

## 5.6 Historic Preservation

*This section discusses the historic resources in the Area of Potential Effect and explains why they are important to the project. The impacts of the project alternatives on historic resources also are evaluated and proposed mitigation measures are discussed to offset any potential adverse effects.*

### 5.6.1 What are historic resources and why are they important to this project?

There are four criteria that determine the eligibility of a site as a historic resource. The site can be eligible under one or more than one criterion. These criteria are discussed in the text box to the right.

Analysis of historic resources is important to this project because, under Section 106 of the National Historic Preservation Act of 1966 (36 CFR §800), federal agencies are required to evaluate the effects of planned undertakings on historic resources. Historic resources include buildings, sites, structures, objects, and districts that are eligible for listing in, or are listed in, the NRHP.

To meet the obligations of Section 106, consultation between the lead federal agency and the State and Tribal Historic Preservation Offices, Native American tribes, and other consulting parties, as applicable, is required. The purpose of this consultation is to identify historic resources that may be affected, determine if effects will be adverse and, if so, identify measures to avoid, minimize, or mitigate those effects. Historic resources reviewed for the I-70 East project include historic districts, individual buildings, bridges, and linear features, including railroads.

### 5.6.2 Have there been changes to historic resources in the project area or to the analysis process since the release of the 2008 Draft EIS?

There have been several changes to historic resources and the analysis process since the release of the 2008 Draft EIS.

CDOT originally included the Section 106 consultation in the 2008 Draft EIS—a process that is referred to as a Section 106/NEPA substitution, as outlined in 36 CFR §800.8(3)(c). The Colorado SHPO and other consulting parties, however, requested detailed information before providing their comments. As a result, FHWA and CDOT separated the Section 106 consultation from NEPA and are submitting Section 106

#### What criteria determine if a property is eligible for listing on the NRHP?

Four criteria are used to determine eligibility of a resource for listing. Properties also can be eligible under more than one criterion.

**Criterion A:** Resource is associated with events that have made a significant contribution to the broad pattern of our history.

**Criterion B:** Resource is associated with the lives of persons significant in our past.

**Criterion C:** Resource (1) embodied the distinctive characteristics of a type, period, or method of construction; (2) represents the work of a master; (3) possesses high artistic values; and/or (4) represent a significant and distinguishable entity whose components may lack individual distinction.

**Criterion D:** Resource has yielded, or may be likely to yield, information important in prehistory or history.

determinations separately from the NEPA document for the Supplemental Draft EIS.

In late 2012 and 2013, historians updated the inventory of historic properties to be evaluated in the Supplemental Draft EIS. While previous surveys included properties built in 1963 or earlier, the updated historic inventory accounts for properties built in 1965 or earlier to account for buildings that have reached, or will reach over the construction life of the project, 50 years of age. The updated inventory changed the total number of historic resources in the project area, due to a combination of newly identified properties, changing eligibility status as a result of alterations to properties, and demolition.

The changes to the project alternatives and the addition of a new alternative also resulted in a different outcome for potential effects. The Realignment Alternatives were eliminated from further consideration and the Partial Cover Lowered Alternative was added as a Build Alternative. Because the Realignment Alternatives were eliminated, the APE was refined to focus primarily on the current alignment of I-70, with the exception of the routing of a storm drainage system that discharges into the South Platte River and the construction of several water quality detention ponds along the current alignment.

Because of changes in the project alternatives, and resulting modifications to the APE, a number of eligible properties identified in the 2008 Draft EIS as adversely affected by one or all of the project alternatives are no longer affected. This is because the alternatives no longer directly affect these properties through right-of-way acquisition or other encroachment, such as temporary easements, on the property. Elimination of the Realignment Alternatives avoided adverse effects to 14 historic properties, including the National Western Complex Historic District. Modifications to the Revised Viaduct Alternative, which is very similar to the Existing Alignment Alternatives presented in the 2008 Draft EIS, avoided adverse effects to the following properties:

- Braswell residence (5DV9705)
- Pavon residence (5DV9706)
- Olive Street LLC property (5DV9714)
- Chavez residence (5DV9748)
- Davis residence (5DV9787)
- Mann residence (5DV9795)

Due to changes in the APE through elimination of the Realignment Alternatives, as discussed further in Section 5.6.4, additional eligible properties, beyond those discussed above, have been eliminated from the APE. Those properties are no longer impacted by the project and are not discussed in this document.

