E: Brighton Boulevard Typical Section with Project Improvements

Exhibit F: NWSS Station Option Concept (extracted from Design Plan) and Station Typologies

Exhibit G, Figures 1-6: Depictions of Denver Property and RTD Property which are part of the Land Transaction

Exhibit H: Forms of Deeds for the Land Transaction

2. DEFINITIONS:

A. *Base Scope of Work* means any work or improvements identified or anticipated in the Light Rail Master Agreement as modified by this Agreement, the FEIS, ROD, and Design Plans, as well as the work or improvements identified in sub-section 7.B of this Agreement and any work or improvements made by RTD in satisfaction of 4(f) and/or 6(f) requirements to protect and mitigate impacts to protected trail resources or protected park resources. All such work and improvements shall be designed and constructed in conformance with all regulatory requirements (federal, state and Denver) in effect as of the date of permitting of the Project construction by Denver. This Base Scope of Work is part of the Project Costs to be paid by RTD (subject to Local Agency Contributions as identified in section 3 of this Agreement).

B. *Betterment* means any element of work that is not included in the Base Scope of Work, and which has been requested by Denver or a third party and consented to by RTD, where the value added is solely for the benefit of the requesting party. Unless responsibility for funding and

commitment to include a specific Betterment is otherwise expressly addressed in this Agreement, Betterments will be funded solely by the requester and will be included only if such work does not adversely impact or delay the Project. Betterments on Denver Property proposed by a third party shall be coordinated with and submitted to Denver for review and approval.

C. *Contractor* means the entity or entities selected by a competitive procurement process to provide design and or construction services for the Project. Wherever “Contractor” is referenced in this Agreement, Contractor shall mean RTD acting through Contractor. RTD shall be responsible for obtaining Contractor’s compliance with all applicable requirements of this Agreement.

D. *Denver Property* means any real property owned in fee by Denver, or dedicated or utilized as park land by Denver, or dedicated as public right-of-way within Denver’s boundaries as all such real property is expressly addressed in this Agreement; provided, however, that if any Denver public right of way, whether dedicated as public right of way or otherwise, occupies real property owned in fee by RTD (none of which is anticipated for this Agreement), such RTD Property shall not be included in the term “Denver Property.”

E. *Design Plans* means the 35% design plans dated February 8, 2013, as modified or clarified through the RTD/Denver “35% Plan Comments Reconciliation” dated June 26, 2013, for the North Metro Rail Line Project construction.

F. *Enhancement* means any element of work that is not included in the Base Scope of Work that may have been requested by Denver or a third party, where the Parties agree that the value added benefits both Denver and RTD. The Parties will share proportionately in the costs for any Enhancement as agreed to by the Parties.

G. *FasTracks Program* means the transit expansion plan approved by voters in November 2004, by which RTD proposes to construct Light Rail and Commuter Rail Transit services, lines, related stations, maintenance facilities and enhanced bus service throughout the RTD District, with five new rail corridors located within Denver and converging on a central intermodal facility at Denver Union Station downtown.

H. *Light Rail Master Agreement* means, solely for purposes of this Agreement, the March 25, 1993 agreement entered between Denver and RTD attached as **Exhibit A** to this Agreement, subject to the terms and conditions in sub-section 1.B and section 5 of this

Agreement that expressly or clearly modify, replace in parts, add to, subtract from, or expand upon the terms and conditions of the March 25, 1993 agreement for the purposes of the North Metro Rail Line Project.

I. *North Metro Rail Line Project*, also referred to in this Agreement as the “Project,” means the RTD FasTracks Program project known as the North Metro Rail Line, consisting of the Commuter Rail line and the design, construction, ownership, operation and maintenance of the Project within Denver’s boundaries. The North Metro Rail Line located within Denver’s boundaries is generally depicted in **Exhibit C**.

J. *NWSS Station* means “National Western Stock Show Station”, as further described in sub-section 8.A. of this Agreement.

K. *Project Costs* mean all costs and fees necessitated or required by the Base Scope of Work along with all necessary costs and fees required to design, locate and construct the Project including: planning; design (including value engineering); design review and approval; plan review and approval; permit and inspection fees and costs; property acquisition, easements, and relocation costs associated with property acquisition; all costs associated with changes to Denver Property of the types specified in Article 10 of the Light Rail Master Agreement or resulting from 4(f) or 6(f) mitigation; construction; construction inspection; utility relocation, including but not limited to Denver utility and infrastructure; utility upgrades required by law; traffic control during construction; traffic signal modification; such other infrastructure changes or improvements as identified in section 7.B of this Agreement; and all other costs allocable to RTD or reimbursable to Denver under the Light Rail Master Agreement.

L. *RTD Property* means any property owned or controlled by RTD that 1) is to be exchanged with Denver as provided in this Agreement; 2) is necessary for the re-alignment, replacement or reconstruction of any Denver right of way impacted by the Project; or 3) is part of the North Metro Rail Line which RTD owns or holds a property interest in within Denver’s boundaries.

3. PROJECT COSTS; LOCAL AGENCY CONTRIBUTIONS; DENVER’S CONTRIBUTION; DRCOG FUNDING:

A. Project Costs; Local Agency Contributions: All Project Costs for the Project shall be borne by RTD, except that local governments that benefit from the Project shall be

required to contribute their proportionate share of the local match for Project Costs as specified in sub-sections 3.B. and C. below (“Local Agency Contributions”).

B. Total Local Agency Contributions; Denver’s Contribution: The total Local Agency Contributions required for the FasTracks Project from all of the local jurisdictions together is 2.5% of the cost of the FasTracks Project. For purposes of calculating the Local Agency Contributions for the North Metro Rail Line, the Parties agree to use the estimated cost of the North Metro Rail Line as identified in the RTD 2010 FasTracks Annual Program Evaluation (“**APE**”), which is \$909 million. The Parties agree that the total Local Agency Contributions from all local jurisdictions for the North Metro Rail Line therefore is \$22.725 million (2.5% of \$909 million). The Parties further agree that Denver’s share of the Local Agency Contributions for the North Metro Rail Line is \$5 million (22% of the North Metro Rail Line total Local Agency Contributions) (“Denver’s Contribution”). The agreements contained in this section are contingent on all of the other jurisdictions in the North Metro Rail Line agreeing that the APE is no less than \$909 million and that the total Local Agency Contributions from all local jurisdictions is no less than \$22.725 million. Should RTD enter agreements with any of the other local jurisdictions for the North Metro Rail Line specifying an appreciably (10% or more differential) lower APE and local agency contribution amounts, these lower APE and Local Agency Contributions amounts shall be applicable to this Agreement and Denver’s Contribution shall be accordingly adjusted downward and reflected in an amendment entered into by RTD and Denver to this Agreement.

C. Special Terms for Denver’s Contribution: Without limiting the foregoing, the Parties agree that the following provisions shall be applicable with respect to Denver’s Contribution:

(1) **Overmatch:** The Parties acknowledge that credits held by Denver for its local agency contributions to other FasTracks corridor projects covered by previous intergovernmental agreements between RTD and Denver exceed the cumulative Denver share of the Local Agency Contribution for all FasTracks corridors, resulting in an “Overmatch” which exceeds Denver’s Contribution under this Agreement. The Parties agree that an amount of Denver’s Overmatch from other FasTracks corridors shall be applied in an amount equal to Denver’s Contribution for the Project in full satisfaction of Denver’s obligation to make a Local Agency Contribution for the North Metro

Rail Line. If the reconciliation of other FasTracks corridors should definitely show that this Overmatch does not exist or is insufficient to cover Denver's Contribution for the Project, then the Parties will take such action as necessary to amend this Agreement or enter another IGA to assure that Denver's Local Agency Contribution is satisfied.

(2) **Other Improvements**: If any unforeseen work is necessitated by the Project (a Project Cost) that Denver is willing to fund, the Parties shall enter into an amendment to this Agreement or a subsequent intergovernmental agreement to govern such work and to provide for reimbursement or other compensation acceptable to Denver for any costs incurred by Denver.

4. ENVIRONMENTAL AND ENGINEERING PHASES:

RTD has completed the environmental process for the North Metro Rail Line and advanced basic engineering to study the impacts associated with the implementation of the Project. RTD assumes the responsibility for National Environmental Policy Act ("NEPA") process and documentation. Denver will be afforded opportunities to comment on any supplemental Environmental Assessments or Environmental Impact Statements completed for the North Metro Rail Line. Any changes to such Environmental Assessments, Environmental Impact Statements or other environmental requirements applicable to the North Metro Rail Line Project within Denver's boundaries, including those that modify, reduce or eliminate any of RTD's obligations under section 4(f) and 6(f) to protect or mitigate damage or impacts to trail and park resources, or other environmental impacts shall require the prior written approval of Denver.

5. THE LIGHT RAIL MASTER AGREEMENT:

The Parties agree that except as expressly set forth below and otherwise as provided in this Agreement, the Light Rail Master Agreement attached as **Exhibit A** to this Agreement shall apply as between these Parties to the North Metro Rail Line Project, subject to the following:

A. References in the Light Rail Master Agreement to "Light Rail" shall be interpreted under this Agreement as meaning "Commuter Rail".

B. The following definitions in the Light Rail Master Agreement are amended as follows:
(1) The term "***System***" in the Light Rail Master Agreement shall apply to those portions of the North Metro Rail Line of RTD's Commuter Rail system implemented within the City and County of Denver.

- (2) The terms “*City ROW*,” “*ROW*,” and “*Right-of-Way*” in the Light Rail Master Agreement shall have the definition as provided in Article 2.C of the Light Rail Master Agreement, and shall also include any dedicated Denver right-of-way within “Denver Property” as defined in sub-section 2.D. of this Agreement; but shall not apply to North Metro Rail Line right-of-way conveyed to RTD for RTD’s exclusive use.
- (3) The term “*RTD*” in the Light Rail Master Agreement shall refer both to RTD itself, and by and through its Contractor. It is understood and agreed that a Contractor or Contractors may be selected and retained by RTD to design, build, finance, operate and/or maintain the Project. Any Contractor authorized by RTD to act on behalf of RTD under the Light Rail Master Agreement and this Agreement shall be duly informed and directed by RTD that the Contractor is obligated to act in conformance with the Light Rail Master Agreement and this Agreement, particularly with respect to the contractual and regulatory roles Denver has in the Project, and RTD shall promptly identify the Contractor to Denver, including all contact information necessary for the proper performance of the Light Rail Master Agreement and this Agreement.
- (4) The terms “*City funded work*” or work “*funded in whole or in part by the City*” in the Light Rail Master Agreement shall not include Denver’s Share of the Local Agency Contribution.

C. Articles 4, 6, and 7: Add: Requirements for copies, drawings and documents may be satisfied by provision of electronic documents. Requirements for corridor monumentation documents, surveys and legal descriptions are addressed in section 6 of this Agreement.

D. Articles 4.A. and 4.B: Add: Any removal, relocation, replacement and new construction of property or improvements on or within a Denver park shall meet or exceed the criteria and standards of the Denver Department of Parks and Recreation then in effect for work in its parks. A copy of such design and construction criteria and standards for the Department of Parks and Recreation shall be provided to RTD.

E. Article 4.C.5: Replace with: Unless a lesser term is required by federal law or regulation, RTD shall warrant all work which will be maintained by Denver for such period from the

date of final acceptance as is required by City and County of Denver, Department of Public Works, Standard Specifications for Construction, General Contract Conditions, current version at time of permitting or, if the work is located on or within a Denver park, RTD shall warrant such work which will be maintained by the Denver Department of Parks and Recreation as is required by the Department's Planning, Design and Construction Standards or by other established standards and criteria of the Department, current versions at time of permitting.

F. Article 21: Add: RTD may satisfy the requirements in Article 21(A)(2), (4) and (5) regarding public information by assigning such obligations to a Contractor by the requirements in the Contractor RFP and the contract entered with the Contractor regarding public information. RTD shall remain responsible for assuring that the Contractor complies with these obligations.

G. Article 22: Add: The Parties understand that RTD may operate the Project through a Contractor, which shall not be a violation of Article 22(A)'s requirement that the rail be operated by RTD. Article 22(B) shall not apply to Commuter Rail.

H. Article 26.B: Replace with: RTD agrees to maintain all areas of land owned by RTD and all structures owned by RTD, including trackage, located on that land and all aerial structures owned by RTD, including bridges. If RTD or its Contractor constructs any Project improvements on Denver-owned property outside of this Agreement but with the consent of Denver, then RTD and Denver will enter into a separate agreement regarding the maintenance of such improvements. RTD also agrees that it will install, maintain and replace (as needed) such rail fencing, netting or other appropriate and sufficient protection from objects and debris which may fall from Project bridge crossings over rights of way and trail corridors within Denver's boundaries.

I. Article 31: Add: RTD shall provide proof of insurance with respect to the operation of the Project in the minimum limits set forth in Article 31; provided, however, that Article 31's requirement for "named insured" Denver coverage when appropriate may be satisfied by making Denver an Additional Insured when appropriate. In addition, RTD shall obtain an Owner Controlled Insurance Program ("OCIP") for the construction phase of the Project. The OCIP provides coverage for RTD, the RTD Contractor and certain of its subcontractors for: General Liability with limits of liability of no less than \$2,000,000 per occurrence and aggregate; Workers Compensation as required by statute; Employers Liability; and an excess or Umbrella policy. RTD shall also procure coverage for Builder's Risk, Contractor Pollution Liability and, if

necessary, Railroad Protective Liability, each with limits of liability not less than \$1,000,000 per occurrence and aggregate. Denver, its officers and employees shall be named an additional insured on the OCIP General Liability and Excess Liability for any construction or relocation that RTD or its Contractor shall perform. Proof of all such insurance coverage, preferably in the form of Certificates of Insurance, shall be provided to Denver. RTD may, if it desires, satisfy the above OCIP obligations through a Rolling OCIP (ROCIP) provided that all requirements set forth above are met.

J. Article 32: For purposes of notices under this Agreement, Article 32 is replaced by section 14 (Notices) of this Agreement.

K. Article 45: Add: Article 45 shall not restrict RTD from entering into the contracts for design, building, funding, operations and/or maintenance as provided in sub-section 5.B.(3) above, provided all such contracts shall affirmatively state that they are subject to and shall be in compliance with this Agreement.

L. Article 48: Replace with: The parties understand and agree that certain Project elements are transit elements that are crucial to Commuter Rail Transit (“CRT”) system operation and/or compliance with Federal Transit Administration (“FTA”) or Federal Railroad Administration (“FRA”) requirements (“Transit System Elements”). Transit System Elements include, without limitation, trackage, prefabricated traction power substations, prefabricated signal houses, prefabricated communications houses, noise and ballast walls, and station platforms, all of which are to be located within North Metro Rail Line right of way or other property owned, leased or subject to easement held by RTD unless other arrangements are made with Denver by written agreement. Denver agrees that, subject to the Light Rail Master Agreement and this Agreement, it will not conduct or knowingly approve any activities that would unreasonably encumber or compromise the integrity or operations of the System without RTD’s approval; provided, however, that nothing in this Agreement is intended, or shall be construed, to limit or otherwise restrict Denver’s police and regulatory powers, including zoning and building and fire code administration, or to require Denver to act contrary to its Charter, ordinances or rules and regulations with respect to the regulation and permitting of third party activities. Denver will not construct, or knowingly permit to be constructed, any encumbrances within 25 feet of track centerline within the limits of Denver-owned ROW without RTD’s

approval based on safety and operational considerations, and which approval shall be promptly considered and not unreasonably withheld. This provision shall not restrict Denver from making improvements to or otherwise repairing, maintaining or replacing any public rights of way, trails, or related features located by, along or under RTD bridge crossings of public rights of way and trails owned or operated by Denver, so long as this work does not unreasonably encumber or compromise the integrity or operations of the System. However, Denver and RTD agree to cooperate with one another and to coordinate such activities.

6. SURVEYS; CORRIDOR MONUMENTATION DIAGRAM; ROW PLANS; LEGAL DESCRIPTIONS:

A. Intent: Wherever Denver Property or RTD Property (“Land Parcel”) is being defined because of North Metro Rail Line influence, the Land Parcel shall be surveyed and monumented per the requirements set forth in **Exhibit D**. This monumentation shall be preserved throughout the construction of the Project.

B. Corridor Monumentation Diagram. RTD has provided Denver with a copy of the preliminary Corridor Monumentation Diagram for the North Metro Rail Line Project, and shall provide Denver with the final Corridor Monumentation Diagram for the Project on or before January 1, 2014. The final Corridor Monumentation Diagram shall include the description and coordinate location of all control established, land parcel and range line monuments recovered or reestablished (details in **Exhibit D**). All land parcel and range line monumentation shall be in place before commencement of Project revenue service. Coordinates will be shown in the RTD project datum and latitude and longitude, and the RTD datum will be defined and show points of origin listing values held. This document will be updated throughout the construction of the Project.

C. ROW Plans. RTD has provided Denver with a copy of the preliminary Right of Way Plans for the Project, for which Denver has offered its comments and changes. RTD shall provide revised ROW Plans, including responses to Denver’s comments, by January 1, 2014. RTD anticipates Final ROW Plans to be completed by January 1, 2015. Final ROW Plans shall not vary from revised ROW Plans except as mutually agreed by the parties. The form and content of the Final ROW Plans shall be in substantial conformance with the Colorado

Department of Transportation (“CDOT”) Survey and Right of Way Manuals as of June, 2009; shall include toe-of-slope lines; and shall include the following additional information:

(1) The Right of Way for the Project and any legal descriptions of Land Parcels associated with the Project, including those prepared for the Land Exchange as provided in section 10 of this Agreement, shall be tied to the Land Parcel and range line monumentation shown in the final Corridor Monumentation Diagram. These ties will be shown on the Final ROW Plan sheets.

(2) Denver’s Public Works-Survey/ROW Section shall review and comment on the Final ROW Plans and legal descriptions, which shall be reviewed for conformance to the records of the Denver City Engineer.

(3) All required monuments to be set as shown on the Final ROW Plans and range line monumentation as shown on the final Corridor Monumentation Diagram must be in place at the end of construction and a survey showing all monuments set shall be deposited with the City Surveyor.

7. ROD, INFRASTRUCTURE, UTILITIES, RIGHT OF WAY, ACCESS AND STAGING AREAS, AND PERMITS AND FEES:

A. Compliance with the ROD: Essential elements of the Project have been identified in the FEIS and the ROD for the North Metro Rail Line. Any material revision or change to the FEIS and/or the ROD involving portions of the North Metro Rail Line located in Denver’s boundaries shall require prior written approval from Denver. RTD shall consult with Denver in advance of submitting any proposed revision or change to the FEIS and/or the ROD to determine if any such revision or change is “material” in nature. Any such revision or change to the FEIS and/or the ROD which conflicts with or is inconsistent with this Agreement shall be deemed “material,” and failure by RTD to obtain Denver’s approval for the revision or change is not in keeping with this Agreement. If the Parties disagree as to whether a revision or change conflicts with or is inconsistent with this Agreement, the Parties shall utilize the dispute resolution procedures set forth in the Light Rail Master Agreement. The Parties acknowledge the following items are, at a minimum, necessary for the implementation of the FEIS and the ROD:

(1) **Parking Mitigation for NWSS Station:** RTD will design and construct parking for the NWSS Station, in accordance with paragraph 8.A of this Agreement and

at its own expense, reasonably sufficient for opening day of the Project. RTD will continue to increase the amount of parking at stations based on review and analysis of parking use by RTD customers and subject to required regulatory approvals from Denver. See sub-section 8.B of this Agreement for additional planning and design provisions related to the NWSS Station.

(2) **Globeville Landing Park/Trail Crossings under 4(f) and 6(f)**: RTD will work with Denver to comply, at RTD's expense, with federal law cited in the FEIS and ROD for protecting and mitigating impacts to 4(f) and 6(f) resources including public trails and parks in and along the North Metro Rail Line within Denver's boundaries. This work includes, but is not limited to, RTD providing to Denver \$40,000, due at the date of Closing as specified in Section 10.D of this Agreement, to fund a master plan for the Globeville Landing Park and to replace trees lost or damaged due to the Project or to pay the appraised value of the lost or damaged trees as prescribed in standards set by the Denver City Forester.

B. Infrastructure and Utilities. Beyond what is specified in the FEIS and the ROD, RTD and Denver agree to the following terms and conditions regarding infrastructure and utilities:

(1) **Utility Corridors.** RTD shall grant to Denver, at no cost, licenses for Denver utilities, including Denver Water, to cross RTD right of way in the North Metro Rail Line following finalization of RTD's acquisition of such right of way in fee and following Denver's design of such utilities.

(2) **Third-Party Utilities located within Denver ROW:** For relocations of utilities owned by entities other than Denver when such relocations are necessitated by the Project and therefore are a Project Cost, if Denver's franchise agreements with Xcel or Comcast or if other federal or state laws require said utility provider to pay the cost of relocating under the circumstances, Denver will exercise its rights under the franchise or law to request said utility relocation upon receiving appropriate documentation from RTD as to the need for the location.

(3) **Denver Stormwater and Wastewater Utilities:** Where relocation, reconstruction or protection of stormwater and/or wastewater lines owned by Denver or Metro Wastewater ("Sewer Utilities") is required by the Project, RTD shall be responsible for undertaking and paying for the relocation of those Sewer Utilities. RTD will coordinate such

required relocations of Sewer Utilities with the appropriate representatives from Denver and/or Metro Wastewater. If Denver or Metro Wastewater desires to take advantage of such relocation to install new or upgraded Sewer Utilities, Denver and/or Metro Wastewater, as appropriate, will coordinate with RTD to implement such construction within the Project construction schedule, and the cost of any new Sewer Utilities and/or the incremental cost of upgraded Sewer Utilities will be the responsibility of Denver and/or Metro Wastewater, as appropriate under the circumstances.

(4) **Compliance with Federal Utility Relocation Requirements:** In the event that RTD receives FTA funding pursuant to an FTA Full Funding Grant Agreement (“FFGA”), then the following shall be applicable: FTA’s FFGA Circular C 5200.1A provides that, in general, FTA practices on utility relocation shall coincide with those of the Federal Highway Administration, including those set forth at “Utility Relocations, Adjustments and Reimbursements” at 23 CFR Part 645, Subpart A. Denver agrees that any utility work performed by Denver or its employees, agents, contractors or subcontractors pursuant to this Agreement shall comply with the standards of 23 CFR 645, in addition to any other applicable federal, state or local laws and regulations, to the extent that such standards, laws and regulations are applicable to the work performed by Denver or its employees, agents, contractors or subcontractors.

(5) **Drainage.** RTD and Denver will follow the Urban Drainage and Flood Control District (“UDFCD”) “Guidance for Stormwater Best Management Practices in Conjunction with the FasTracks Eagle P3 Project”, produced by UDFCD and dated August 3, 2011.

(A) RTD, CDOT, UDFCD, and Denver have agreed to partner in order to address regional drainage in the area covered by Montclair and Park Hill drainage basins, with consideration of drainage requirements for the North Metro Rail Line Project, CDOT’s proposed I-70 East project, and projects identified under Denver’s *North Denver Cornerstone Collaborative*. Resolution of the final drainage design for the North Metro Rail Line Project requires additional analysis and discussions between Denver, CDOT, UDFCD, and RTD that will ultimately be memorialized in a forthcoming MOU for a comprehensive regional drainage solution.

(B) In the interim of participating in the larger comprehensive drainage solution involving RTD, Denver, CDOT, and UDFCD, RTD included, as part of the Project's 2013 Request for Proposals, scope that provides drainage infrastructure sufficient to convey 300 cfs from the area near the NWSS Station to the South Platte River, referred to herein as the "Adverse Impact System," as defined in Attachment 2, Option 9, of the Phase 1 Options in the North Metro Rail Line Request for Proposals. The 300 cfs threshold was conservatively estimated during development of the Design Plans as sufficient to satisfy the Project's drainage impacts. RTD recognizes that as design advances, the drainage impacts could change and RTD will remain responsible for mitigating the Project's adverse drainage impacts identified as a result of the final design. Denver and RTD also recognize that the comprehensive drainage solution for the area will be addressed via the above Denver, CDOT, UDFCD, and RTD drainage partnership; at which time formal recommendations and timing will be known.

(C) As a part of the budget for the North Metro Rail Line Project, RTD agrees to escrow funds sufficient to design and construct the Adverse Impact System. Such escrow amount will be based on an option price proposal requested by RTD and provided by the proposers on the North Metro Rail Line Project. RTD agrees to construct the Adverse Impact System or contribute the full amount of the escrowed funds toward construction of the comprehensive drainage solution provided that such solution mitigates the Project's adverse drainage impact.

(6) **Storm Drainage Conduits.** Denver has proposed but not yet installed certain Storm Drainage improvements in the "City and County of Denver Storm Drainage Master Plan" dated June 2009 ("2009 Master Plan"). In some cases the cost to Denver to install such improvements may be greater due to the prior implementation of the Project. In such event, RTD agrees to pay the differential cost of improvements proposed in the 2009 Master Plan over the length of the Project crossing. For example, if a pipe described in the 2009 Master Plan but not yet installed as of construction of the Project must be installed via jack and bore rather than open cut due to the Project, RTD shall pay Denver the added cost for jack and bore installation. RTD and Denver will work together, in good faith, to resolve issues relating to implementation of Denver's storm and sanitary master plans and capital improvement programs. RTD will provide easements to Denver for these storm drainage systems on

RTD Property at no cost.

(7) **Water Quality and Detention:** RTD shall provide, at its own expense, permanent storm water quality treatment and detention for the North Metro Rail Line Project sufficient to mitigate impacts resulting from the implementation of the Project in accordance with federal, state and Denver requirements. The Parties recognize that the August 3, 2011 “Guidance for Stormwater Best Management Practices in Conjunction with the FasTracks Eagle P3 Project,” produced by the UDFCD, indicates that ballasted track acts as its own water quality feature; however, the Parties also recognize that UDFCD and other federal, state and Denver requirements are subject to change and have water quality treatment and detention standards for Project improvements other than ballasted track. RTD shall operate, maintain, repair and replace, as needed and at its own expense, all such water quality and detention facilities.

(8) **Track Overtopping:** RTD shall provide, at its own expense, the storm water conveyance systems necessary to prevent flows generated by a 5-year storm from overtopping its tracks. RTD, at its sole discretion, may elect to prevent over-topping based on a larger design storm, but such decision will be made after consideration of the costs, operational impacts, and consistency with FasTracks program goals. This requirement is in addition to mitigation of any adverse impacts to properties upstream and downstream during the 5- and 100-year storm event resulting from implementation of the Project. In no event shall any of RTD’s tracks be placed in a 100-year regulatory flood plain absent mitigation in accordance with UDFCD and Federal Emergency Management Agency (FEMA) regulations.

(9) **Denver Fiber Optic Infrastructure:**

(A) RTD, in coordination with the Jefferson County Emergency Communications Authority (“JCECA”), will be constructing infrastructure for a Public Safety Fiber Optic Cable (“PSFOC”) during Project construction. It is anticipated that JCECA will partner, through an IGA or other written agreement, with Denver on the installation, use and maintenance of the PSFOC within Denver city limits. Denver has provided plans showing proposed stub-out locations where Denver and JCECA will have PSFOC access off of the North Metro Rail Line. RTD will design, construct and provide buried conduit and stub-outs for the PSFOC as part of the Project; final design may dictate that the stub-out locations vary,

but this will be coordinated with Denver through Denver's review of the final plans. Denver's easements from RTD for this buried conduit will be provided by RTD at no cost to Denver. RTD, in coordination with JCECA, will supply the labor for construction of the conduit and stub-outs, and will coordinate with JCECA for the installation of fiber optic cable. RTD will also purchase conduit and stub-out material to be installed within Denver city limits, with Denver to be responsible to reimburse RTD for such purchases except to the extent that JCECA reimburses RTD for such costs. JCECA and Denver will be responsible for purchase, construction and installation of fiber optic cable, and any other PSFOC elements, and for performing any future maintenance associated with the PSFOC. Division of JCECA's and Denver's joint responsibilities for the above purchase, installation, reimbursement, costs and maintenance will be negotiated at future coordination meetings between JCECA and Denver, with input from RTD, and, if such negotiations are successful, reduced to a formal agreement signed by JCECA and Denver. RTD shall have no responsibility for design, construction, materials or costs associated with the PSFOC except as expressly set forth in this paragraph, and shall have no responsibility for maintenance or any future replacement of fiber, conduit, stub-outs, or any other associated PSFOC infrastructure. RTD will not provide PSFOC infrastructure or easements for Denver or JCECA to transfer or license to any private entities. Denver or JCECA shall be responsible for obtaining from any third party, including but not limited to BNSF, any other easements or licenses which may be required for construction or maintenance of the PSFOC. The Parties agree to work together to resolve the details of the design, construction, access, and maintenance for the PSFOC.

(B) If within six (6) months after date of Project notice to proceed Denver and JCECA have not entered into an IGA or other written agreement regarding the funding, installation and use of the PSFOC, and subject to Denver instead appropriating and making available the funds required of Denver in this paragraph within six (6) months after date of Project notice to proceed, RTD shall design, construct, and provide Denver with a buried conduit and stub-outs for a functional public purpose fiber optic infrastructure in the North Metro Rail Line within Denver city limits as part of the Project. RTD will supply the labor for construction of the conduit. Denver's easements from RTD for this buried conduit will be provided by RTD at no cost to Denver. Denver will be responsible for any additional

construction or costs associated with the fiber optic infrastructure, including conduit material costs, the fiber optic line, the pulling of the fiber, and future maintenance. RTD will not provide such infrastructure or easements for Denver to transfer or license to any private entities. Denver shall be responsible for obtaining from any third party, including but not limited to BNSF, any other easements or licenses which may be required for construction or maintenance of such infrastructure. The Parties agree to work together, in good faith, to resolve the details of the design, construction, access, and maintenance for the fiber optic infrastructure.

C. Right of Way & Access and Staging Areas

(1) **Aerial Crossings of Denver ROW:** RTD will be constructing bridges for the Project over various Denver-owned public rights of way. The design, construction and operation of such aerial crossings shall be subject to such established Denver design, specifications and regulatory requirements as specified in the Light Rail Master Agreement and this Agreement, and, unless a variance from such requirements is granted by Denver at its discretion, shall match or exceed 16'6" vertical clearances. Denver and RTD recognize that the 35% design determined that a clearance of 16'6" at Race Street is not feasible without a center pier on Race Street due to vertical constraints of the track alignment; however, Denver desires to meet the minimum clearance of 16'6" with a clear span over all of its roadways, with the exception of Washington Street. Accordingly, during final design, an evaluation of the technical feasibility and cost of such a bridge type will be developed, and RTD shall coordinate with Denver in evaluating the Contractor's findings. Final horizontal and vertical clearances will be as shown on the final approved, stamped construction drawings.

(2) **31st Street Right of Way:** A portion of 31st Street, including an existing cul-de-sac, is needed for the Project. The design, construction and operation of the 31st Street right of way as impacted by the Project shall be subject to such established Denver design, specifications and regulatory requirements as specified in the Light Rail Master Agreement and this Agreement.

(3) **I-70 Property:** The North Metro Rail Line Project will be crossing under Interstate 70 on property owned by Denver. RTD shall have the right to access and utilize this property located within the I-70 right of way as allowed for Denver right of way under the Light Rail Master Agreement, subject, however, to the obligation of RTD to obtain and comply

with all federal and state authorizations and approvals for locating, constructing, operating, repairing and maintaining the North Metro Rail Line on dedicated federal interstate right of way.

(4) **Access and Staging Areas:** It is anticipated that RTD, on occasion, may need access and/or staging areas to be located on Denver-owned property adjoining or near where the North Metro Rail Line Project will be constructed. Upon submittal of all required information, permits will be issued by the Denver Department of Public Works or Denver Department of Parks and Recreation, as appropriate for the site in question, to allow for such access and/or staging areas, subject to such terms and conditions as the permit-issuing Department may reasonably impose.

(5) **Brighton Boulevard:**

(i) The North Metro Rail Line Project will construct new rail infrastructure parallel to Brighton Boulevard continuous from the north boundary of the NWSS Station to Denver's northern boundary. RTD and Denver agree to the construction or installation of curb and gutter, patching into existing asphalt, connections to the existing drainage system, necessary water quality mitigation, and associated utility relocation, as shown on the typical section set forth in **Exhibit E**, attached hereto and incorporated herein by reference, in the Brighton Boulevard right of way from the NWSS Station to Race Street, a distance of approximately 950 feet (the "Brighton Improvements"). RTD will obtain a breakout of the reasonable and quantifiable costs for the Brighton Improvements through option pricing provided by the selected design/build contractor for the North Metro Rail Line Project. RTD shall deliver the option pricing to Denver by November 27, 2013. This option price will be the agreed-to maximum for which each party will contribute 50%. Denver shall review the proposed option pricing from the design/build contractor for the Brighton Improvements and determine whether the pricing is acceptable; if the pricing is not acceptable to Denver, the parties shall cooperate between November 27 and December 19, 2013 to modify the Brighton Improvements to reduce pricing. The costs of the Brighton Improvements shall be shared by RTD and Denver on a 50/50 basis as set forth below.

(ii) Denver shall exercise one of the following two options by December 19, 2013:

Option a) appropriate Denver's share of the Brighton Improvements pricing and make the funds available to RTD on a timely basis so that RTD's design/build contractor can complete the Brighton Improvements by opening day of revenue service to NWSS Station; or

Option b) request that RTD appropriate and make available RTD's share of the Brighton Improvements pricing on a timely basis so that Denver itself, or through its contractor, can complete the Brighton Improvements. If Denver exercises Option b) above: (i) RTD shall escrow RTD's share of the pricing for the sole purpose of covering its share of the Brighton Improvements costs; (ii) On or before three months prior to the opening day of revenue service to NWSS Station, Denver shall deliver a commitment letter to RTD informing RTD of Denver's commitment to construct the Brighton Improvements; (iii) RTD shall deliver its share of the Brighton Improvement pricing to Denver within ninety (90) days of receiving the commitment letter; and (iv) within two (2) years of the date of receipt of the RTD funds, Denver will cause the construction of the Brighton Improvements to commence and, should it fail to do so, Denver will remit the RTD funds for the Brighton Improvements to RTD.

(iii) RTD's commitments for the Brighton Improvements under this paragraph (5) are intended to satisfy any claims Denver could otherwise assert against RTD based on the Light Rail Master Agreement, RTD's status as landowner, or otherwise with respect to Project related construction in the Brighton Boulevard right of way. RTD shall have no other commitments with respect to Project related construction in the Brighton Boulevard right of way except as otherwise expressly provided in this Agreement. RTD makes no commitment with respect to owning, maintaining or paying any costs to maintain the Brighton Improvements.

(6) **Aerial Crossing of RTD Right of Way:** Denver may desire to have future aerial crossings of the RTD right of way in the North Metro Rail Line. The Parties agree to

work cooperatively to plan and construct such crossings at Denver's cost. RTD agrees to provide easements for such crossings at no cost to the City, so long as such crossings meet RTD's design, construction and operational requirements.

(7) **Bridge Structure – North Metro over Future 47th Avenue:** At Denver's request RTD has requested all potential Project design/build contractors to include an option price for a single-track bridge over the future 47th Avenue alignment as one of the Phase 1 Options in the North Metro Rail Line Request for Proposals ("RFP"). The structure would be a single span bridge located approximately 130 feet north of the existing Marion Street overpass and accommodate a future 80-foot wide roadway cross section (face of abutment to face of abutment). Design for the bridge shall be consistent with Denver design standards and as further defined in the RFP, Volume II, Attachment 2 – Scope of Work, Option 10. The design/build contractor's pricing assumes the bridge would be constructed on grade and the underpass will be excavated out in the future by Denver or Denver's contractor. Denver would be solely responsible for the funding of this option and the future excavation, including obtaining any required approvals, obtaining any relevant permits, and/or fulfilling any environmental requirements. Per the RFP, the design/build contractor's pricing will be given in 2013 dollars. The price will be valid until December 1, 2013 (RTD's anticipated Notice to Proceed date) or be subject to the escalation formula included in the RFP. Denver must notify RTD to accept the option by December 1, 2013; if Denver elects not to accept the option but chooses to do so at a later date, RTD and Denver will cooperate to negotiate the option with the contractor subject to the Change Order process as defined in the RFP, with Denver responsible for all additional costs. Subject to prior appropriation, Denver must make the funds available to RTD at the time of notice to proceed for the option, whether by December 1, 2013 or at a later date. Future work associated with excavation of the bridge structure shall require notification to and approval from RTD.

D. Permits and Fees:

(1) **Denver Permits:** RTD shall apply for, obtain and maintain, and shall comply with, all applicable permits required by Denver and necessary for implementation of the Project ("Denver Permits") and shall pay all fees customarily charged by Denver for the Denver Permits. The Denver Permits include but are not limited to building, fire, street occupancy and

street cut permits, Parks permits, and the permits, licenses, and approvals required for the infrastructure and utilities identified in section 7 of this Agreement.

(2) **Corps of Engineers 404 Permits**: RTD shall not, without Denver’s consent, construct the Project so as to cause Denver to undertake new obligations or maintenance or obtain a new permit from the Department of the Army under the provisions of Section 404 of the Clean Water Act, 33 U.S.C. 1251 et seq. RTD will be responsible for performance of the Project’s 404 permit obligation and maintenance as well as any additional 404 permit obligations arising from the construction of the Project.

(3) **Other Federal and State Permits**: RTD shall pay for, obtain and maintain, and shall comply with, all applicable federal and state permits necessary for implementation of the Project, including any required approvals by the Public Utilities Commission (“PUC”) for Project crossings that RTD will be constructing over right of way and trails within Denver’s boundaries.

(4) **Utility Fees**: Utility fees necessitated by the Project, including tap fees, are a Project Cost and are the responsibility of RTD; provided, however, that RTD shall be permitted to utilize any existing tap fees it has acquired. Denver shall cooperate with utility providers in the provision, if any, of water, storm sewer, sanitary sewer and other utility service connections at NWSS Station and other points of utility connections. This obligation for Denver to cooperate shall not require that Denver grant any easements or permits at no cost or at below the cost standard for such easements or permits. Further, the obligation of this provision does not apply to the Denver Board of Water Commissioners and its Water Department which are a separate entity under the Denver City Charter with its own separate contracting authority.

8. NWSS STATION; PARKING MITIGATION STUDY and NWSS MASTER PLANNING:

A. NWSS Station: RTD and Denver have agreed to a layout and location for the NWSS Station as depicted in the Design Plans. The pertinent pages from the Design Plans for the NWSS Station are attached hereto as **Exhibit F** and are incorporated herein by reference. Any substantive change to the NWSS Station plans shown in **Exhibit F** shall require the mutual written agreement of RTD and Denver. The final design of the NWSS Station will be one of four rail station typologies (Neighborhood Station, Main Street Station, Town Center Station, or Commuter Station) defined in the

“Commuter Rail Urban Design Templates Methodology”, also attached hereto as part of **Exhibit F**, which have been previously found acceptable by Denver and RTD. Denver shall select the final station typology before November 1, 2014. If RTD requires a decision on the station typology prior to November 1, 2014, it will inform Denver of such need and the Parties shall work cooperatively to determine the station typology. RTD will construct the NWSS Station at no cost to Denver.

B. Parking Mitigation Study: RTD shall conduct two neighborhood parking mitigation studies in the neighborhood surrounding the NWSS Station area – one prior to opening day and the second six months after opening day. The studies will be conducted by RTD or a contractor retained by RTD and will evaluate neighborhood parking impacts related the NWSS Station to assess impacts on on-street parking and area parking lots. The standards and methodology for the studies will be in conformance with those utilized by Denver for studying parking impacts and mitigation. In the event that RTD determines that it would prefer Denver to conduct the study, Denver will perform as provided in this paragraph. RTD’s funding obligation shall not exceed \$40,000 for the completion of the two studies, and RTD agrees to pay \$40,000 to Denver if Denver performs the studies.

C. NWSS Master Planning: The Parties acknowledge that Denver is actively preparing a master plan for the area adjacent to the NWSS Station. The Parties agree to work cooperatively in exchanging technical information and providing reasonable mutual assistance in the planning effort at no cost to the other.

9. ADDITIONAL LAND TRANSACTIONS NORTH OF NWSS STATION: While this Agreement pertains to the entire stretch of the Project, the Land Transactions provisions of this Agreement, set forth in section 10 of this Agreement, does not address any potential land transactions north of the NWSS Station to Denver’s northerly boundary. Any proposed land transactions between RTD and Denver north of the NWSS Station shall be subject to an amendment to this Agreement or a separate intergovernmental agreement. It is anticipated that RTD will reach agreement with BNSF Railway Company such that the North Metro Rail Line Project which will not require additional land transfers or access rights from Denver, but if RTD does not reach agreement with BNSF Railway Company, RTD and Denver will negotiate a contractual arrangement for RTD’s acquisition of such land and access rights from Denver as may be reasonably needed for the Project.

10. LAND TRANSACTIONS:

A. Overview: A variety of land transactions within Denver’s boundaries are anticipated as part of the Project. These land transactions are generally categorized and described by corresponding exhibits below (collectively, “Land Transactions”). RTD and Denver acknowledge and agree that each Party will convey, transfer, grant, sell and deliver the property identified in, and in accordance with, this Land Transaction provision of section 10 of the Agreement, and the appropriate officials for both RTD and Denver are hereby authorized to take all measures and perform all acts necessary to effectuate these Land Transactions. The Land Transactions authorized under this Agreement, and the terms and conditions applicable to these Land Transactions, are set forth in this section 10.

B. Globeville Landing Park: All land required for the Project which is located within Globeville Landing Park, as depicted in **Exhibit G, Figure 1**, shall be purchased by RTD from Denver. This fee title acquisition shall include any at-grade land and any portion of land located under the proposed RTD bridge. RTD and Denver stipulate and agree in this Agreement that a fair market value for fee title to this land is six dollars (\$6.00) per square foot. In addition, RTD and Denver agree that a permanent easement adjoining the North Metro Rail Line within Globeville Landing Park is necessary. With respect to said permanent easement, it is stipulated and agreed that RTD shall pay Denver for said easement based on a fair market value of two dollars and fifty cents (\$2.50) per square foot and that the land area within the permanent easement will be restored, as a Project Cost, to a usable, accessible and attractive condition suitable as part of the park with appropriate landscaping and irrigation, as such is approved by Denver Department of Parks and Recreation, with no structural elements above ground and no slopes greater than 4:1 and with appropriate permanent erosion control measures being implemented.

C. Land Exchange: The remaining land transactions will be part of an exchange of properties between RTD and Denver (“Land Exchange”). The Land Exchange contemplated under sub-section 10.C. of this Agreement shall be a true exchange of land, with no monetary compensation expected by either RTD or Denver. The Denver Property involved in this Land Exchange consists of: a) two aerial easements over portions of the South Platte River and the South Platte River Trail (“River/Trail Aerial Crossings”) as such River/Trail Aerial Crossings are depicted in **Exhibit G, Figures 2 and 3**; b) a parcel located north of the South Platte River and next to the RTD District Shops maintenance facility, as depicted in **Exhibit G, Figure 4**; and c) a piece of land needed for the North

Metro Rail Line running through a Denver-owned parcel located behind the Denver Coliseum (the “Coliseum Corridor”), as depicted in **Exhibit G, Figure 5**. The RTD Property involved in this Land Exchange consists of: d) the South Platte River and portions of the adjoining banks lying roughly between Denargo Street and 31st Street, as depicted in **Exhibit G, Figure 6** (“RTD River Property”). In addition, RTD requires, and Denver agrees to grant, certain permanent easements on Denver Property (outside of Globeville Landing Park), as such permanent easements are described on the ROW Plans (“Permanent Easements”), which will also be part of this Land Exchange. The terms and conditions for this Land Exchange are:

(1) **River/Trail Aerial Crossings**: Easements for the River/Trail Aerial Crossings shall be subject to the right of Denver to continue to use, operate, maintain, repair, replace and improve the South Platte River and the South Platte River Trail and its corridor in substantially the same manner as has been common and customary and the mutually agreed resolution of impacts caused by the River/Trail Aerial Crossings to the South Platte River and the South Platte River Trail and its corridor, including but not limited to delineation of aerial location of the crossings (end to end), pier/abutment placements near or in the South Platte River and/or the South Platte River Trail and its corridor, ground and river clearances, lighting under bridges, fence or netting protection against falling objects and debris from the Trail/River Aerial Crossings onto the ground or river below, reconstruction and repairs needed due to damage during Project construction, new Trail signs, and Trail detours during Project construction, all of which are Project Costs.