### 5.6.3 What consultation has been conducted for the Supplemental Draft EIS?

As previously discussed, it was determined through consultation with SHPO and consulting parties that the NEPA and Section 106 process would be separated. In January 2010, FHWA and CDOT submitted a *Section 106 Determination of Effects* report to SHPO and consulting parties. On February 27, 2010, the SHPO concurred with all recommended determinations of effect from the report with the exception of the recommendations for the National Western Historic District (5DV10447) and the Alfred R. Wessel Historic District (5DV10126), both of which SHPO determined would be adversely affected (see Appendix B, Agency Consultation).

Due to passage of time, revisions in the project alternatives, and the subsequent revisions to the APE, effects to historic properties are reassessed in this document. Details on these revisions are discussed further in Section 5.6.4. SHPO has been consulted on the eligibility of properties within the APE and did concur with eligibility recommendations on May 28, 2013, September 6, 2013, and November 27, 2013. On behalf of FHWA, CDOT will consult with the SHPO and other consulting parties to consider the effects to eligible or listed historic properties within the corridor from the alternatives analyzed in this document. As consultation is completed, effects will be updated as necessary in the Final EIS. Effects presented in this section are subject to change following consultation with SHPO.

The Advisory Council on Historic Preservation (ACHP) is the federal agency that oversees the Section 106 process. FHWA will advise them of adverse effects to historic properties during the Section 106 process. The ACHP then can decide whether to participate in the consultation process based on the adverse effects and the complexity of the project.

In addition to the original consulting parties, the Fairmount Heritage Foundation, representing Riverside Cemetery, became a consulting party during the Supplemental Draft EIS process. The National Trust for Historic Preservation indicated it would no longer be a consulting party, but would rely on Historic

#### Consulting parties

State Historic Preservation Office (SHPO)

Historic Denver, Inc.

Colorado Preservation, Inc.

Denver Landmark Preservation Commission

Fairmount Heritage Foundation

#### SHPO consultation status

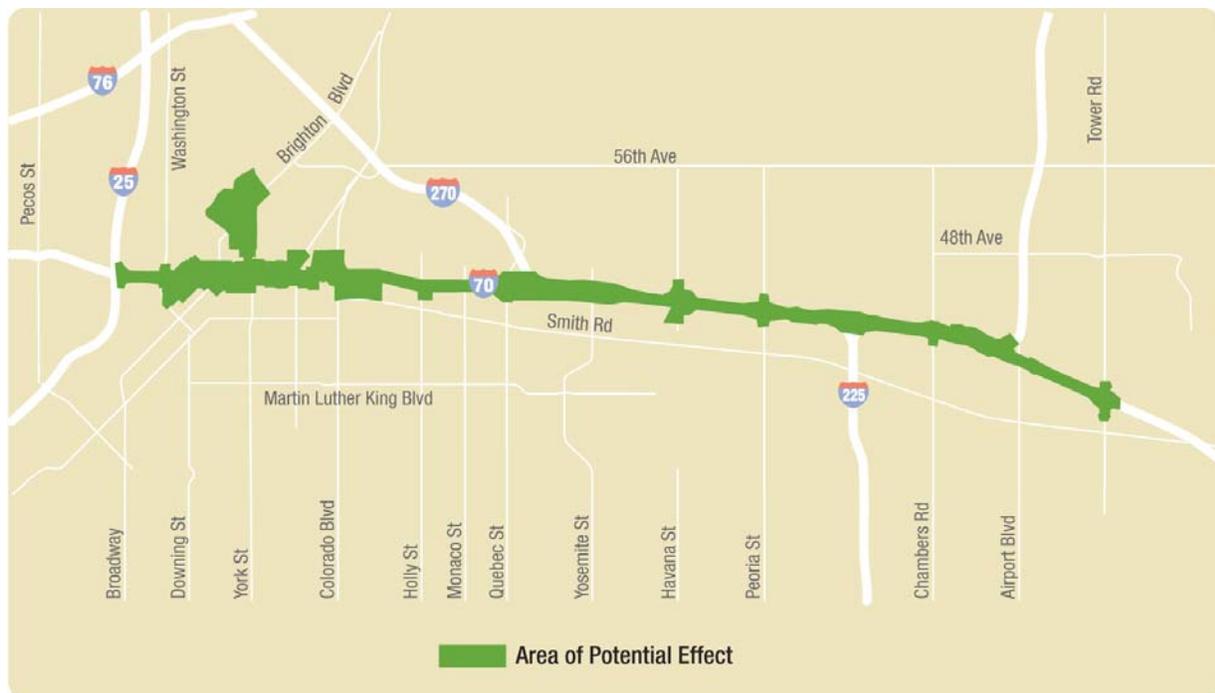
SHPO has concurred with eligibility for historic resources. However, at the time of publication of this document, SHPO has not yet concurred with the finding of effects as presented in this document; therefore, they are subject to change following completion of Section 106 consultation in 2014. Any changes to the effects recommendations following consultation will be incorporated into the Final EIS.