(2) **Coliseum Corridor**: The transfer of the Coliseum Corridor located behind the Coliseum shall be subject to the preservation and relocation by RTD of the dirt piles and other materials owned or under the control of Denver (which shall remain or be relocated on the property lying between the Coliseum Corridor and the parking lot for the Coliseum and be accessible for use by the City) and the restoration to generally existing condition of the remaining portions of the Denver Property lying between the Coliseum Corridor and the parking lot for the Coliseum so that it is readily usable, to the same extent and manner as it has usually been, by Denver Arts & Venue Division (which manages the Coliseum) and its contractors and customers utilizing the Coliseum, all such preservation, relocation and restoration of which are Project Costs.

(3) **Permanent Easements**: Any Permanent Easements granted by Denver to RTD as part of the Land Exchange are subject to the land area within the Permanent Easements being restored, as a Project Cost, to a readily usable and accessible condition similar to or better than their original condition with appropriate permanent erosion control measures being implemented in accordance with Public Works standards and criteria.

(4) **Property Valuations**: Property values have been determined for the RTD Property and the Denver Property subject to the Land Exchange, as stated herein below:

(A) **Denver Property**: RTD and Denver stipulate and agree in this Agreement that a fair market value for fee title to the Denver Property depicted in **Exhibit G, Figure 4** and the Denver Property depicted in **Exhibit G, Figure 5** is six dollars (\$6.00) per square foot.

(B) **RTD River Property**: RTD and Denver stipulate and agree in this Agreement that, for the RTD River Property depicted in **Exhibit G, Figure 6**, the fair market value for fee title to the dry land is three dollars (\$3.00) per square foot and for fee title to wet land contained within the RTD River Property is one dollar (\$1.00) per square foot. “Dry land” is all land located outside of Zone AE and Unprotected Zone X according to FEMA’s Flood Insurance Rate Map for the South Platte River, while “wet land” is all land located within Zone AE and Unprotected Zone X according to FEMA’s Flood Insurance Rate Map for the South Platte River.

(C) **River/Trail Aerial Easements**: RTD and Denver stipulate and agree in this Agreement that a fair market value for the River/Trail Aerial Easements is one dollar (\$1.00) per square foot.

(D) **Permanent Easements**: RTD and Denver stipulate and agree that a fair market value for Permanent Easements is two dollars and fifty cents (\$2.50) per square foot.

(5) **Equal Value of Property**: RTD and Denver stipulate and agree in this Agreement that, based on the property valuations stated and stipulated to in sub-section 10.C.(4) of this Agreement and estimated square footage of both the RTD Property and the Denver Property subject to the Land Exchange under this sub-section 10.C., the property valuations for both the RTD Property and the Denver Property subject to the Land Exchange

are roughly equal and, consequently, shall be regarded as requiring neither RTD nor Denver to compensate the other for any land so exchanged under sub-section 10.C. of this Agreement.

D. Transfer of Property: The following terms and conditions shall apply to the due diligence activities prior to transfer of property, the form of deeds, and the requirements for Closing:

(1) **Due Diligence:** The following due diligence actions shall be taken by RTD and Denver in good faith and within the time frames indicated:

(A) **Title Commitments:** At a future date as mutually agreed by RTD and Denver, but not later than March 1, 2014, unless otherwise agreed in writing by RTD and Denver, title commitments will be obtained and evaluated by RTD and Denver for this Land Transaction. RTD shall obtain, at its own expense, and provide, for the benefit of both Parties, from a title company mutually acceptable to RTD and Denver (“Title Company”) complete copies of current title commitments for all Denver Property which are part of the Globeville Landing Park land transaction and for the Land Exchange, along with all of the title documents listed in Schedule B of the title commitments (“Title Documents”). Denver shall obtain, at its own expense, and provide, for the benefit of both Parties, from the Title Company complete copies of a current title commitment for the RTD River Property which is part of the Land Exchange, along with the Title Documents. Each Party shall have as much time as both mutually agree, or thirty (30) days absent such agreement, to review these Title Documents and tender, in writing, to the other Party any objections or concerns with respect to the condition of the title of the other Party’s property or any title corrections to the Title Company. No Party shall be obligated to take any action to remedy any perceived title defects affecting its property; however, the objecting Party may: i) accept the title with the perceived title defect; ii) decline to accept title to the property with the perceived title defect; or iii) may take such action as appropriate under the law and consistent with the other Party’s title rights to remedy the perceived title defect and then accept the title to the property. If title to any property is rejected, the terms and conditions of this section 10 shall be considered modified as if the rejected property was never part of the Land Transaction. All title issues are to be resolved no later than fifteen (15) days prior to the Closing, as defined herein. Any actions taken which result

in a change to the Title Documents shall require the party responsible for obtaining the Title Documents to obtain, at its own expense, updated Title Documents to be provided for the benefit of both Parties.

(B) **Environmental Assessments**: At a future date mutually agreed by Denver and RTD, but not later than March 1, 2014, unless otherwise agreed in writing by RTD and Denver, RTD and Denver will undertake for this Land Transaction such environmental assessments as specified in this paragraph. Each Party, at its own expense, may conduct, either on its own or through contractors, and is hereby authorized to conduct such environmental investigations as the Party deems appropriate with respect to the other Party's property, including reasonable soil and water sampling and testing ("Environmental Assessment"). Written reports of such Environmental Assessment must be prepared and copies delivered to the other Party within thirty (30) days following completion of the written reports. Any Party which has conducted an Environmental Assessment may tender, in writing, to the other Party any objections or concerns with respect to the environmental condition of the other Party's property. No Party shall be obligated to take any action to remedy any perceived environmental defects affecting its property; however, the objecting Party may: i) proceed to Closing by accepting the perceived environmental defect; ii) decline to accept the property with the perceived environmental defect; or iii) may take such action as appropriate under the law and consistent with the other Party's title rights to remedy the perceived environmental defect and then proceed to Closing. If the property is rejected due to a perceived environmental defect, the terms and conditions of this section 10 shall be considered modified as if the rejected property was never part of the Land Transaction. All environmental issues are to be resolved no later than fifteen (15) days prior to the Closing, as defined herein.

(C) **Legal Descriptions**: Certain tentative aerial depictions have been prepared for the fee title and aerial easements properties which are part of the Globeville Landing Park land transaction and the Land Exchange and are attached in **Exhibit G**. The final legal descriptions shall be prepared by RTD and finalized upon the review and approval of both RTD and Denver for the fee title property, the aerial

easements, and the permanent easements at least thirty (30) days in advance of the time that title commitments for the Land Transaction properties are requested. All legal descriptions may be amended or corrected as deemed appropriate and acceptable to the Denver and RTD officials who will be executing the deeds for these properties. All legal descriptions shall be completed and approved by RTD and Denver at least forty-five (45) days prior to Closing. The final legal descriptions incorporated into the deeds for the Globeville Landing Park land transaction property and the Land Exchange properties shall be used in calculating the square footage for property valuation purposes under sub-section 10.C(4) of this Agreement.

(2) **Form of Deeds:** All fee title land transfers shall be by quit claim deeds; all aerial crossings easements shall be granted by aerial easement deeds, without any warranty or guarantee of title; and all permanent easements shall be granted by permanent easement deeds, without any warranty or guarantee of title (collectively, the “Deeds”); all of which shall be substantially in the forms as shown in the attached **Exhibit H.**

(3) **Closing:** Upon completion of the due diligence items specified in sub-section 10.D.(1), RTD and Denver shall, in consultation with the Title Company, schedule a date for closing the transfer of land for the Globeville Landing Park land transaction and the Land Exchanges (“Closing”) and shall jointly coordinate with the Title Company all actions necessary to successfully complete Closing. Should any due diligence items remain contested or unresolved or should the proposed land transfers not be ready to go to Closing, the Denver and RTD officials who will be executing the deeds for the properties to be transferred may agree, by mutual letter, to either extend the deadlines or to terminate, in whole or part, the Land Transactions under section 10 of this Agreement.

(4) **Deeds, Closing Documents and Funds:** No later than thirty (30) days prior to Closing, RTD and Denver shall execute their respective Deeds for the RTD Property and Denver Property to be conveyed as part of this Land Transaction and shall transmit such Deeds to the Title Company for delivery at Closing. RTD and Denver shall cooperatively review and approve the settlement sheet and other Closing documents (“Closing Documents”) at least five (5) days in advance of Closing. No later than two (2) days prior to Closing, RTD shall arrange

for the transfer of all funds necessary for the acquisition of fee title and permanent easement property for Globeville Landing Park as provided in sub-section 10.B of this Agreement.

(5) **Delivery**: Upon signing of the Closing Documents and the tendering of all funds required under Section 10 for the purchase or acquisition of property interests as provided in this section 10, all Deeds for the Land Transactions shall be delivered to the respective Parties at Closing, except as provided herein.

(6) **Closing Costs and Taxes**: All Closing Costs shall be paid by RTD. Both RTD and Denver are tax exempt entities, but should there be any taxes or assessments due and owing on any property which is part of the Land Transactions, the taxes or assessments must be paid by the owner of the property prior to Closing.

(7) **Possession and Recording**: Possession of the property shall be transferred upon delivery of the Deeds. All Deeds shall be recorded with the Denver Clerk and Recorder by the Title Company following delivery of the Deeds.

(8) **Title Insurance**: No title insurance is required as part of the Land Transactions, although either Party may obtain, at its own expense, title insurance on the property interests it acquires under the Land Transactions.

E. Deed Corrections and Minor Modifications: With respect to the property to be transferred under this section 10 of the Agreement, it is anticipated that certain error corrections and minor modifications to the Deeds authorized to be executed under this section 10 of the Agreement, or to the Deeds' legal descriptions, may be needed subsequent to Closing. The Managers of Parks and Recreation and Public Works for Denver and the General Manager for RTD may, from time to time, authorize such corrections or minor modifications, as needed, through such instruments to be executed by the Managers of Parks and Recreation and Public Works and the General Manager for RTD and recorded with the Denver Clerk and Recorder.

11. BETTERMENTS AND ENHANCEMENTS: Denver, in its sole discretion, may choose to perform work, which is not in the Base Scope of Work or as otherwise set forth herein, concurrently or in coordination with the Project, provided that Denver shall bear all costs for such work if the work is a Betterment or shall share the costs, as separately agreed, for an Enhancement, and shall coordinate with RTD to avoid interference with the Project construction schedule. If Denver requests and RTD agrees to perform concurrent work that is a Betterment, upon entering a written agreement, Denver shall bear

the costs, if any, of incorporating Denver’s design into RTD’s design and construction schedule and of any additional work performed by RTD at Denver’s request. If RTD and Denver concur to an Enhancement, Denver and RTD shall enter into a written agreement as to their respective shares of the Enhancement costs. There is no Betterment or Enhancement contemplated in this Agreement as of the Effective Date.

12. TERM OF AGREEMENT: The term of this Agreement shall commence as of the Effective Date of this Agreement and expire on the same date in the year 2043 or until one year after the Parties agree that the North Metro Rail Line Project has been completed, whichever is earlier (“Term”).

13. TERMINATION OF AGREEMENT: This Agreement may not be terminated prior to expiration of its Term unless by mutual written consent of both Denver and RTD or unless a final judgment of court of competent jurisdiction, upon completion of appeals or the lapse of all applicable appeal periods, that the Agreement is invalid, ineffective or otherwise terminated.

14. NOTICES: Any notices, bills, invoices, claims, demands or reports required by this Agreement shall be sufficiently delivered if sent by the Parties in the United States mail, postage prepaid, to the Parties at the following addresses:

Denver: City and County of Denver
Manager of Public Works
201 W. Colfax Avenue, Dept. 608
Denver, Colorado 80202

City and County of Denver
Manager of Parks and Recreation
201 W. Colfax Avenue, Dept. 601
Denver, Colorado 80202

RTD: North Metro Rail Line Project Manager
Regional Transportation District
1560 Broadway, Ste. 700
Denver, Colorado 80202

The addresses may be changed by the Parties by written notice.

15. STATUS OF PARTIES: The Parties agree that the status of each Party shall be that of an independent entity, and it is not intended, nor shall it be construed, that one Party or any

officer, employee, agent or contractor of such Party is an employee, officer, or agent of the other Party for purposes of unemployment compensation, workers' compensation, or for any purpose whatsoever.

16. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any performance by a Party hereunder constitute or be construed to be a waiver by that Party of any breach of term, covenant, or condition or any default which may then exist on the part of the other Party, and the tender of any such performance when any such breach or default shall exist shall not impair or prejudice any right or remedy available to a Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more terms, covenants, or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

17. EXAMINATION OF RECORDS: The Parties agree that any duly authorized representative of Denver or RTD, including the City Auditor, or any internal or external auditor of RTD shall, until the expiration of three (3) years after the final reconciliation or payment, as applicable, under this Agreement, have access to and the right to examine any books, documents, papers and records, involving transactions related to this Agreement at the cost of the auditing Party.

18. ASSIGNMENT AND SUBCONTRACTING: A Contractor or Contractors may perform any or all of RTD's obligations under this Agreement including, without limitation, the design and construction of the Project; coordination with Denver for exchange and approval of design plans, specifications, design criteria, and traffic control plans; interfacing of construction schedules with Denver, as necessary; application for applicable Denver permits; coordination of Denver construction inspections; coordination of relocation of any Denver-owned utilities in conflict with the Project; and operation and maintenance of the Project. Subject to the foregoing, the Parties agree that they will not otherwise assign or transfer any of their rights or obligations under this Agreement without first obtaining the prior written consent of the other Party. If this Agreement is lawfully assigned, all of the covenants and agreements contained in this Agreement shall bind upon and insure to the benefit of the successors and assigns of the respective Parties.

19. LIABILITY: As between the Parties, and without either Party waiving any of their rights, immunities or protections as against third parties under the Colorado Governmental Act, C.R.S. §§ 24-10-101 to -120, each Party shall be responsible for its own negligence and that of its agents, employees and contractors in the performance of this Agreement. If either Party is given notice of claim or suit against or involving the other arising from this Agreement, it agrees to give the other Party prompt written notice of such claim or suit.

20. CONFLICT OF INTEREST: The Parties agree that no employee of either Party shall have any personal or beneficial interest whatsoever in the services or property described herein and RTD further agrees not to hire, or contract for services with, any employee or officer of Denver which would be in violation of Denver's Code of Ethics, D.R.M.C. §2-51, et seq., or the Charter §§ 1.2.8, 1.2.9, and 1.2.12. No officer, employee or agent of RTD, nor any member of the RTD Board, nor any member of Congress, nor any other public official or employee of the governing body of the locality or localities included within the district, during his or her tenure, or for one (1) year thereafter, shall have any personal pecuniary or property interest, direct or indirect, in this Agreement or the proceeds hereof.

21. APPROPRIATIONS: The obligations of the Parties under this Agreement or any renewal shall extend only to monies appropriated for the purpose of this Agreement (a) by Denver's City Council, paid into the Denver Treasury, and encumbered for the purposes of this Agreement, or (b) by RTD's Board of Directors and paid into RTD's Treasury for the purposes of this Agreement. The Parties acknowledge that (i) they do not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the Parties.

22. TAXES, CHARGES, AND PENALTIES: The Parties shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Denver's Revised Municipal Code.

23. GOVERNING LAW; VENUE: Each and every term, provision, condition, of this Agreement is subject to the provisions of Colorado law, the Charter of the City and County of Denver and the ordinances and regulations enacted pursuant thereto. The Project design and

construction shall comply with state and federal law, including Federal Railroad Administration (“FRA”) Track Safety Standards, and will incorporate any mitigations described in the applicable environmental decision document. Venue for any action arising hereunder shall be in the District Court for the City and County of Denver, Colorado.

24. NEPA/FEDERAL FUNDING: The Parties expressly acknowledge and agree that this Agreement is subject to receipt of an environmental decision document for the Project and contingent upon federal funding or credit assistance. The Parties further acknowledge that costs incurred by RTD, given as part of the Denver’s Contribution, must comply with the terms of any Federal Funding that RTD receives for the Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. § 4601 et seq. (the “Uniform Act”) and the Uniform Act’s implementing regulations at 49 CFR Part 24.

25. SEVERABILITY: The Parties expressly agree that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

26. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of this Agreement, the Parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

27. COMPLETE INTEGRATION; AMENDMENTS: This Agreement is intended as the complete integration of all understandings between the Parties with respect to the North Metro Rail Line Project. No prior or contemporaneous understanding, addition, deletion or other amendment hereto shall have any force or effect whatsoever unless embodied herein by writing. No subsequent notation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendment to this Agreement or in a separate intergovernmental agreement executed by the Parties.

28. THIRD-PARTY BENEFICIARY: It is the intent of the Parties that no third party beneficiary interest is created in this Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

29. NO MERGER: The terms and conditions of this Agreement shall survive the performance of any Land Transaction under this Agreement and shall not merge with any Deeds or other title instruments issued under this Agreement and thereby terminate.

30. LEGAL AUTHORITY: The Parties represent and assure that each possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action necessary, to enter into this Agreement. The person or persons signing and executing this Agreement on behalf of both Parties, represent that he/she has been fully authorized to execute this Agreement on behalf of their jurisdiction and to validly and legally bind their jurisdiction to all the terms, performances and provisions herein set forth.

31. PARAGRAPH HEADINGS: The captions and headings set forth in this Agreement are for convenience of reference only and shall not be construed so as to define or limit its terms and provisions.

32. EXECUTION OF AGREEMENT: This Agreement shall not take effect until approved by Denver City Council and RTD's Board of Directors, respectively, and signed by all appropriate RTD and Denver officials, including RTD's General Manager and legal counsel, and, for Denver, the Mayor, the Clerk and Recorder and the Auditor.

33. COUNTERPARTS: This Agreement shall be executed in two counterparts each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

34. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: RTD consents to the use of electronic signatures by Denver. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by Denver in the manner specified by Denver. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it

is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

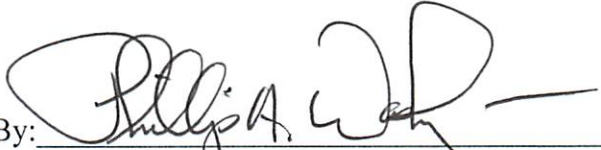
By _____

By _____



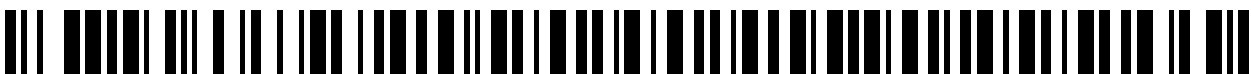
(Denver Contract Control No.: PWADM-201313671-00)

REGIONAL TRANSPORTATION DISTRICT

By: 
Phillip A. Washington, General Manager

APPROVED AS TO LEGAL FORM FOR THE
REGIONAL TRANSPORTATION DISTRICT:

By: 
Rolf G. Asphaug, Deputy General Counsel



LIGHT RAIL SYSTEM MASTER AGREEMENT
BETWEEN
THE CITY AND COUNTY OF DENVER
AND
THE REGIONAL TRANSPORTATION DISTRICT

DUPLICATE ORIGINAL
3 of 6

93-1-25

THIS AGREEMENT is made and entered into this 25th day of March, 1993, by and between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, (the "City"), and THE REGIONAL TRANSPORTATION DISTRICT, a statutory political subdivision of the State of Colorado ("RTD").

RECITALS

1. This Agreement is executed by the City under the authority of its Charter and Sec. 29-1-201, C.R.S., and by RTD under the authority of Sec. 32-9-119, C.R.S..

2. RTD was established in 1976 by the Regional Transportation District Act, § 32-9-101 et. seq., C.R.S., and is authorized by that statute to develop, maintain and operate for the benefit of the inhabitants of the district, including the City's inhabitants, a mass transportation system which transports the general public by bus, rail, air or any other means of conveyance or any combination thereof, along prescribed routes within the district.

3. In furtherance of the public health, convenience and welfare, and pursuant to its statutory authority, the RTD is in the process of designing and constructing a Light Rail System ("System"), portions of which will lie in or on City property or dedicated public Rights-of-Way ("ROW").

4. RTD's design, construction, maintenance and operation of the System will require cooperation between the City and RTD.

5. The City supports RTD's efforts to design, build and operate such a System, and has agreed to cooperate with RTD in regard to its efforts, in exchange for RTD's undertaking certain duties and obligations in regard to the design, construction, operation and maintenance of such a System in or on City ROW.

6. The City and RTD mutually desire to enter into a Master Agreement which formalizes and sets forth the general agreed upon rights, duties and

obligations of the parties in regard to the design, construction, operation and maintenance of all phases of the System.

AGREEMENTS:

NOW THEREFORE, in consideration of the premises and the mutual promises set forth herein, the parties hereto agree as follows:

ARTICLE 1. SCOPE OF AGREEMENT:

This Agreement sets forth the general rights, duties and obligations of the City and the RTD arising out of the design, construction, ownership, operation and maintenance of any and all sections, portions or phases of the System within City boundaries. The City and RTD agree that each will fully cooperate and coordinate with the other in all such activities as are covered by this Agreement.

The parties recognize and acknowledge that other specific Agreements are or will be necessary to actually implement the System, and that such Agreements are or will be subject to the terms and conditions of this Agreement.

ARTICLE 2. DEFINITIONS:

A. The term "System" as used herein, refers to any and all sections, phases, portions or parts of a light rail system which may be or are designed, constructed, operated or maintained by RTD within the City limits of the City and County of Denver.

B. The term "implement" refers to any and all present and future design, construction, maintenance and/or operation of the System.

C. The term "City ROW" refers to any and all City property or public Right-of-Way on which the system is implemented.

ARTICLE 3. DESIGN AND PLAN APPROVAL:

A. All of the final designs for the System, with the exception of landscape design, shall be signed and sealed in accordance with Articles 4 and 25 of Title 12, C.R.S. by a design professional licensed in the State of Colorado.

B. Prior to the implementation of each section, phase or separate portion of the System, RTD shall furnish the City the planned location of the

System improvements and the City shall furnish RTD its plans for construction or expansions in those areas. The City and RTD shall then coordinate the planning and construction of their respective improvements in order to accommodate and integrate the needs of both parties and to minimize the interference, conflict and expense.

C. The design and removal, replacement or modification of existing City property necessary to accommodate the System shall be included in RTD's design(s) of the System.

D. All plans and specifications for construction to be performed by RTD on or within the City ROW shall be reviewed and approved by the City before such plans and specifications are put out to bid. The City shall have fourteen (14) calendar days to submit its approvals or disapprovals.

E. Such approval shall be only for the purpose of verifying RTD's general compliance with the City's criteria for health, safety and welfare and this Agreement, and shall not be construed or interpreted as approval of the actual design. Such approval shall not be binding upon the City in the absence of an Operations and Maintenance Agreement for the applicable section, phase, or portion of the system described in such plans and specifications.

F. Any change of design made after City review, and all change orders which directly impact on City property or costs, shall be approved by the City prior to being finally approved by RTD. The City shall have five (5) calendar days to submit its approvals or disapprovals of such changes.

G. Written approval of the final plans and specifications by the City shall constitute permission for RTD to implement that portion of the System described in the plans, subject to obtaining all necessary construction permits. A revocable permit will not be required for the System.

H. All costs associated with the design of the System shall be borne by RTD, with the exception of those costs voluntarily incurred by the City in preparing its own design for its own concurrent work on or within the City ROW. In the event that such concurrent work is undertaken by RTD in an effort to coordinate such work with work on the System, the City shall bear the costs, if any, of incorporating the City's design into RTD's design.

ARTICLE 4. DESIGN CRITERIA:

A. All plans and specifications for the removal, relocation, replacement and new construction of City property on or within the City ROW shall meet and/or exceed the criteria and standards utilized by the City on or for its own projects.

B. Upon request by RTD, the Manager of Public Works for the City shall provide RTD with written copies of the design and construction criteria and standards currently being utilized by the City.

C. The final contract documents for any construction on or within a City ROW shall require the Contractor to:

1. Comply with the City's Urban Reconstruction Specification.
2. Name the City as third party beneficiary of the contract and bond.
3. Indemnify the City in accordance with the City's standard construction contract indemnification clause.
4. Provide the City with fully executed release of lien/verified claim forms from all subcontractors and suppliers as a condition of final payment.
5. Warrant all work which will be maintained by the City for a period of not less than 2 years from the date of final acceptance.
6. Name the City as an additional insured on the policies of insurance required for the project.

D. The final contract documents for the construction of any work funded in whole or in part by the City shall additionally require the contractor to:

1. Pay prevailing wages for the work on the project in accordance with the Denver Revised Municipal Code Section 20-76;
2. Comply with the City's MBE/WBE Ordinance, Denver Revised Municipal Code Section 28-31 et seq.; and
3. Make its financial records for the City funded work available for audit by the City for a period of three (3) years following the completion of the Work.

ARTICLE 5. BIDDING PROCEDURE.

Any construction work undertaken by RTD, which is funded in whole or in part by the City, shall be publicly advertised and awarded to the lowest,

responsive, qualified bidder, and in accordance with RTD procurement policies, after consulting with the City.

ARTICLE 6. FIELD ENGINEERING AND INSPECTION:

A. RTD shall inform the city of the date for the start of work for any System related contract awarded by RTD which affects City property. RTD shall provide the City with five (5) copies of the plans and specifications and shall invite the City to the pre-construction conferences.

B. Shop drawings which vary from the standard designs and drawings for the construction of City property will be submitted to the City for review and comment or, for construction funded, operated, or maintained in whole or in part by the City, for approval. RTD shall supply three (3) copies to the City, which shall have ten (10) calendar days to submit its comments/approval. For construction not funded in whole or part by the City, or which will not be operated or maintained in whole or part by the City, any modifications recommended by the City will be accommodated to the extent cost effective and practical. For construction funded or to be operated or maintained in whole or in part by the City, the City will either approve, approve with modifications, or reject such shop drawings; any such drawings not approved in their entirety shall be resubmitted after modification for further review.

C. No work shall be authorized on City Property, or within a City ROW, except by the City or RTD or their contractors or subcontractors.

D. Upon forty-eight hours (48 hrs.) notice to RTD, the City shall be given access to the construction area to perform routine repairs or maintenance to City property. Such repairs or maintenance shall not unreasonably inhibit RTD or its contractors or subcontractors.

E. City property or utilities shall not be taken out of service without the specific written approval of the City. If temporary services are required as a result of RTD's work, RTD shall be responsible for furnishing and installing the temporary service at no cost to the City.

F. The City may have an inspector present in the construction area whenever construction activities are performed within the City boundaries. To facilitate orderly inspections and minimize dual inspections, the City will coordinate its inspections with RTD. Such City inspectors will not give direct orders to RTD's contractors or subcontractors.

G. RTD shall be responsible for construction staking; however, the City shall be allowed to perform check surveys and measurements for work performed within City boundaries.

H. As-Built drawings will be maintained by RTD during the course of construction which denote all field changes.

I. RTD shall issue change orders or amendments to the final construction documents which affect the City ROW only after consultation with the City or, for construction funded or to be operated or maintained in whole or in part by the City, only after the City has approved such change or amendment in writing.

ARTICLE 7. FINAL INSPECTION AND ACCEPTANCE:

A. RTD shall inform the City when construction affecting City property has been completed, and the improvements are ready for final inspection and acceptance. The final inspection shall be attended by RTD, the City, and RTD's contractor. RTD shall be responsible for directing the corrective work relating to deficiencies. Once the corrections have been made, the City shall have twenty (20) days to give written notice of acceptance or rejection of work which has been funded or will be operated or maintained in whole or in part by the City.

B. RTD shall furnish the City with one full size set of reproducible "as-built" drawings showing all affected City property resulting from construction of the System.

ARTICLE 8. TRAFFIC SIGNALS:

A. Proposed modifications to the traffic signals located in an affected ROW shall be submitted to the City for approval prior to the modification of the signals.

B. RTD shall supply all software and hardware components required for traffic signal modification resulting from implementation of the System and shall reimburse the City for the cost of reasonable maintenance of such modifications for one (1) year after final acceptance by the City and RTD.

C. RTD shall submit technical and/or performance specifications for the traffic signal components to the City for review and approval within five (5) calendar days following receipt of the specifications.

D. RTD shall be responsible for any temporary traffic control during the installation of any modifications to traffic signals resulting from implementation of the System.

E. RTD shall give the City ten (10) calendar days notice prior to the installation of any traffic signal modifications to allow for coordination.

ARTICLE 9. WATER AND SEWER SERVICE:

A. The City shall allow water, storm sewer, and sanitary sewer service connections at the System passenger stations at point of connections as mutually agreed upon. RTD shall pay the established rates for the connections, rate usage and permit fees.

B. The costs of any modifications or repairs to the City's Wastewater System resulting directly from implementation of the System shall be borne by RTD.

ARTICLE 10. ASSOCIATED COSTS:

A. All costs associated with changes to City property which are the sole result of implementation of the System shall be the responsibility of RTD. Such costs include all costs related to the reconstruction, realignment or maintenance of City streets, temporary and permanent traffic control, street lights, City owned utilities, and drainage.

ARTICLE 11. INCIDENTAL DAMAGES:

A. All damages to City property caused by RTD's or its contractor's negligent or wrongful construction or operation of the System shall be repaired, reconstructed or improved by RTD to the property's original state to the reasonable satisfaction of the City.

ARTICLE 12. SALVAGE MATERIALS:

A. The City shall have the right to determine the disposition of its property which is impacted by RTD or RTD's contractor. At the direction of the City, the materials salvaged by the operations of the contractor that are reusable and are not needed for relocated City facilities shall be delivered to the City's designated storage location. If abandoned or not reusable, materials shall become the property of the contractor or RTD.

ARTICLE 13. EMERGENCY REPAIRS:

A. Repairs or improvements which are required due to an emergency or other exigent circumstance, caused by implementation of the System, shall be undertaken whenever necessary to safeguard the public health, safety or welfare. If the city should incur costs in responding to such an emergency, those costs other than fire and police protection shall be reimbursed by RTD. Hazardous waste remediation shall not be considered fire protection for purposes of this clause.

ARTICLE 14. MISCELLANEOUS REIMBURSEMENTS:

A. RTD will reimburse the City for materials and labor supplied by or through the City as a direct result of the modification, removal or reconstruction of City property caused by the implementation of the System. If the implementation of the System is not the primary reason such costs are incurred, the City shall only be reimbursed for that portion of the costs incurred as a result of such implementation.

B. In the event the City requests that RTD construct an upgrade to affected City real or personal property during the course of RTD's implementation of the System, and if RTD constructs such an upgrade, the City shall reimburse RTD for the difference in cost between the cost of replacing the property in kind, in accordance with City standards, and the cost of replacing the property with an upgrade. Such costs shall include the difference in design and construction, construction management, inspection, traffic control, construction staking, and insurance costs.

C. The City will not reimburse RTD when the improvements to the City's real or personal property are necessitated solely by the implementation of the System.

ARTICLE 15. THREATS TO HEALTH AND SAFETY:

In the event the City determines that a defect in, or improper maintenance of, the System is threatening the health or safety of the general public or City right-of-way, RTD shall be notified of the deficiency. In the event RTD does not correct the deficiency within a reasonable time, the City shall have the authority to cause the deficiency to be corrected and to bill RTD for the work.

ARTICLE 16. PROJECTIONS INTO PUBLIC SPACE:

A. RTD's plans shall indicate those vaults, signs, display windows, footings, foundations, facades and other projections into the public space which must be removed or altered to accommodate the construction of the System. Upon a determination by RTD that any projection into the public space must be removed or altered, RTD shall meet with the owner to arrange for removal or alteration. If the owner does not agree with RTD's plans for removal or alteration, RTD shall notify the City which, after verifying the projection with respect to City records will initiate appropriate action for removal of the projection. If the projection cannot be removed or altered at no cost to the City, RTD will be responsible for compensation to the owner for removal or alteration.

B. If relocation of any public utilities (including but not limited to electric, gas, or telephone lines) is necessitated by implementation of the System, RTD shall notify the City. The City shall cooperate with RTD to secure such relocation at no or minimal cost to RTD and the City, including exercising any rights the City may have under franchises with affected public utilities to the extent not inconsistent with the terms of any such franchise agreement. If any utility relocation costs are required to be borne by the City or RTD as a result of implementation of the System, RTD shall be responsible for such costs, with the exception of those relocation costs associated with construction funded by street elements to be operated or maintained in whole or in part by the City.

ARTICLE 17. ACCESS:

A. In the event the implementation of the System necessitates the closure of access points to adjacent property, RTD shall initiate the appropriate action to obtain such closure. Each access point will be evaluated based on the safety of the general public. Should it not be possible to maintain an existing access or right-of-access, then RTD shall attempt to negotiate a resolution with the affected property owner. In the event such a resolution can not be successfully negotiated, RTD may pursue access closure via City ordinance or other law.

B. To the extent that any compensation of property owners is required as a result of closure of access points or access denial necessitated by the implementation of the System, RTD shall be responsible for such compensation.

C. RTD agrees to obtain needed rights-of-way and easements, at such locations as are mutually agreed to, in order to implement the System. RTD

agrees to dedicate to the City the land or easements required to maintain necessary City ROW or easements.

D. RTD shall initiate the vacation of City streets at such locations as are mutually agreed to, in order to facilitate implementation of the System.

ARTICLE 18. MAINTENANCE OF TRAFFIC DURING CONSTRUCTION:

A. RTD will prepare its traffic maintenance and safety plans in consultation with the City's Transportation Division. The finalized traffic maintenance plans, which are to be approved by the City's Transportation Division, will be incorporated into RTD's construction plans. In addition to normal traffic, the maintenance plans will include provision for accommodating emergency vehicles, refuse pick-up vehicles, service and delivery vehicles and pedestrians.

B. RTD shall notify the City 48 hours in advance of any implementation of traffic detouring and maintenance.

ARTICLE 19. SNOW REMOVAL:

A. During construction, RTD shall be responsible for removing all snow in accordance with the maintenance of traffic plan described in the contract documents. Snow shall not be deposited at the curb line or elsewhere on the City property or ROW. Snow shall be removed promptly so that traffic can be maintained.

B. Once the System is in operation, RTD will be responsible for removing snow from the area of the System in accordance with the applicable Operation and Maintenance Agreement.

ARTICLE 20. TRAFFIC OPERATIONS:

A. The City shall operate traffic signals in accordance with the signal system operating plan to be developed for each section, portion or phase of the System by RTD and approved by the City prior to inclusion in the contract documents for construction of such section, portion or phase. The City shall maintain signing and striping in accordance with the signing and striping plans developed for the System by RTD. Any major changes shall be reviewed and approved by RTD prior to implementation.

ARTICLE 21. BUSINESS INTERRUPTION:

A. RTD agrees to fully coordinate its construction of the System with the businesses and residents adjacent to the portion, phase or section of the System being constructed. Such coordination, at a minimum, shall consist of the following:

1. Requiring all contractors to fully comply with the City's standard Urban Reconstruction Specifications;

2. Appointing or hiring one or more employees or persons to manage the construction in such a way as to minimize the interference with adjacent businesses and residents, and to facilitate communication and the resolution of any problems or claims by and between RTD, its contractors or subcontractors, and the adjacent businesses and residents;

3. Sequencing the actual construction, repair or replacement of the System so as to minimize the disruption and adverse impact of such construction, repair or replacement on the adjacent businesses and residents. Such sequencing plan and the proposed construction schedule shall be incorporated into the plans and specifications for the project;

4. Holding regular monthly neighborhood meetings, to which all adjacent business owners and residents and the City are invited, to discuss the project, its schedule, potential impact and progress, and the resolution and any related problems. The first such meeting shall be held no later than 1 month prior to the start of construction, and regular monthly meetings shall be held thereafter through the month following the substantial completion of the construction; and

5. Assessing liquidated damages against any contractors who fail to meet the scheduling requirements or urban reconstruction specifications set forth in the City approved contract documents.

ARTICLE 22. SYSTEM OPERATIONS:

A. Only RTD shall operate light rail vehicles and transit facilities on the System. All operation of the System shall be performed in accordance with an Operation and Maintenance Plan which complies with all City traffic rules and regulations and which is to be developed for the System by RTD, in conjunction with the City, for each section, phase or portions of the System. No operation in any section, phase or portion of its System will be performed until such an

Operation and Maintenance Plan has been developed and these portions of the plan affecting the City's maintenance of its own ROW and traffic through or on such ROW have been jointly approved by RTD and the City. All operation of the System shall be in a safe manner, and in conformance with the requirements, rules and regulations of any State, City or Federal Entity having jurisdiction over operations of the System.

B. The City shall have the right to use the entire street and ROW excluding the LRT envelope as shown in Exhibit A, other than those portions of the envelope where vehicular and pedestrian traffic are allowed, for special events such as parades and celebrations upon reasonable notice to RTD, and after consulting with RTD as to how to best minimize the impact of such event upon the operation of the System.

ARTICLE 23. TERM AND TERMINATION:

A. This Agreement shall commence on the date first written above and terminate on the same date in the year 2043 A.D.. This Agreement may not be terminated unless by the mutual written consent of both the City and RTD.

ARTICLE 24. REMOVAL OF SYSTEM:

A. If at any time (1) the System can not be built in conformity with the plans, (2) the necessary funding to complete all or a part of the System under construction is not available and is not anticipated to become available within a reasonable period, or (3) the System indefinitely ceases to operate, the City and RTD shall immediately negotiate the most appropriate and mutually desirable course for restoring the City ROW to a usable and aesthetic condition, similar to its original condition. RTD shall be responsible for the cost of such mutually agreed restoration.

ARTICLE 25. EMERGENCY VEHICLES AND EQUIPMENT:

A. Police, fire and other emergency response vehicles and equipment on emergency call shall have the preemptive right to travel in or occupy the tracked area of the System. To the extent possible, the City shall immediately notify RTD Rail Operations Control Center of any such emergency travel or emergency equipment upon the tracked area of the System. The special needs of emergency

services shall be considered and incorporated into the design and implementation of the System.

ARTICLE 26. MAINTENANCE:

A. RTD shall maintain the System in conformity with the Operation and Maintenance Plans or Agreements to be prepared for each section, phase or portion of the System, and in conformity with the requirements of other entities having jurisdiction over the system or its component parts.

B. RTD agrees to maintain all areas, including street paving, within the clearance envelope of the System. the dimensions of such envelope are set forth in Exhibit "A", a copy of which is attached hereto and incorporated herein by reference.

C. RTD shall be responsible for all maintenance costs which are the direct result of implementation of the System.

D. Whenever the City repairs or undertakes new street construction, the cost of which is increased because of the System, RTD shall reimburse the City for those portions of the construction and/or repair costs which are directly attributable to the implementation of the System.

ARTICLE 27. AUTHORITY:

A. The City's Manager of Public Works (the "Manager") is the City's representative who is authorized to make, and responsible for, the City's approvals required hereunder. From time to time, the Manager may designate an authorized representative to give such approvals on his behalf. Such designation shall be made in writing, in the form of a notice to RTD, given in accordance with Article 32 hereof.

B. The RTD's General Manager is RTD's representative who is authorized to make, and responsible for, the RTD's approvals required hereunder. From time to time, the General Manager may designate an authorized representative to give such approvals on his behalf. Such designation shall be made in writing, in the form of a notice to the City, given in accordance with Article 32 hereof.

ARTICLE 28. DISPUTES:

A. All disputes shall be resolved between City and RTD as follows:
a. Disputes shall be initially resolved between the Project Managers of the parties. If the respective Project Managers for the RTD and the

City are unable to resolve the issues in dispute they shall document the basis for dispute, either independently or together, and forward this information to the RTD Director of LRT Construction and the City's Deputy Manager of Public Works for Transportation (or their successors in authority).

b. If the Director of LRT Construction and the Deputy Manager of Public Works for Transportation are unable to resolve the issues in dispute, they shall document their continuing basis for dispute, either independently or together, and forward this information to the City's Manager of Public Works and the RTD General Manager (or their successors) who shall attempt to finally resolve the issues in dispute.

ARTICLE 29. SAFETY:

A. RTD shall obtain all of the required permits and shall pay all of the costs associated with the maintenance of crossing gates and other warning devices on city streets, in accordance with all applicable regulations. In operating and maintaining the System, the RTD shall take all actions necessary to provide, install and maintain, at no cost to the City, any new safety equipment mandated by any state or federal regulatory agency with jurisdiction over the System, or required for the adequate protection of the health and safety of the citizens of the City.

ARTICLE 30. INDEMNIFICATION:

A. As between the parties, and without either the City or RTD waiving any of their rights or protections as against third parties under the Colorado Governmental Immunity Act, Sections 24-10-101 to -120, C.R.S., each party hereto shall be responsible for its own negligence and that of its agents, employees and contractors in the performance of this Agreement. If either party is given notice of claim or suit against or involving the other arising from the operation of this Agreement or the design, construction or maintenance of the System, it agrees to give the other party prompt written notice of such claim or suit.

ARTICLE 31. INSURANCE:

A. RTD shall, upon request of the City, provide proof that it has procured and maintained One Million Dollars (\$1,000,000) in insurance coverage for the System's operations. The City shall be a named insured when appropriate. Self-insurance by the RTD is permitted, provided that there is at least a \$1,000,000 reserve under such insurance plan. The parties agree to review the insurance requirements/coverage three years after the date of this Agreement and every three years thereafter, and, if appropriate, to increase the coverage in an amount to be mutually agreed upon, consistent with the prudent practice for insuring against the risk of the nature associated with operating a light rail system.

ARTICLE 32. NOTICES:

A. Any notices given pursuant hereto by either party to the other party shall be in writing and mailed by U.S. mail, first class postage prepaid, addressed as follows:

To City: Manager of Public Works
 City and County of Denver
 City and County Building, Room 379
 1437 Bannock Street
 Denver, Colorado 80204

To RTD: General Manager
 Regional Transportation District
 1600 Blake Street
 Denver, Colorado 80202

ARTICLE 33. APPLICABLE LAWS:

A. This Agreement shall be governed by and construed under the laws of the State of Colorado, the ordinances of the City and County of Denver, the applicable provisions of federal law, and the applicable rules and regulations promulgated under any of them. Venue for any action hereunder shall be in the City and County of Denver, State of Colorado.

ARTICLE 34. NO THIRD PARTY BENEFICIARIES:

A. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and RTD, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties to this Agreement that any person other than the City or RTD who receives services or benefits under this Agreement shall be deemed an incidental beneficiary only.

ARTICLE 35. SEVERABILITY:

A. It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement except for the provisions of this Agreement requiring prior appropriation or requiring restoration of the affected premises, is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

ARTICLE 36. CITY FRANCHISE AGREEMENTS:

A. RTD acknowledges that the City has, and may in the future, enter into Franchise Agreements with other entities concerning the City ROW. RTD agrees that it will not interfere with the City's current Franchise Agreements, and that its implementation of the System within the City ROW is subject to such franchise agreements.

ARTICLE 37. AMENDMENT:

A. No alterations, amendments or modifications hereof shall be valid unless executed by an instrument in writing by the parties with the same formality as this Agreement. Neither this Agreement, nor any term hereof, can be changed, modified or abandoned, in whole or in part, except by the instrument in writing, and no subsequent oral agreement shall have any validity whatsoever.

ARTICLE 38. NO PARTNERSHIP.

A. Nothing herein contained shall make, or be construed to make, City or RTD a partner of one another nor shall this Agreement be construed to create a partnership or joint venture between any of the parties hereto or referred to herein.