Denver, Inc., and Colorado Preservation, Inc., to participate in future consultation.

#### 5.6.4 What is the Area of Potential Effect and what evaluation process were used to analyze historic resources?

An APE is a geographic area or areas within which a project may directly or indirectly cause alterations in the character or use of historic resources. Due to the change in the project alternatives, a revised APE boundary was developed during consultation, as documented in Appendix B, *Agency Consultation*. Exhibit 5.6-1 reflects the agreed-upon APE.

#### Exhibit 5.6-1. Area of Potential Effect



The APE boundary is based on information gathered from the location of historic resources adjacent to the highway corridor and the combined footprint of all alternatives analyzed in the Supplemental Draft EIS. The APE is wider in the residential area of the Elyria and Swansea Neighborhood to take into account indirect effects that visual changes might have to the historic setting. East of Colorado Boulevard, the APE becomes narrower due to the scarcity of potentially eligible historic properties and because the visual impacts will be less substantial.

Historic resources and the APE documented in this section are discussed in detail in the following reports:

- *Cultural Resources Survey Report*, December 2007
- *Section 106 Determination of Effects*, January 2010 (replaced Appendix D, Historic Preservation, of the 2008 Draft EIS)
- *Section 106 Determination of Eligibility and Effects*, anticipated 2014

The Section 106 process is early and ongoing consultation with SHPO and other consulting parties to avoid, minimize, or mitigate adverse effects to historic properties. The methodology for historic properties in the corridor consists of four basic steps, outlined in the Section 106 regulations (36 CFR §800):

- Establish the extent of the project undertaking and engage the appropriate consulting parties who will comment on the project findings.
- Identify historic properties that have the potential to be affected by the project and request comments from consulting parties.
- Identify whether historic properties will be adversely affected by the undertaking and request comments from consulting parties.
- Resolve adverse effects through continued consultation and completing mitigation projects that are useful to consulting parties and the community, and affected resources.

#### **5.6.5 What are the areas of interest for historic preservation that are being analyzed and what are their existing conditions?**

The major historic themes and areas of interest are largely the same as those addressed in the *EIS Cultural Resources Survey Report* (2007) and the *EIS Section 106 Determination of Effects Report* (2010). Historians expected to find historic properties that are significant examples of the history of transportation, industry, and urban development, as well as significant architectural styles. The 2007 and 2010 reports were supplemented with a 2014 report (Attachment I) that addresses the properties analyzed in the Supplemental Draft EIS.

#### **Finalizing the APE**

CDOT described the APE in correspondence dated December 12, 2012, to SHPO. SHPO responded with no objection to the APE on January 4, 2013. CDOT also received comments on the APE from the Denver Landmark Preservation Commission, in the capacity of Consulting Party. CDOT adjusted the APE twice, reflected in consultations with SHPO and the Consulting Parties in letters dated October 24, 2013, and January 7, 2014. Concurrence was received November 7, 2013, and January 30, 2014.

The existing conditions for historic resources are as follows:

- Project historians updated a records search at the Colorado Office of Archaeology and Historic Preservation in fall 2012 and revisited all of the properties that had been previously determined to be eligible for or listed in the NRHP, or previously determined to contribute to the eligibility of a historic district.
- Summary of Re-visitations: The survey determined that 122 resources within the project APE are either officially eligible for listing in the NRHP as individual properties, are supporting segments of eligible linear resources, or are contributing properties of historic districts within the APE. In addition, there are four listed or eligible historic districts.
- Summary of evaluation of new sites in the APE: Though new sites were identified by the survey, none were found eligible for listing in the NRHP.

#### 5.6.6 How do the project alternatives potentially affect historic resources?

The Section 106 Regulations of the National Historic Preservation Act define an effect on a historic resource as an "... alteration to the characteristics of a historic resource qualifying it for inclusion in or eligibility for the National Register" (36 CFR §800.16[i]). Effects are discussed as "no historic properties affected," "no adverse effect," or "adverse effect" (36 CFR §800.5). These are defined as follows:

- **No historic properties affected.** No historic properties are present, or there are historic properties present but the project will have no effect on them.
- **No adverse effect.** This determination can be made one of two ways: (1) The project *does not* alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that will diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association; or (2) The project is modified or conditions are imposed to avoid adverse effects.

#### Historic resources in the APE

There are 126 NRHP-listed, eligible or contributing resources and historic districts within the APE.