ARTICLE 39. SINGULAR AND PLURAL:

A. Whenever the context shall so require, the singular shall include the plural and the plural shall include the singular.

ARTICLE 40. REASONABLENESS OF CONSENT OR APPROVAL:

A. Whenever the approval of either party hereto is called for under this Agreement, such party shall be entitled to consider public and governmental policy in reasonably granting or denying such approval. Subject to the foregoing, required approvals shall not be unreasonably withheld.

ARTICLE 41. APPROVALS.

Whenever either of the parties is given time to comment upon or approve plans, standards, etc., and fails to respond within the specified time limits, the party will notify the other in writing of this failure to respond. The other party will then have five working days to comment upon or approve the plans, standards, etc. Failure to respond within that time will be construed as approval of, or waiver of opportunity to comment on, the plans, standards, etc.

ARTICLE 42. NO DISCRIMINATION IN EMPLOYMENT:

A. In connection with the performance of work under this Agreement, the RTD agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in to all subcontracts hereunder.

ARTICLE 43. APPROVAL BY CITY COUNCIL AND RTD:

This Agreement, and each and every of its provisions and terms, is expressly subject to, and shall not be or become effective or binding on City or RTD until, approved by the Board of Councilmen of the City and the General Manager of RTD.

ARTICLE 44. APPROPRIATION BY CITY COUNCIL AND RTD BOARD:

Any and all obligations of the City and RTD under and pursuant to this Agreement which require funding are subject to prior annual appropriations of monies expressly made by the Board of Councilmen of the City for the purposes of this Agreement and paid thereto into the Treasury of the City and County of Denver, and the Board of Directors of RTD for the purposes of this Agreement and paid thereto into the Treasury of the RTD.

ARTICLE 45. NO TRANSFER, ASSIGNMENT OR ENCUMBRANCE OF INTEREST BY ASSOCIATION:

A. RTD and the City shall not transfer, sell, assign, encumber, hypothecate, or use as security its interest in this Agreement for any purpose whatsoever.

ARTICLE 46. RIGHTS AND REMEDIES NOT WAIVED:

A. No assent, expressed or implied, to any breach of this Agreement shall be held to be a waiver of any later or other breach.

ARTICLE 47. HAZARDOUS SUBSTANCES:

A. RTD shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in a City ROW by RTD, RTD's agents, employees, contractors, or invitees without first obtaining the City's written consent. If Hazardous Substances are used, stored, generated or disposed of on or in a City ROW, or if the ROW becomes contaminated in any manner due to the actions or inactions of the RTD, RTD shall indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the property, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all

sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the Term of this Agreement and arising as a result of those actions or inactions by RTD. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if RTD causes or permits the presence of any Hazardous Substances on the ROW which results in contamination of or on the ROW, RTD shall promptly, at its sole expense, take any and all necessary actions to return the ROW to a condition acceptable to the City and all applicable regulatory agencies. RTD shall first obtain City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law, including but not restricted to asbestos, polychlorobiphenyls ("PCBs"), and petroleum products. Nothing in this part shall be deemed to waive any of RTD's privileges or immunities pursuant to the Colorado Government Immunity Act, C.R.S. 24-10-101, et. seq.

ARTICLE 48. MISCELLANEOUS:

A. The City agrees that, subject to the above provisions of this Agreement, it will not conduct or knowingly approve any activities that would unreasonably encumber or compromise the integrity or operations of the System without RTD's approval.

B. The City agrees that, subject to the above provisions of this Agreement, it will not construct, or knowingly permit to be constructed, any encumbrances within, the System's clearance envelope as shown in Exhibits "A" and "B" hereto, without RTD's approval.

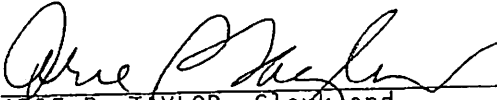
ARTICLE 49. COMPLETE INTEGRATION:

A. This Agreement is intended as the complete integration of all understandings between the parties as to the subject matter hereof. No prior or contemporaneous addition, deletion or other amendment shall have any force or

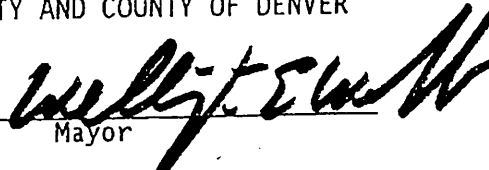
effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties. This Agreement and amendments shall be binding upon the parties, their successors and assigns. Notwithstanding anything to the contrary herein, this Agreement shall not be deemed to obviate, negate or supersede the provisions of any additional intergovernmental agreements which the parties have entered into or may enter into in order to address additional matters and issues as between the parties which involve RTD's System and the City.

IN WITNESS WHEREOF, the City and RTD have executed, through their respective lawfully empowered representatives, this Light Rail System Master Agreement as of the day and year first above written.

ATTEST:

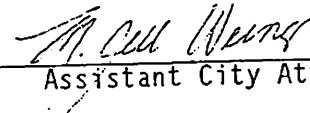

ARIE P. TAYLOR, Clerk and
Recorder, Ex-Officio Clerk
of the City and County of Denver

CITY AND COUNTY OF DENVER


By 
Mayor

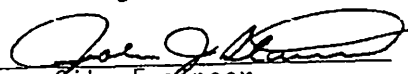
APPROVED AS TO FORM:

DANIEL E. MUSE, Attorney
for the City and County of
Denver

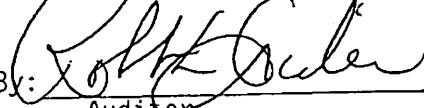
By 
Assistant City Attorney

RECOMMENDED AND APPROVED:

By 
Manager of Public Works


By 
City Engineer

REGISTERED AND COUNTERSIGNED:

By 
Auditor

Contract Control No. RC31023

APPROVED AS TO FORM FOR THE
REGIONAL TRANSPORTATION DISTRICT

By 
General Counsel

REGIONAL TRANSPORTATION DISTRICT


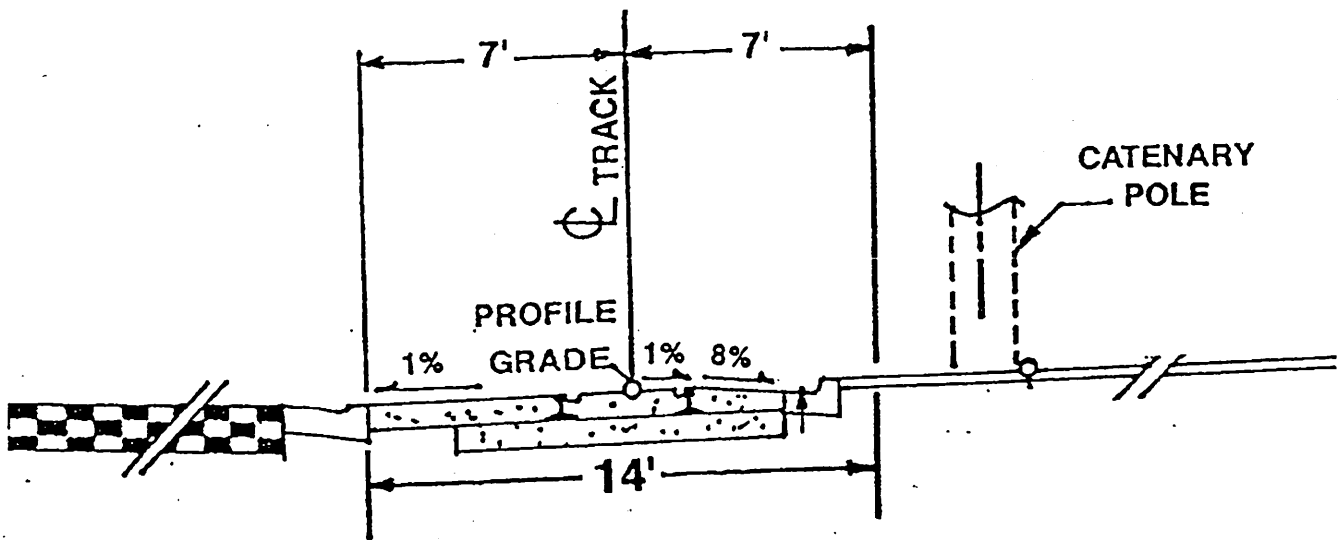
By 
Peter M. Cipolla
General Manager

EXHIBIT A

LRT CLEARANCE ENVELOPE - SINGLE TRACK



CLEARANCE ENVELOPE

TYPICAL IN CROSSMALL

RTD

AAAC/RTD
SPECIALTY CONTRACTORS

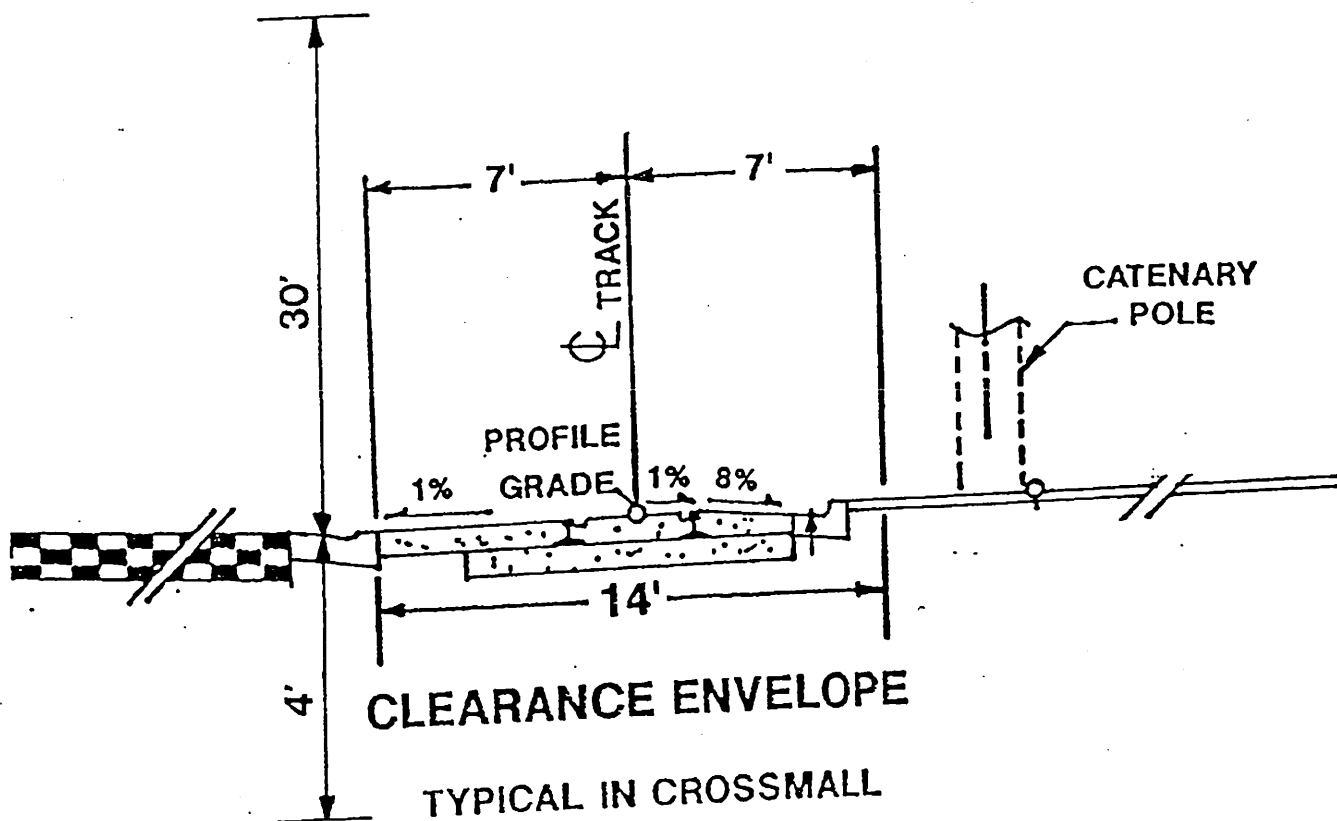
DESIGN CRITERIA

TITLE:

FIGURE:

EXHIBIT A

LRT CLEARANCE ENVELOPE - SINGLE TRACK



RTD



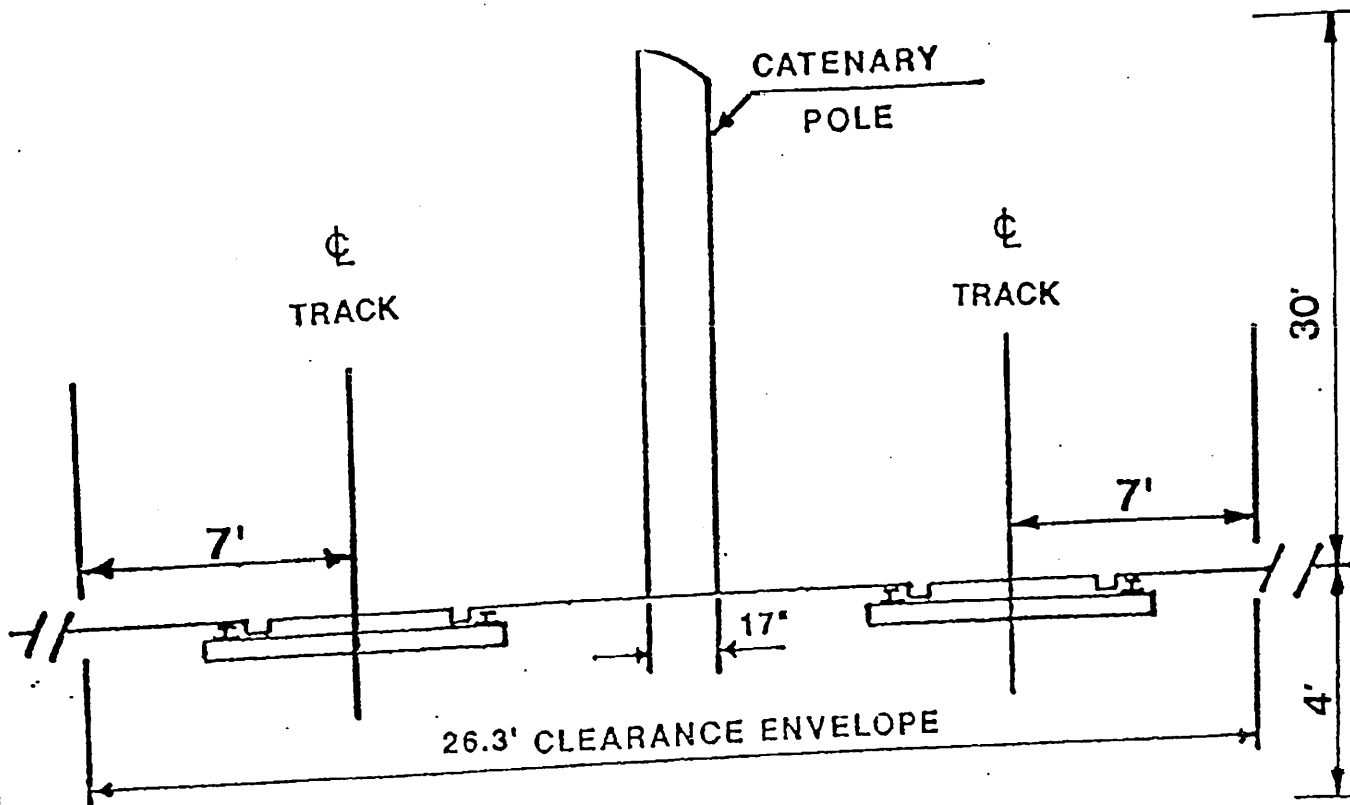
DESIGN CRITERIA

TITLE:

FIGURE:

EXHIBIT B

LRT CLEARANCE ENVELOPE - DOUBLE TRACK



RTD



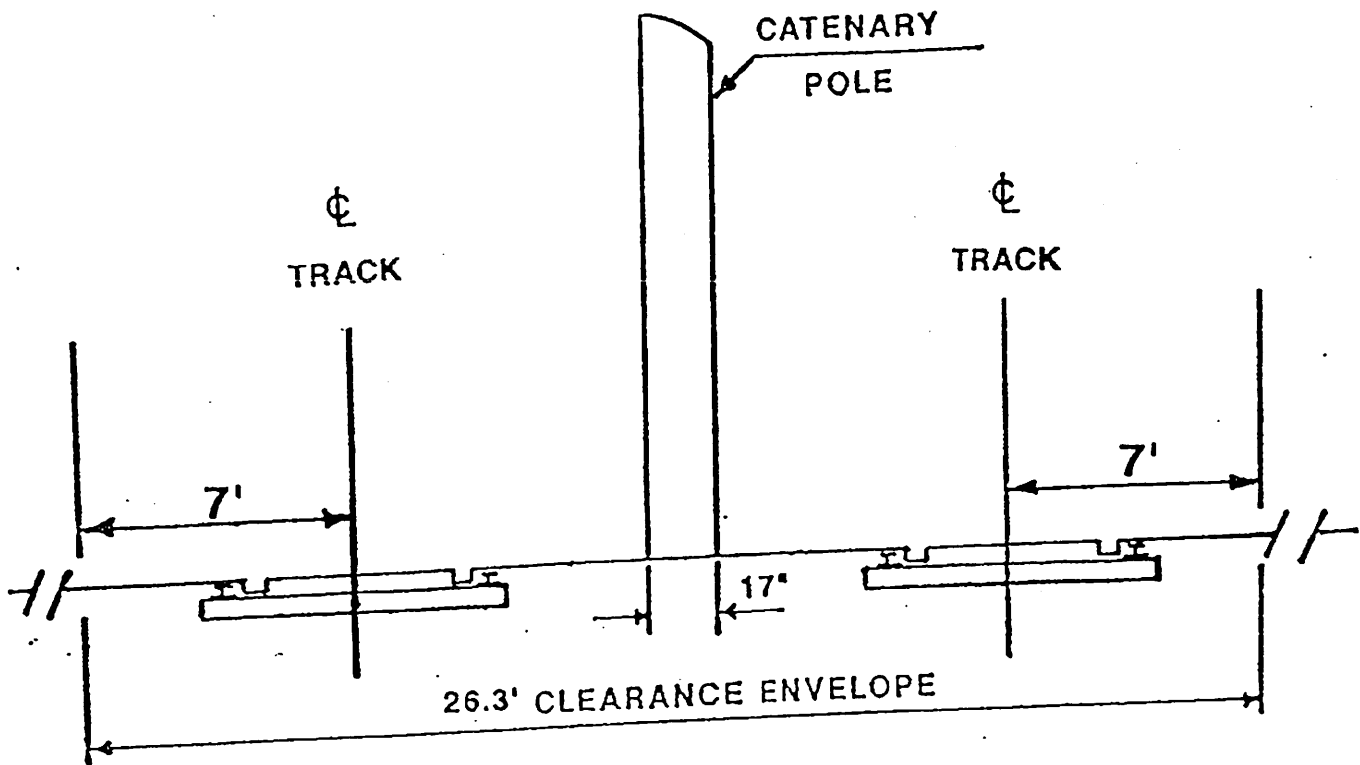
DESIGN CRITERIA

TITLE:

FIGURE:

EXHIBIT A

LRT CLEARANCE ENVELOPE - DOUBLE TRACK



RTD



DESIGN CRITERIA

TITLE:

FIGURE:

Exhibit B: North Metro Rail Line



"We're proud of how our regional collaboration brought FasTracks to life, and how we continue to work together to get it done."
 —Phillip A. Washington, RTD General Manager



One region. One mission.

Regional Transportation District
 303.299.2000 | rtd-denver.com

Exhibit C: North Metro Rail Line within CCD Limits

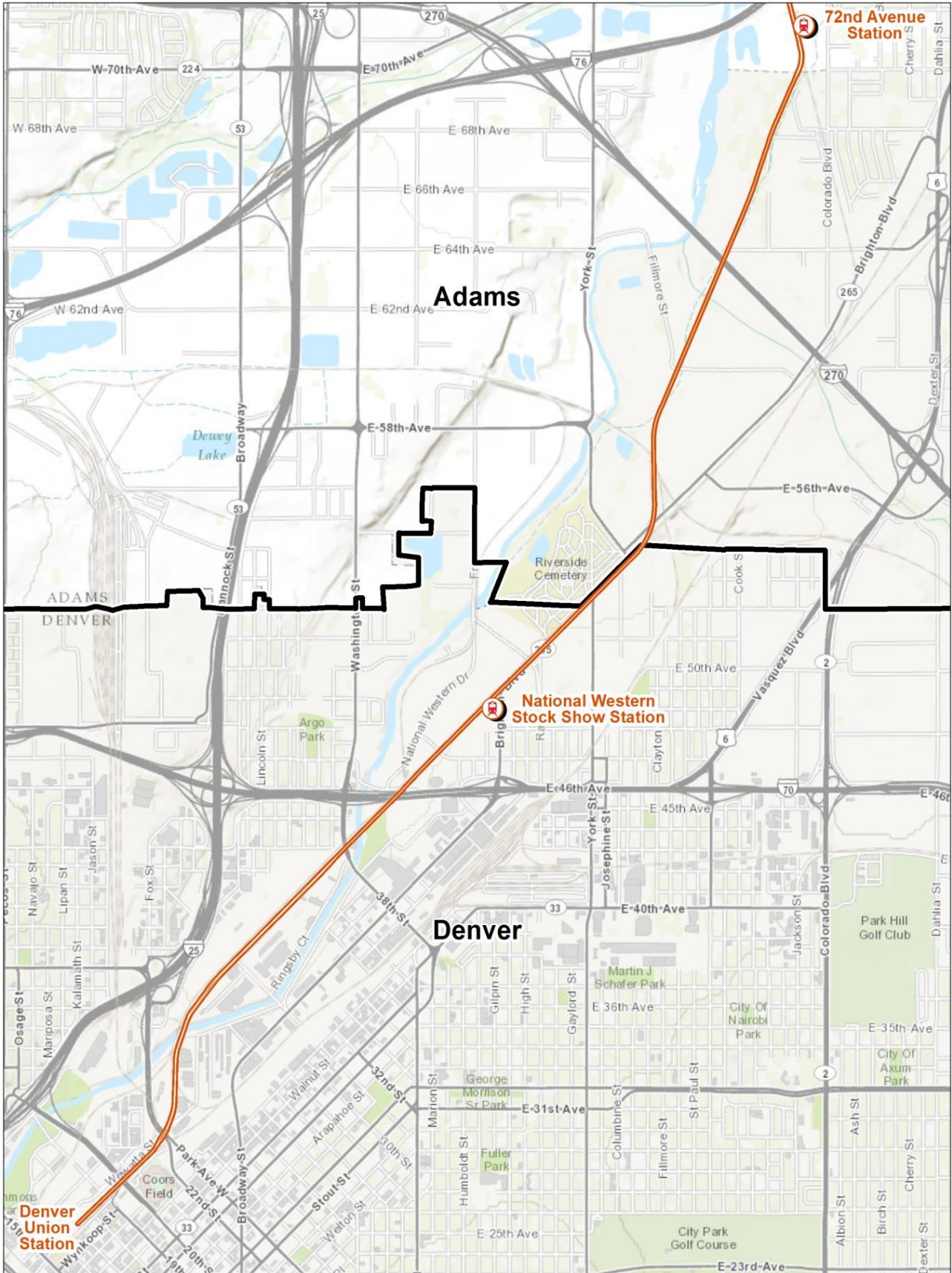


Exhibit D

Subject: Survey Monumentation

The purpose of this Exhibit is to document the results of the negotiations and agreement between the Regional Transportation District (“RTD”) and the City and County of Denver (the “City”) regarding the establishment of 13 range points and land parcel corners along RTD’s North Metro Corridor the locations of which are described below. The range points and land parcel corners in question are to support the North Metro Project stationing and alignment. It is agreed that the establishment of these range points and land parcel corners will precede any street construction associated with the North Metro project within the City right-of-way. It is further agreed that RTD, or RTD’s Project Support Consultant, Jacobs Engineering, hereinafter referred to as RTD, will establish range points and land parcel corners at 13 locations along the North Metro Corridor as defined in the preliminary Corridor Monumentation Diagram. Work for the establishment of the range points and land parcel corners will be a combined effort of RTD and the City, each participating in the process. The City will assist by furnishing historic information and background data, providing the range boxes, assisting with traffic control on non-arterial streets and as defined below. RTD agrees to provide labor and equipment to recover or re-establish range points and land parcel corners and reference ties, file a City Monument Tie Out Sheet for each range point, and furnish to the City a signed Corridor Monumentation Diagram on or before 10/31/2013. While completing the monumentation work referenced herein, RTD will prepare monthly reports documenting the progress, results, problems encountered, delays or other issues affecting this work. The reports will be furnished on the first day of each month to the following distribution list via Aconex:

Jeff Jones, City and County of Denver Jeff.Jones@denvergov.org

Warren Ruby, City and County of Denver Warren.Ruby@denvergov.org

Brian Pinkerton, City and County of Denver Brian.Pinkerton@denvergov.org

Henry Stoppolecamp, Regional Transportation District Henry.Stoppolecamp@rtd-fastracks.com

Robert Boehm, Jacobs Engineering Robert.Boehm@Jacobs.com

The 13 range points and land parcel corners:

Monument the South Platte River Channel above and below the river crossing north of Garden Addition. (4 points)

Establish monumented range line in 31st Street between Arkins Ct. and the northwesterly terminus of 31st St. (3 points)

Re-establish monumented range line in Washington St. between 45th Ave and land line. (2 points)

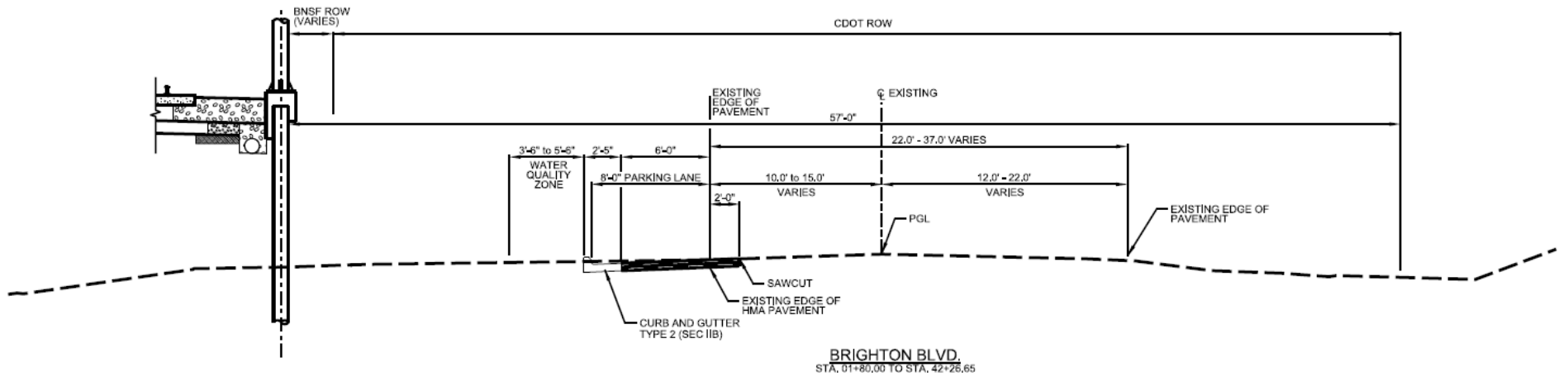
Establish monumented range line in 46th Ave. between Packing House Road and the National Western Building (2 points)

Establish monumented range line in Brighton Blvd. between 48th Ave and the Brighton Blvd angle to the northeast. (2 points)

The following list itemizes the agreed process and schedule to complete the Monumentation efforts:

1. Compile Required Information: RTD will compile the information necessary to search, recover, or re-establish 13 range points and land parcel corners on or before 10/31/2013.
2. Complete Field Work: RTD will recover or re-establish the 13 range points and land parcel corners on or before 10/31/2013.
3. Deposit Corridor Monumentation Diagram: RTD will deposit a Corridor Monumentation Diagram on or before 10/31/2013.
4. Recovery Diligence: Recovery includes diligent search as defined on the City's website.
5. Monumentation Documents: Recovery or re-establishment includes completing the appropriate documents (City Monument Tie Out Sheets & Corridor Monumentation Diagram) and delivering them to the City; the RTD Corridor Monumentation Diagram will satisfy LSP requirements.
6. Permits and Utility Locates: RTD will apply for and obtain Street occupancy permit, and provide utility locates. The City will issue all street occupancy permits at no cost to RTD.
7. Monuments Disturbed by the North Metro: RTD's North Metro Contractor will be responsible to reset monuments disturbed in conjunction with the North Metro Project including providing the materials and range boxes needed; RTD will monitor and assure this process. The North Metro Contractor is required to have a Colorado Professional Land Surveyor perform the following: 1) prior to construction, acknowledge in writing to City Surveying, that the 13 range points and land parcel corners and all other range points and land parcel corners, as shown on the Survey Monumentation and Perpetuation Diagram, will be maintained or reset to City Standards at the end of construction, 2) will provide to City new Monument Tie Out Sheets for each Range Point after construction and 3) will provide to City a new Corridor Monumentation Diagram for deposit.
8. Labor: RTD will provide personnel to research and calculate range points and land parcel corners positions, City will assist.
9. Traffic Control: Traffic control will be provided by Jacobs with City assisting where possible.
10. Furnish Range Boxes: The City will supply Range Boxes and 3 inch risers in conjunction with the initial retracement by RTD.
11. Tie Out Sheets: The City Tie out Sheets (1 for each Range Point location whether found/not found/set) will be furnished with Corridor Monumentation Diagram.
12. City Review and Acceptance: The City will review Corridor Monumentation Diagram & Monument tie out sheets prior to deposit/acceptance.

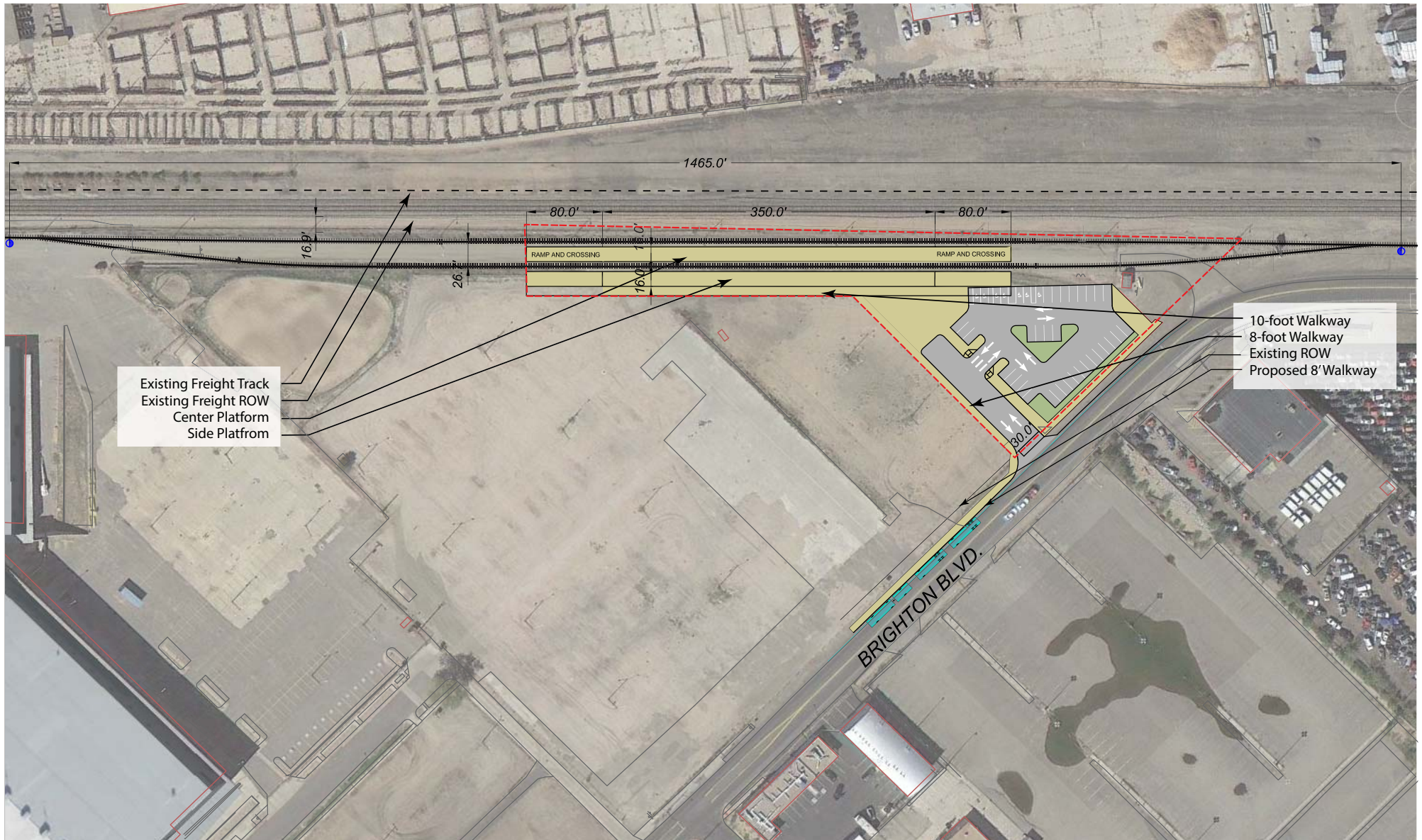
Exhibit E: Brighton Typical



NOTE:
 WALL SHOWN IN TYPICALS IS A GENERAL REPRESENTATION ONLY. SEE RETAINING WALL PLANS FOR SPECIFIC WALL DESIGNS ALONG BRIGHTON BLVD.

DRAINAGE SHOWN IN TYPICALS IS A GENERAL REPRESENTATION SEE DRAINAGE PLANS FOR DETAIL.

Exhibit F - NWSS Station



Commuter Rail Urban Design Templates

METHODOLOGY

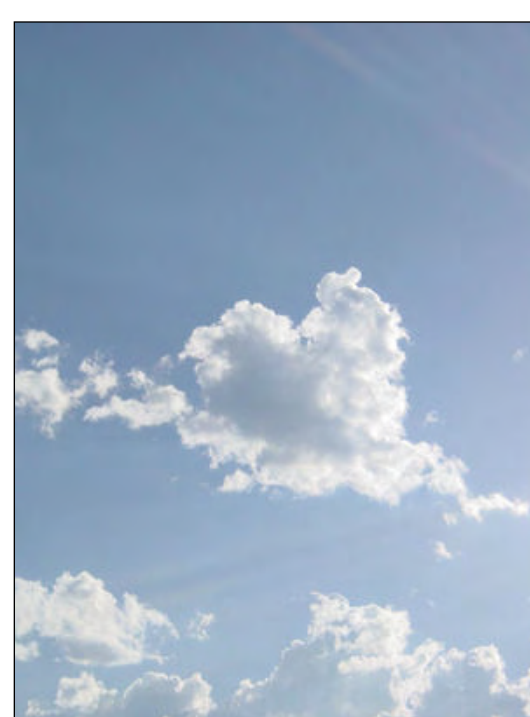
Step 1. Classify Station Elements into Categories

System-wide station elements, corridor-specific elements, and station unique elements.

Step 2. Characterize Each Station Area by Land Use & Character

Establish a recognizable character for each corridor by utilizing unique local design influences.

Natural Historical Land Use Landmarks & Iconic Architecture	Front Range views Eastlake, Stockyards/National Western Complex Mature suburbs, new residential, industrial Denver Coliseum, silos
---	---



Cloudscape



Denver Coliseum



Commerce City trails



Skyview Educational Complex



Northglenn neighborhood



Eastlake grain elevator



Lake Avenue, Eastlake



Thornton neighborhood



Uninc. Adams County

Step 3. Define Commuter Station Typologies

FasTracks commuter rail stations can be loosely classified into four categories based on the anticipated function and level of activity.

Neighborhood Station		
Transit Function	Neighborhood walk-up station. Local bus service, kiss-n-ride drop off, and small-medium park-n-ride.	
Typical Area Character	Residential area (multi-family, townhomes, and single-family) with limited neighborhood commercial uses (local and commuter-serving retail; likely less than 25,000 square feet).	
Main Street Station		
Transit Function	Main street walk-up station. Local and feeder bus service, kiss-n-ride drop off, and park-n-ride.	
Typical Area Character	Sub-regional destination. Ideal location for mixed-use redevelopment with diverse residential options (including residential above retail and multi-family) as well as local employment and commercial (including retail infill).	
Town Center Station		
Transit Function	Capture station for commuters. District circulator, feeder buses, express service, kiss-n-ride, and park-n-ride.	
Typical Area Character	Mixed-use town center development with diverse residential options (including multi-family and townhomes) as well as local and commuter-serving commercial/employment uses (likely more than 50,000 square feet of retail).	
Commuter Station		
Transit Function	Capture station for commuters. Feeder bus service, kiss-n-ride drop off, park-n-ride.	
Typical Area Character	Non-residential commercial or industrial area or edge of a residential neighborhood.	

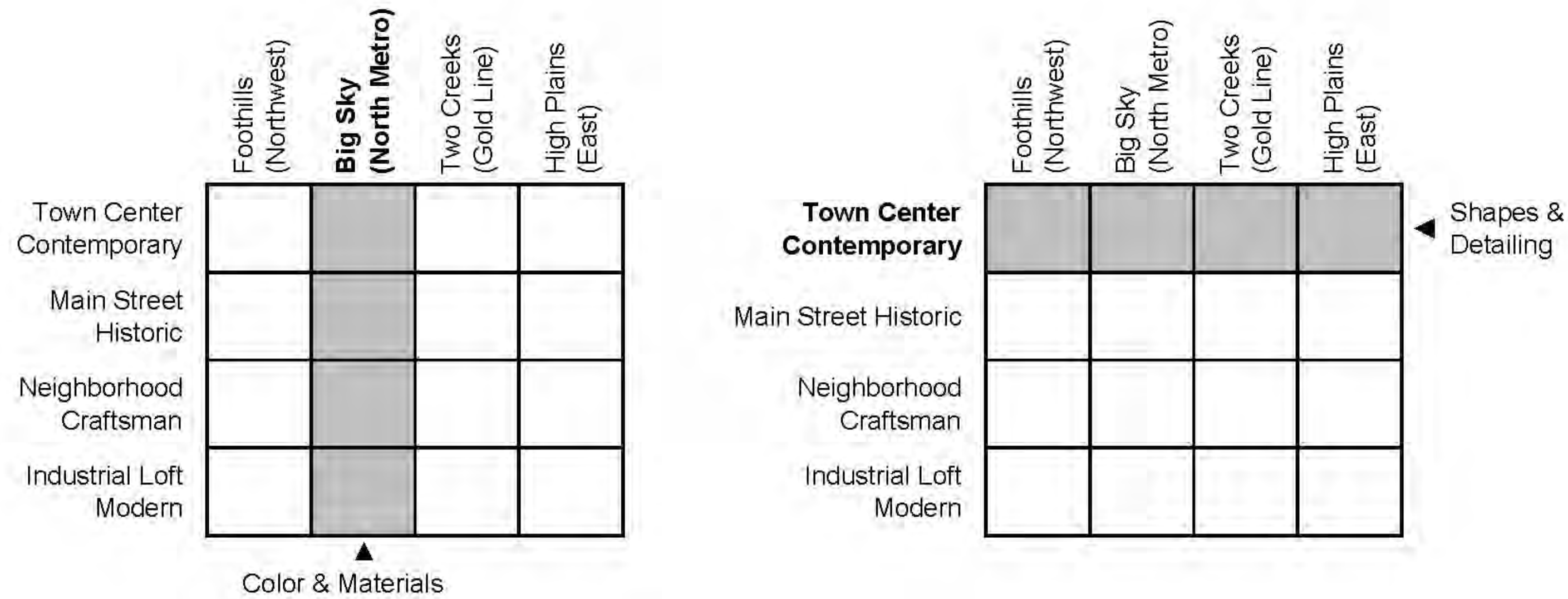
Commuter Rail Urban Design Templates

NORTH METRO CORRIDOR (Big Sky)

Step 4. Define Station Styles

Four station styles have been identified across the FasTracks corridors:
Neighborhood Craftsman, Town Center Contemporary, Main Street Historic and Industrial Loft Modern.

Step 5. Determine Approach to Blending Styles and Character of Corridors



Step 6. Define Architectural Styles

The four station styles:
Neighborhood Craftsman, Town Center Contemporary, Main Street Historic and Industrial Loft Modern.

Typology	Architectural Style	NM Rail Station	Station Style
Neighborhood or Commuter	Neighborhood Craftsman	88th 112th 144th	
Main Street	Main Street Historic	124th/Eastlake	
Town Center or Commuter	Town Center Contemporary	70th/72nd 104th 162nd	
Commuter	Industrial Loft Modern	Coliseum/Stock Show	

Step 7. Costs

Compile cost information for elements and materials for use as a basis for determining the base cost of each station.

Commuter Rail Urban Design Templates

NORTH METRO CORRIDOR (Big Sky) - Station styles utilizing buff sandstone, stucco, and metal fixtures painted a rust red tone

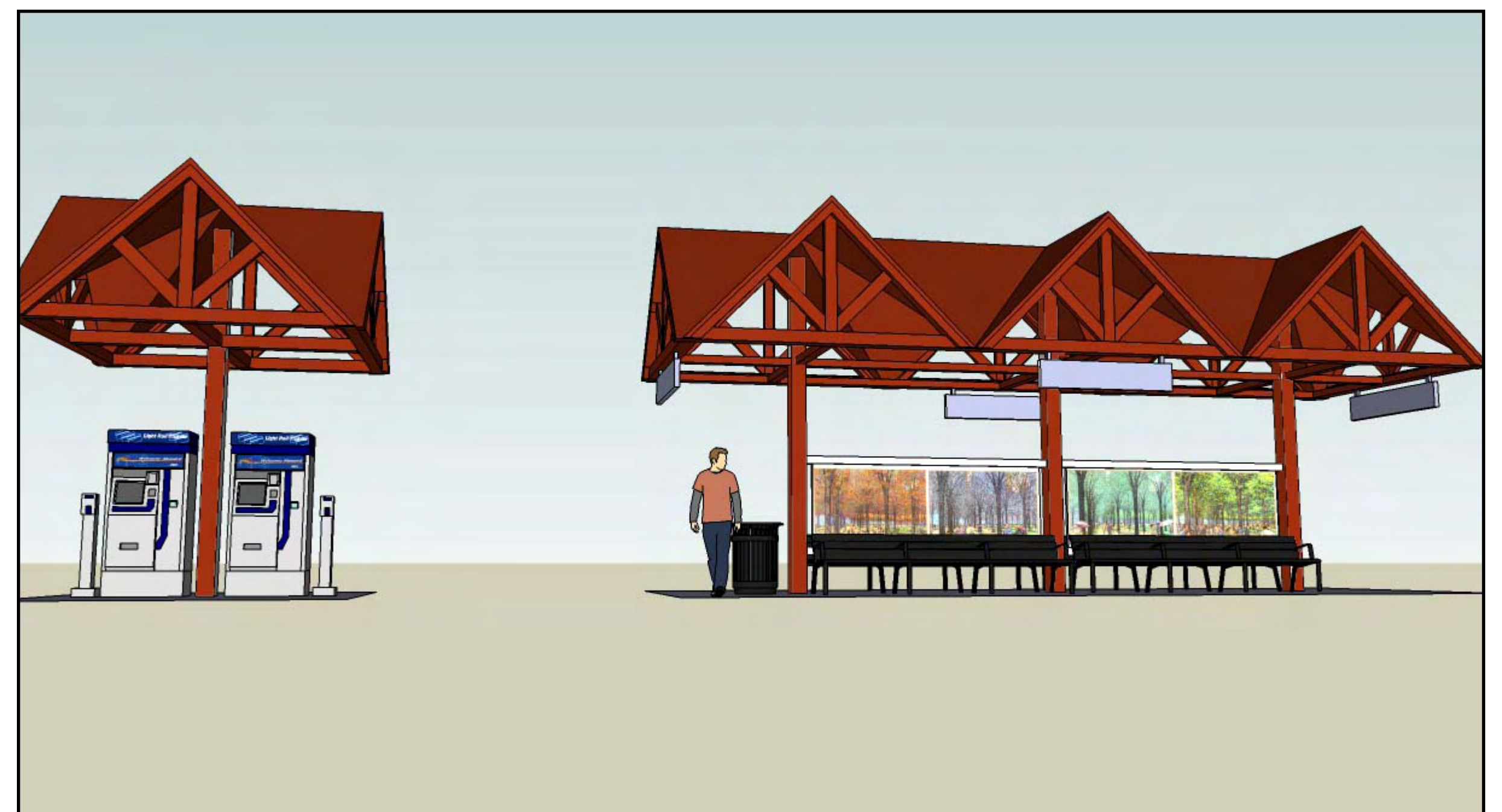
Neighborhood Craftsman

88th
112th
144th



Main Street Historic

124th/Eastlake



Commuter Rail Urban Design Templates

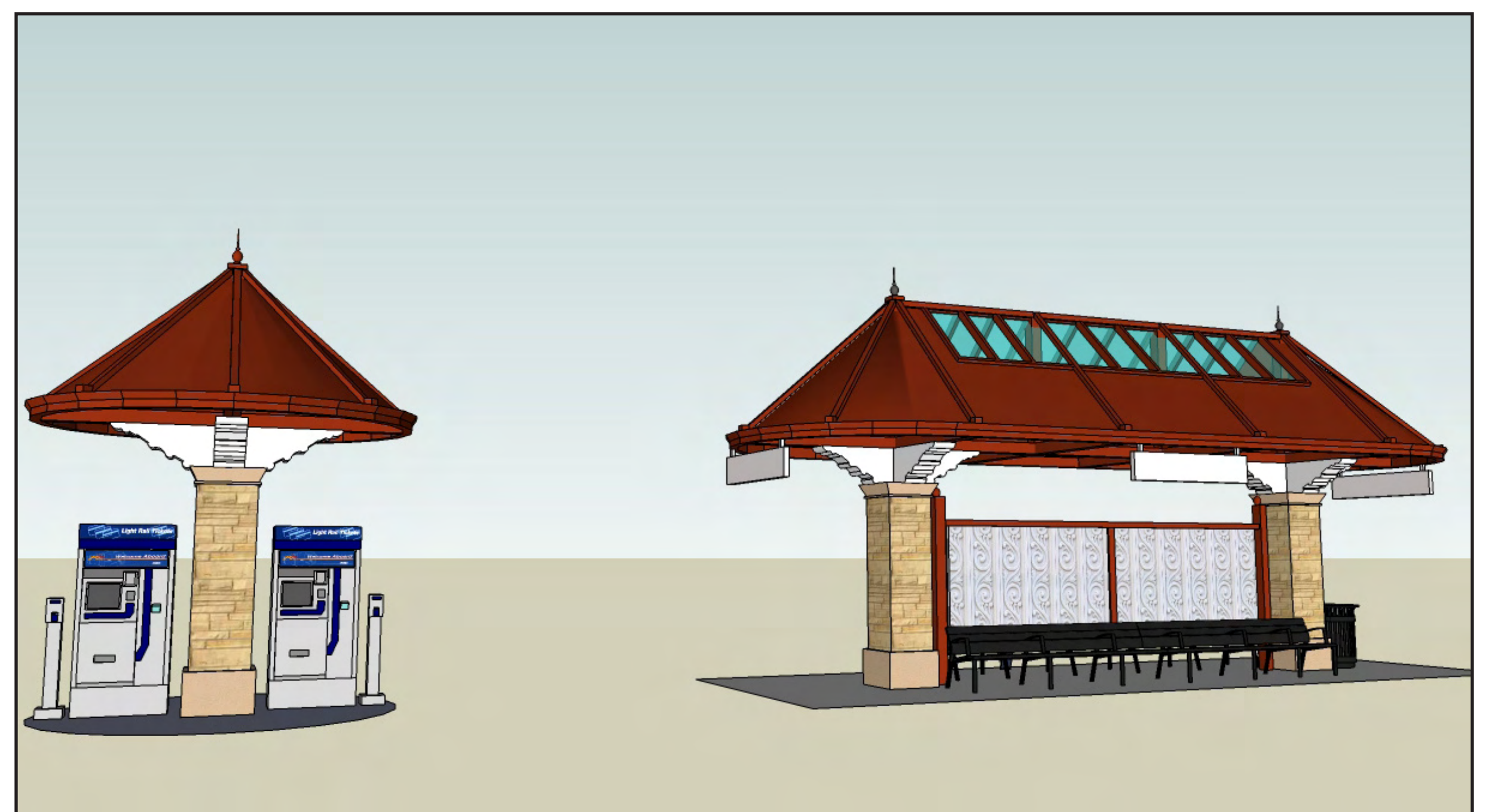
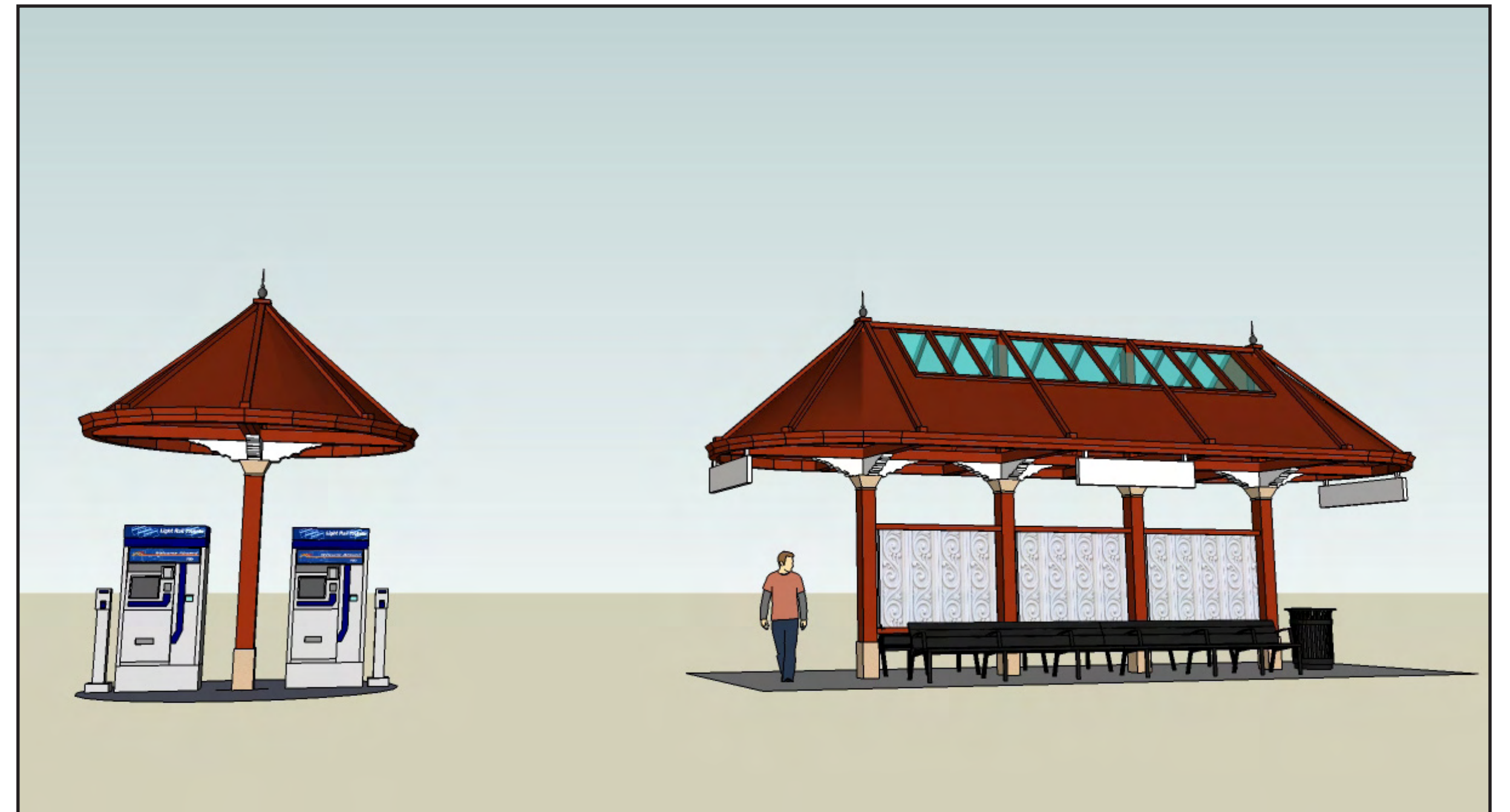
NORTH METRO CORRIDOR (Big Sky) - Station styles utilizing buff sandstone, stucco, and metal fixtures painted a rust red tone

Town Center Contemporary

70th/72nd

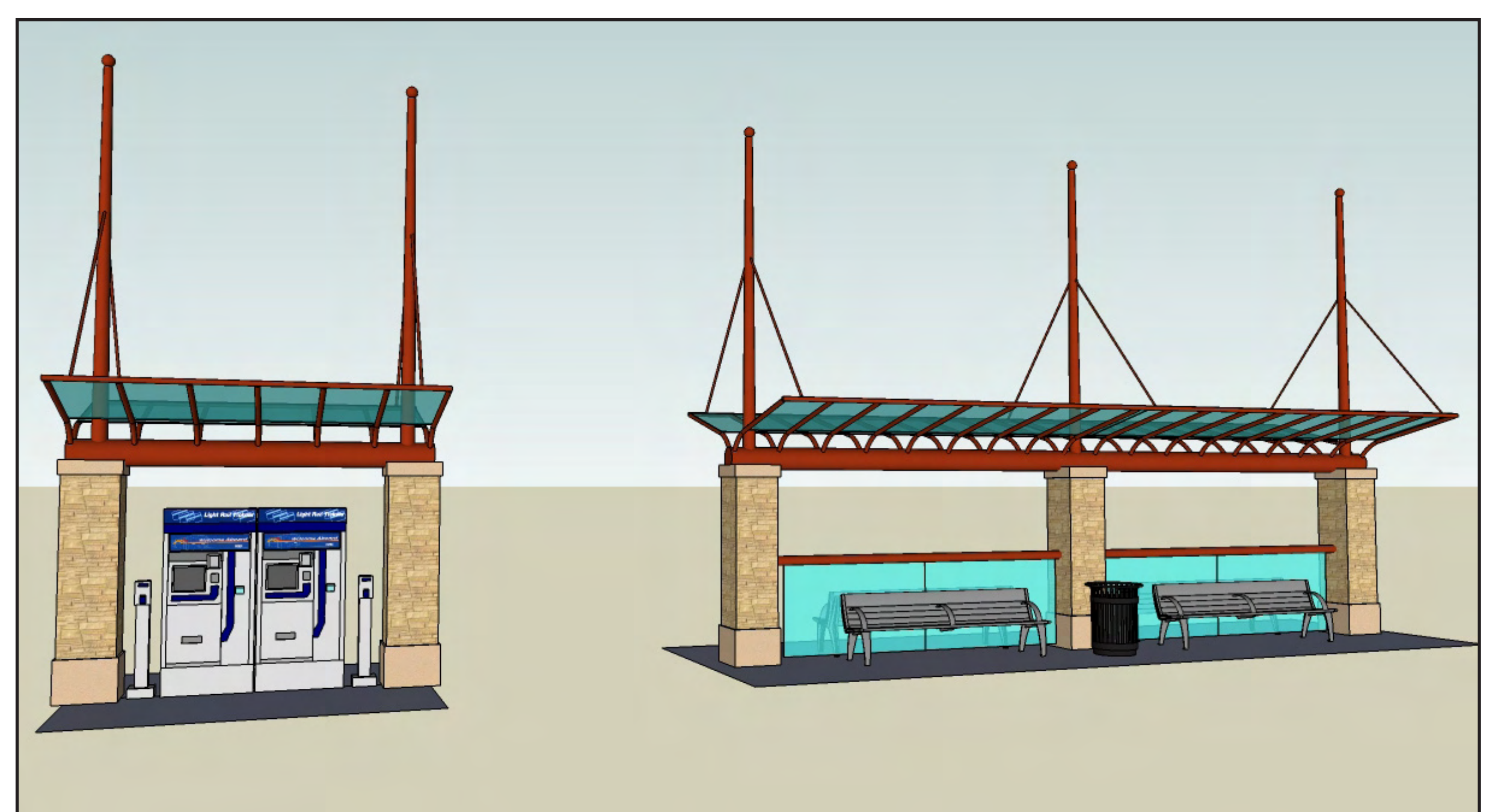
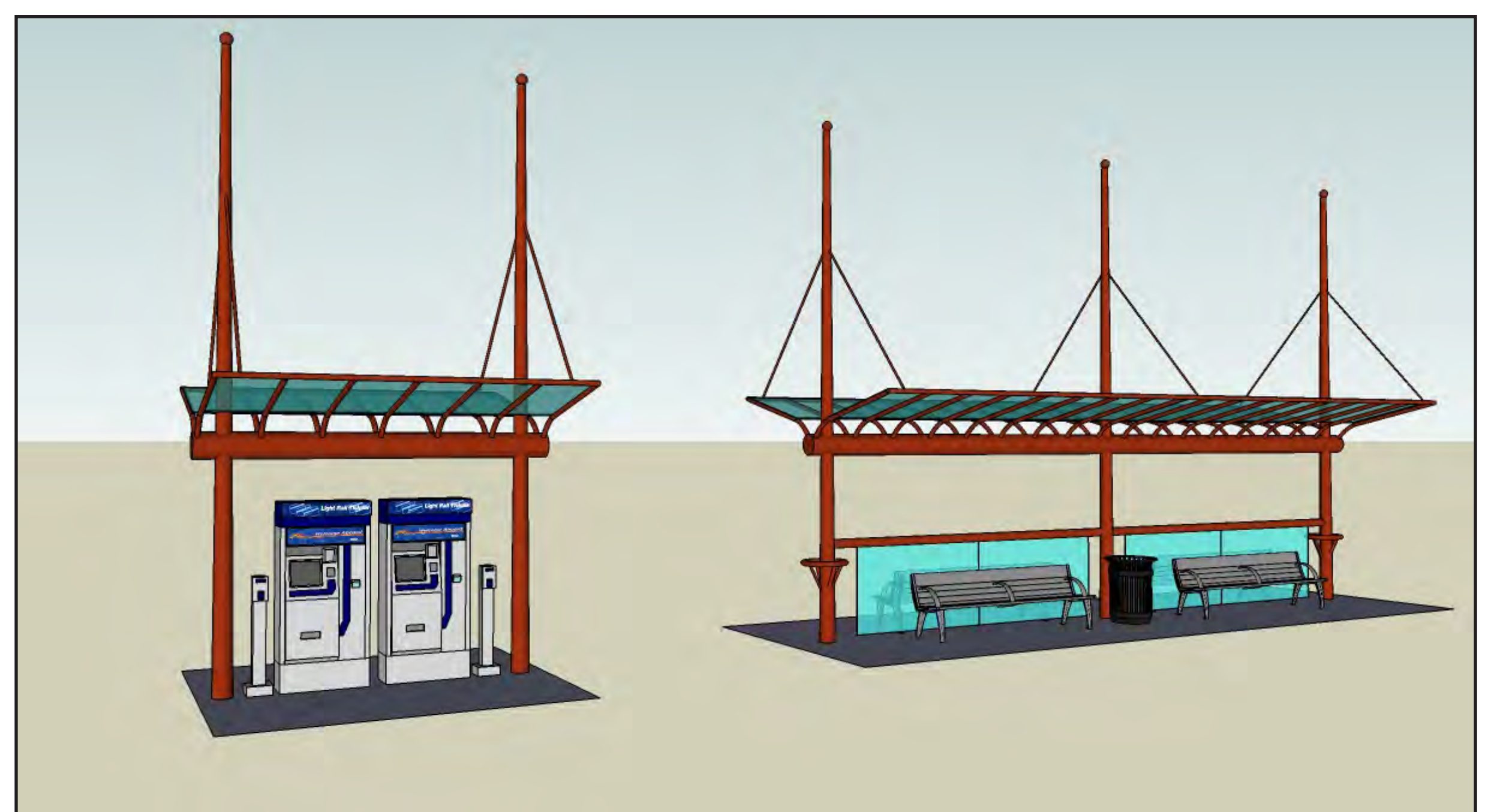
104th

162nd



Industrial Loft Modern

Coliseum/Stock Show





PROPOSED NORTH METRO RAIL LINE

00-5700

FIGURE 1

GLOBEVILLE PARK



-  **GLOBEVILLE PARK PROPERTY**
-  **GLOBEVILLE SLOPE EASEMENT**

K:\072120_Fastracks\NORTH METRO\ldgms\Exhibit\CCD IGA\ROW_ Exhibits_DGN\MEXD.dgn

DESIGNED BY: LDS	DATE: 02-14-12
DRAWN BY: SOO	DATE: 10-14-13

CHECKED BY: JED	DATE: 02-17-12
APPROVED BY: JED	DATE: 10-15-13

HORZ. SCALE: 1" = 60'	FOR 8.5 x 11 PLOT
VERT. SCALE: N/A	

RTD FasTracks
North Metro
Rail Line

EXHIBIT "G"

SHEET REFERENCE NUMBER:
NM3E
FIG. 1

GLOBEVILLE PARK

PROPERTY - TOTAL SQ FT = 12,017 TOTAL ACRES = 0.276
EASEMENTS - TOTAL SQ FT = 7,792 TOTAL ACRES = 0.179

**PROPOSED NORTH METRO
RAIL LINE**

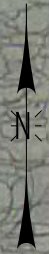
20' RTD Communication and Utility,
Permanent, Non-Exclusive Easement
Rec.9500075717 06/26/1995

SOUTH PLATTE RIVER

FIGURE 2

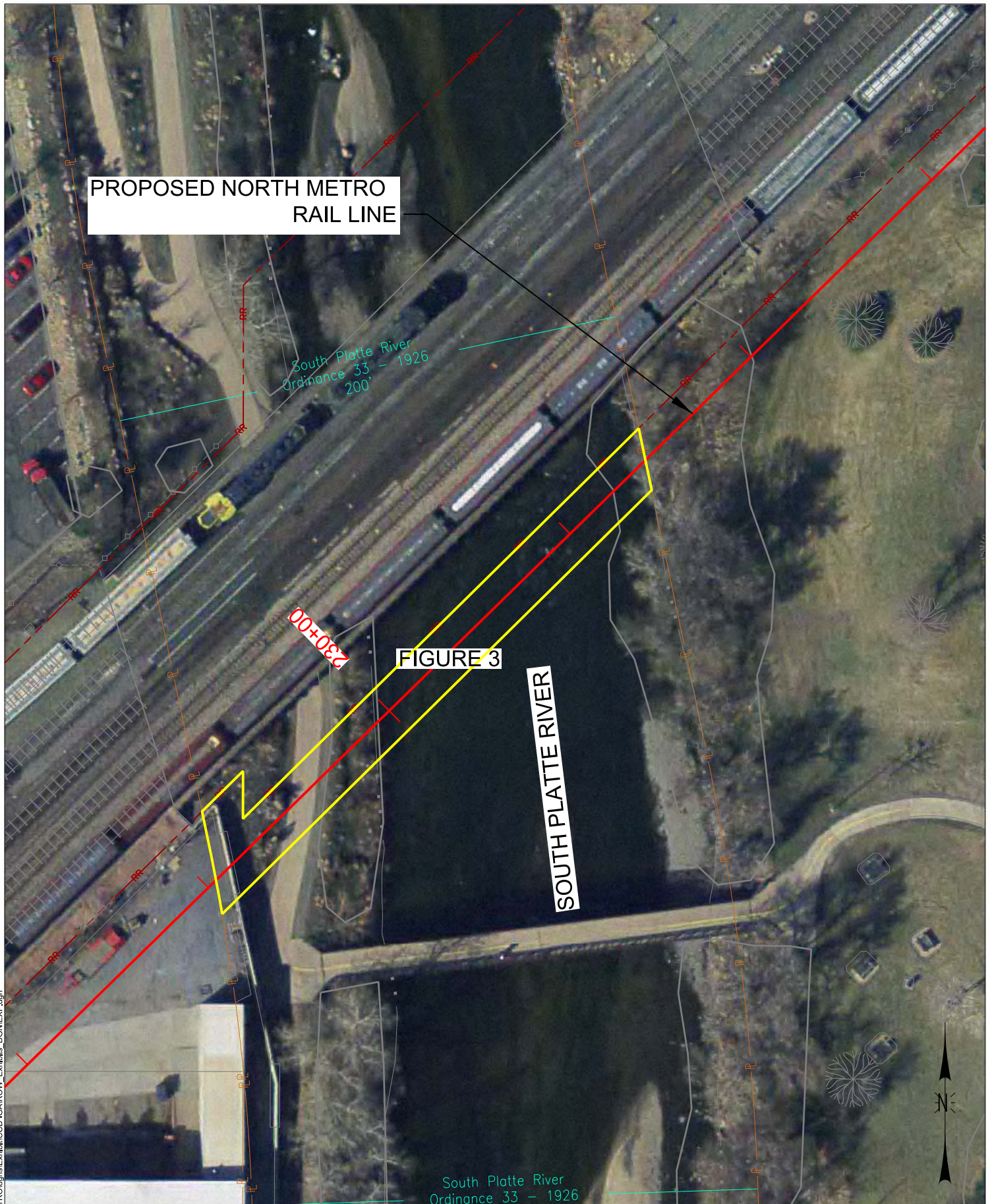
00+02.1

40' MWRD Permanent
Sanitary Easement
August 23, 1995
Rec.9500102252



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DESIGNED BY: LDS	DATE: 02-14-12	CHECKED BY: JED	DATE: 02-17-12	HORIZ. SCALE: 1" = 60'	FOR 8.5 x 11 PLOT		SHEET REFERENCE NUMBER: NM3B FIG. 2
DRAWN BY: SOO	DATE: 10-14-13	APPROVED BY: JED	DATE: 10-15-13	VERT. SCALE: N/A			
RIVER AERIAL SPLAT #1				TOTAL SQ FT = 10,536 TOTAL ACRES = .242		EXHIBIT "G"	



**PROPOSED NORTH METRO
RAIL LINE**

South Platte River
Ordinance 33 - 1926
200'

00+082

FIGURE 3

SOUTH PLATTE RIVER

South Platte River
Ordinance 33 - 1926

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DESIGNED BY: LDS	DATE: 02-14-12	CHECKED BY: JED	DATE: 02-17-12	HORZ. SCALE: 1" = 50'	FOR 8.5 x 11 PLOT	 North Metro Rail Line	SHEET REFERENCE NUMBER: NM3D FIG. 3
DRAWN BY: SOO	DATE: 10-14-13	APPROVED BY: JED	DATE: 10-15-13	VERT. SCALE: N/A			
RIVER AERIAL SPLAT #2				TOTAL SQ FT = 5,275 TOTAL ACRES = .121		EXHIBIT "G"	

PROPOSED NORTH METRO RAIL LINE

FIGURE 4

33,927.94 SqFt CCD CONVEY

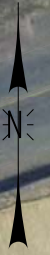
7,355.17 SqFt CCD KEEP

SOUTH PLATTE RIVER


20' RTD Communication and Utility, Permanent, Non-Exclusive Easement, Rec. 0800073217, 06/26/1995

00+024

00+571



K:\072120_Fastracks\NORTH METRO\dgms\Exhibit\CCD IG\ROW Exhibit.dgn

DESIGNED BY: LDS	DATE: 02-14-12	CHECKED BY: JED	DATE: 02-17-12	HORZ. SCALE: 1" = 80'	FOR 8.5 x 11 PLOT
DRAWN BY: SOO	DATE: 10-14-13	APPROVED BY: JED	DATE: 10-15-13	VERT. SCALE: N/A	
CCD PROPERTY / DISTRICT SHOPS			TOTAL SQ FT = 33,928 TOTAL ACRES = .779		 EXHIBIT "G"
					SHEET REFERENCE NUMBER: NM3C <hr/> FIG. 4

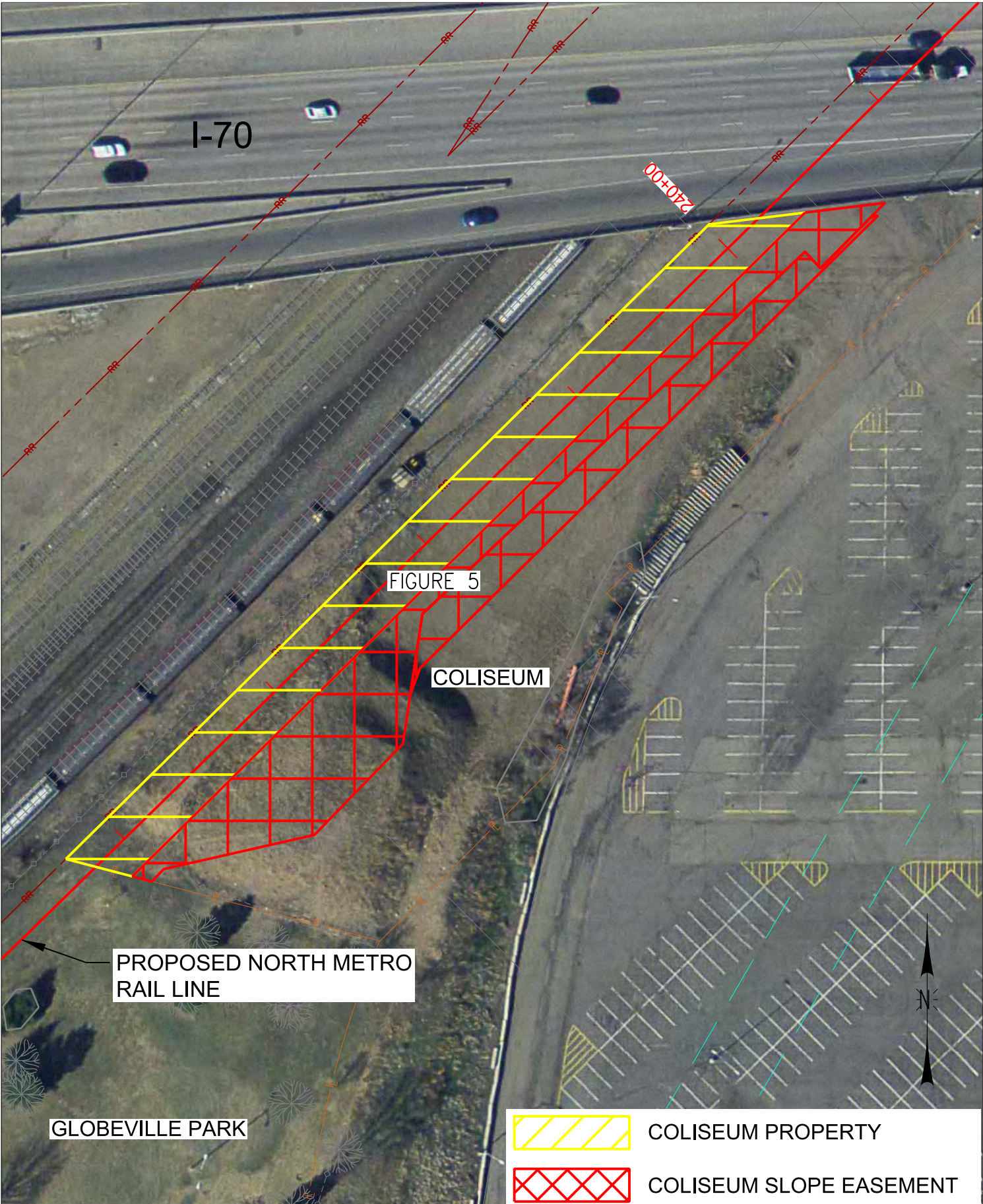




FIGURE 5


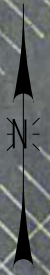
COLISEUM

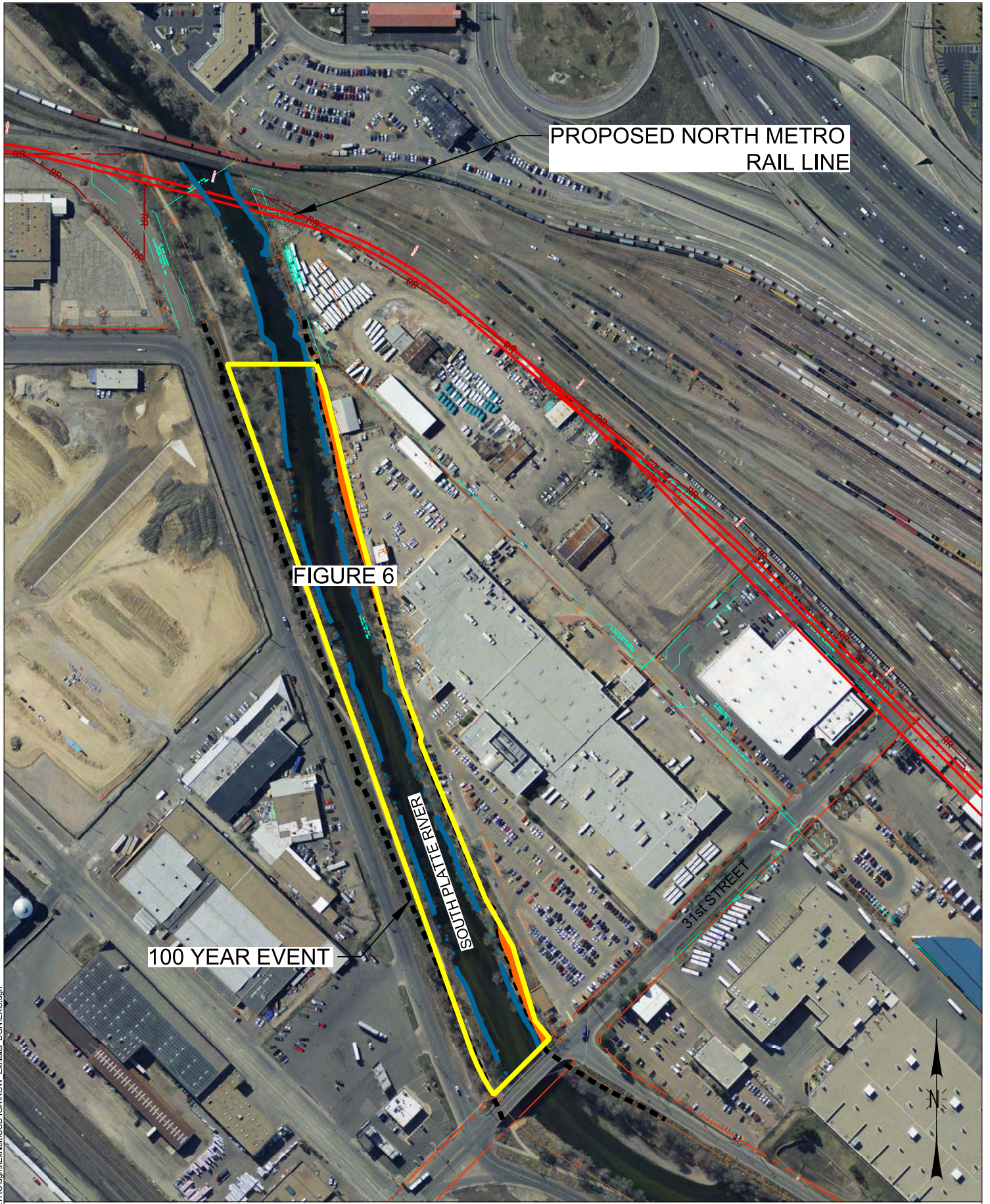
PROPOSED NORTH METRO RAIL LINE

GLOBEVILLE PARK

	COLISEUM PROPERTY
	COLISEUM SLOPE EASEMENT

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DESIGNED BY: LDS	DATE: 02-14-12	CHECKED BY: JED	DATE: 02-17-12	HORZ. SCALE: 1" = 60'	FOR 8.5 x 11 PLOT		SHEET REFERENCE NUMBER: NM3E
DRAWN BY: SOO	DATE: 10-14-13	APPROVED BY: JED	DATE: 10-15-13	VERT. SCALE: N/A			
COLISEUM		PROPERTY - TOTAL SQ FT = 12,263 TOTAL ACRES = 0.282		EXHIBIT "G"			
		EASEMENTS - TOTAL SQ FT = 13,167 TOTAL ACRES = 0.302				FIG. 5	



PROPOSED NORTH METRO
RAIL LINE

FIGURE 6

100 YEAR EVENT

SOUTHGATE STREET

31st STREET

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DESIGNED BY: LDS	DATE: 02-14-12	CHECKED BY: JED	DATE: 02-17-12	HORZ. SCALE: 1" = 300'	FOR 8.5 x 11 PLOT		SHEET REFERENCE NUMBER:
DRAWN BY: SOO	DATE: 10-14-13	APPROVED BY: JED	DATE: 10-15-13	VERT. SCALE: N/A			
RTD PROPERTY AT DISTRICT SHOPS				UNDERWATER SQ. FT = 269,179 ABOVE WATER SQ. FT = 16,732 TOTAL SQ. FT = 285,911 TOTAL ACRES = 6.564		EXHIBIT "G"	
						FIG. 6	

**QUITCLAIM DEED
(Denver to RTD)**

THIS DEED, made this ____ day of _____, 2013, between the **CITY AND COUNTY OF DENVER, a Colorado municipal corporation**, whose legal address is 1437 Bannock Street, Room 350, Denver, Colorado 80202, grantor, **REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado**, whose legal address is 1600 Blake Street, Denver, Colorado 80202-1399, grantee.

WITNESS, that the grantor, for and in consideration of the sum of ONE DOLLAR AND 00/100 (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto the grantee, its heirs, successors and assigns forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with improvements, if any, situate, lying and being in the City and County of Denver and State of Colorado, described as follows:

**LEGAL DESCRIPTION SET FORTH IN EXHIBIT 1
ATTACHED HERETO AND INCORPORATED HEREIN**

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, its heirs and assigns forever.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

CITY AND COUNTY OF DENVER
STATE OF COLORADO

ATTEST: _____
Clerk and Recorder, Ex-Officio
City Clerk

MAYOR

APPROVED AS TO FORM:

Assistant City Attorney

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____ 2013, by _____ as _____ Mayor of the City and County of Denver, State of Colorado.

Witness my hand and official seal.
My commission expires:

Notary Public

Please return recorded document to:
Lori Graham
Legal Department
Regional Transportation District
1600 Blake Street
Denver, CO 80202-1399

**QUITCLAIM DEED
(RTD to Denver)**

THIS DEED, made this ____ day of _____, 2013, between **REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado**, whose legal address is 1600 Blake Street, Denver, Colorado 80202-1399, grantor, and the **CITY AND COUNTY OF DENVER, a Colorado municipal corporation**, whose legal address is 1437 Bannock Street, Room 350, Denver, Colorado 80202, grantee.

WITNESS, that the grantor, for and in consideration of the sum of ONE DOLLAR AND 00/100 (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto the grantee, its heirs, successors and assigns forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, including any after-acquired title or other related property interests vesting in the grantor as the result of right of way vacations under §§ 43-2-301 through -303 of the Colorado Revised Statutes, together with improvements, if any, situate, lying and being in the City and County of Denver and State of Colorado, described as follows:

**LEGAL DESCRIPTION SET FORTH IN EXHIBIT 1
ATTACHED HERETO AND INCORPORATED HEREIN**

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, its heirs and assigns forever.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

Print Name:
Print Title:

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____ 2013, by _____ and _____.

Witness my hand and official seal.
My commission expires:

Notary Public

Please return recorded document to:
Patrick A. Wheeler
City Attorney's Office
City and County of Denver
201 West Colfax Avenue, Dept. 1207
Denver, CO 80202

AERIAL EASEMENT AGREEMENT
(NORTH METRO RAIL LINE)

THIS **AERIAL EASEMENT AGREEMENT** (this "Agreement") is made and entered into as of the ____ day of _____, 20____, by and between the **CITY AND COUNTY OF DENVER** ("Grantor"), with a mailing address of 1437 Bannock Street, Room 350, Denver, Colorado 80202, and the **REGIONAL TRANSPORTATION DISTRICT** ("Grantee"), a political subdivision of the State of Colorado with a mailing address of 1600 Blake Street, Denver, CO 80202-1399 (individually a "Party" and collectively, the "Parties").

Subject to and in accordance with the terms, covenants and conditions contained in this Agreement, and in consideration of the mutual agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. **CITY RIGHT OF WAY.** Grantor has fee or easement interests in land that includes portions of the South Platte River and South Platte River Trail (collectively, the "South Platte Property").

II. **GRANT.** Grantor hereby grants to Grantee an aerial easement including surface and subsurface support and access, ingress and egress (the "Easement") to construct, reconstruct, maintain, repair, replace and use an elevated structure for passenger rail including without limitation support columns, structures and systems, and utilities necessary for the powering of and communicating with such systems (collectively, the "Overpass") over and across the South Platte Property at a height not lower than _____ feet _____ inches (____) above, over, within and upon certain real property located in the City and County of Denver, State of Colorado, as such real property is more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference ("Easement Property"). This grant of an Easement is subject to all existing easements and encumbrances of public record on the Easement Property, any existing utilities and drainage systems located on the Easement Property (even if there is no recorded easement), and the legal rights and obligations the Grantor may have with respect to the South Platte Property. In addition, this grant of an Easement over the Easement Property shall be subject to the terms and conditions of the North Metro Rail Line Intergovernmental Agreement between the Grantor and Grantee dated December ____, 2013, a copy of which can be found at the Denver City Clerk's File Number _____.

III. **RESERVED RIGHTS.** Grantor retains the right to use and occupy the Easement Property insofar as such use and occupancy is consistent with and does not impair the Grantee's use of the Easement Property.

A. **Improvements.** Grantor covenants and agrees that no building, structure, tree, or any above or below ground obstruction that will substantially interfere with the purposes for which the Easement is granted is now or may be placed, erected, installed or permitted on the Easement Property without the prior written permission of the Grantee which permission shall not be unreasonably denied or conditioned; provided, however, that Grantee hereby acknowledges and accepts all improvements existing on, under or over the Easement Property as of the date of this Agreement, including any future replacements or relocations thereof (collectively, the "Existing Improvements"). These Existing Improvements include, but are not limited to, the South Platte River Trail, utilities, and structures for regulating the flows of the South Platte River. Grantor hereby reserves the right to maintain, repair, replace, and relocate the Existing Improvements at any time. Grantee shall use commercially reasonable efforts to avoid causing any damage or harm to any of the Existing Improvements and shall be

responsible, at its own expense, for immediately and properly repairing or replacing any Existing Improvements so damaged or harmed.

B. Correction. Grantor agrees that, in the event of a violation of its covenant not to obstruct under *subsection (A)* above, such violation shall immediately be corrected by Grantor upon receipt of written notice from Grantee, or, Grantee may itself elect to correct or eliminate such violation,

IV. **MAINTENANCE**. Grantor covenants and agrees to maintain and keep the South Platte Property and the Existing Improvements,, at Grantor's sole cost and expense, in a good condition and state of repair as reasonably necessary to avoid any damage or harm to the Grantee's use of the Easement Property; except that Grantee shall repair, at Grantee's sole cost and expense, any damage or harm to the South Platte Property or Existing Improvements caused by Grantee or its concessionaires and contractors.

V. **SUCCESSORS AND ASSIGNS**. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the Parties and all covenants shall apply to and run with the land unless otherwise specifically noted.

VI. **ENTIRE AGREEMENT, AMENDMENT**. Except as expressly provided in this Agreement, this Agreement represents the entire agreement between the Parties regarding the Easement. No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by the Parties.

VII. **APPLICABLE LAW**. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado. In the event of any dispute over the terms and conditions of this Agreement, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the City and County of Denver District Court of Colorado.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

GRANTOR:

ATTEST:

CITY AND COUNTY OF DENVER
STATE OF COLORADO

Debra Johnson, Clerk and Recorder and
Ex-Officio City Clerk for the City and County
of Denver

MAYOR

APPROVED AS TO FORM:

Douglas J. Friednash, City Attorney

Assistant City Attorney

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____ 2013, by _____ as _____ Mayor of the City and County of Denver, State of Colorado.

Witness my hand and official seal.
My commission expires:

Notary Public

ACCEPTED BY:
GRANTEE:

REGIONAL TRANSPORTATION DISTRICT, a
Colorado political subdivision

By: _____
Phillip A. Washington
General Manager

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____
20__, by _____ as _____.

Witness my hand and official seal.
My commission expires:

Notary Public

Approved as to Legal Form:

By: _____
Lori L. Graham
Associate General Counsel

SLOPE EASEMENT AGREEMENT

THIS SLOPE EASEMENT AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 20____, by and between the CITY AND COUNTY OF DENVER ("Grantor"), with a mailing address of 1437 Bannock Street, Room 350, Denver, Colorado 80202 and the REGIONAL TRANSPORTATION DISTRICT ("Grantee"), a political subdivision of the State of Colorado with a mailing address of 1600 Blake Street, Denver, CO 80202-1399 (individually, a "Party" and collectively, the "Parties").

Subject to and in accordance with the terms, covenants and conditions contained in this Agreement, and in consideration of the mutual agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. GRANT. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive and perpetual easement (the "Easement") for the construction and location, and for the lateral and subjacent support provided by, a support and drainage slope to be constructed by Grantee (the "Slope") on certain real property owned by Grantor and described on the attached **Exhibit A** (the "Premises"), together with all appurtenances thereto, and together with the right to enter upon the Premises and to inspect, maintain, repair, remove, replace, install, construct and reconstruct the Slope (the "Use"). Any use by Grantee of property owned or controlled by the Grantor other than the Premises identified in this Agreement shall require a permit or license issued by the Grantor. Grantee's maintenance obligations of the Slope pursuant to this Easement shall be of a structural nature only and shall not include any seeding, reseeding, planting, replanting, mowing or landscaping of the Slope unless mutually agreed by the Parties; provided, however, that the Grantee shall be solely responsible, at its own expense, for the immediate and proper repair, replacement and restoration of the Premises to its original or better condition if the Premises are damaged or harmed by the Grantee or its concessionaire or contractors doing any work authorized under this Agreement. This grant of an Easement is subject to all existing easements and encumbrances of public record on the Premises, any existing utilities and drainage systems located on the Premises (even if there is no recorded easement), and the legal rights and obligations the Grantor may have with respect to the Premises. In addition, this grant of an Easement over the Premises shall be subject to the terms and conditions of the North Metro Rail Line Intergovernmental Agreement between the Grantor and Grantee dated December ____, 2013, a copy of which can be found at the Denver City Clerk's File Number _____.

II. COVENANTS. The rights granted and reserved in this Agreement are covenants running with the land and shall extend to and be binding upon, and inure to the benefit of, Grantor and Grantee and each of their respective successors and assigns.

III. RESERVED RIGHTS. Grantor retains the right to use and occupy the Premises insofar as such use and occupancy is consistent with and does not impair the Grantee's Use of the Easement.

IN WITNESS WHEREOF, the Grantor has executed this Agreement.

CITY AND COUNTY OF DENVER
STATE OF COLORADO

ATTEST: _____
Clerk and Recorder, Ex-Officio
City Clerk of the City and County
of Denver

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of _____ 2013, by _____ as _____ Mayor of the City and County of Denver, State of Colorado.

Witness my hand and official seal.
My commission expires:

Notary Public

ACCEPTED BY:
GRANTEE:

REGIONAL TRANSPORTATION DISTRICT, a
Colorado political subdivision

By: _____
Phillip A. Washington
General Manager

STATE OF COLORADO)
) s s.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____
20__, by _____ as _____.

Witness my hand and official seal.
My commission expires:

Notary Public

Approved as to Legal Form:

By: _____
Lori L. Graham
Associate General Counsel