#### Historic districts: 4

Alfred R. Wessell (49 contributing properties)

National Western Complex (8 contributing properties)

Safeway Distribution Center (6 contributing properties)

Riverside Cemetery (no contributing properties; entire property contributes to historic attributes and characteristics)

#### Individually eligible properties: 59

(50 residential or commercial structures and 9 linear resources)

- **Adverse effect.** The undertaking alters, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that will diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.

Exhibit 5.6-2 summarizes the effect findings by alternative and option. A comprehensive discussion of all historic properties, their significance, and effects within the APE is included in Attachment I, *Section 106 Determination of Eligibility and Effects*.

No archaeological resources were previously identified, or newly identified, within the APE. Therefore, no adverse effects are anticipated for archaeological resources by any of the proposed alternatives. If unidentified archaeological resources are encountered during construction, work will cease and CDOT and SHPO will be notified immediately. FHWA and CDOT will notify the two consulting Native American tribes, the Pawnee Nation of Oklahoma and the Northern Cheyenne Tribe, if Native American cultural materials are discovered during any phase of construction.

**What are archaeological resources?**

According to the Archaeological Resources Protection Act of 1979, an archaeological resource is “[...] any material remains of past human life or activities which are of archaeological interest [...] at least 100 years of age” (16 USC §470bb[1]).

Archaeological interest means that the resource provides scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics. Material remains are physical evidence of human habitation, occupation, use, or activity, which includes the site, location, or context in which the evidence is situated (43 CFR §7.3[a][1]).

**Exhibit 5.6-2. Summary of effect findings for historic resources in the APE**

Site No.	No-Action Alternative		Revised Viaduct Alternative		Partial Cover Lowered Alternative	
	North Option	South Option	North Option	South Option	Basic Option	Modified Option
Adverse Effect	7*	1	8*	7	13*	13*
No Adverse Effect	41	47	52	53	47	47
No Historic Properties Affected	15	15	3	3	3	3
Total	63	63	63	63	63	63

\*Total includes adverse effect to entire historic district and does not include individual contributing properties that will be demolished or partial acquisitions that do not require demolition.

Note: There are no differences in effect findings between the General-Purpose Lanes and Managed Lanes Options because the project footprint is the same for both options between Brighton Boulevard and Colorado Boulevard where the majority of historic properties are located.

**No-Action Alternative**

The No-Action Alternative, North Option will result in Adverse Effects to seven historic resources and the No-Action Alternative, South Option will result in Adverse Effects to one historic resource. The Adverse Effects will result from the need for additional right of way due to the larger footprint of the highway. The Alfred R. Wessel Historic District (5DV10126) will have two contributing properties demolished as a result of the No-Action Alternative, North Option, resulting in an Adverse Effect on the district and to the demolished contributing properties.

The No-Action Alternative, North Option, will result in No Adverse Effects to 41 historic resources, while the No-Action Alternative, South Option, will result in No Adverse Effects to 47 historic resources. The No-Action Alternative (North and South Options) will result in the finding of No Historic Properties Affected for 15 resources. Exhibit 5.6-3 shows the Adverse Effect findings for historic properties.

**Revised Viaduct Alternative**

The Revised Viaduct Alternative, North Option, will result in Adverse Effects to eight resources, and the Revised Viaduct Alternative, South Option, will result in Adverse Effects to seven resources. The difference in impacts to historic resources between the two options is primarily in the Alfred R. Wessel Historic District (5DV10126). The North Option will demolish seven contributing properties, which constitutes an Adverse Effect to the district as a whole, as compared to no demolitions with the South Option. The disparity in impacts in the North Option results from the greater density of properties on the north side of I-70.

The Revised Viaduct Alternative, South Option, will have an Adverse Effect on the Nestlé Purina PetCare Company property (5DV9245), in addition to five other individually eligible properties. It also will result in the partial acquisition of 0.01 acre from two contributing properties in the Alfred R. Wessel Historic District (5DV10126). Exhibit 5.6-3 shows the Adverse Effect findings for historic properties.

The Revised Viaduct Alternative, North Option will result in No Adverse Effects to 52 resources and the Revised Viaduct Alternative, South Option will result in No Adverse Effects to 53 resources, including the Safeway Historic District (5DV9232). The Revised Viaduct Alternative, regardless of option, will result in the finding of No Historic Properties Affected for three historic resources.

### **Partial Cover Lowered Alternative**

The impacts to historic resources by the Partial Cover Lowered Alternative include the most adverse effect findings because of the larger footprint in an area where there is a high density of historic properties. Regardless of option, the Partial Cover Lowered Alternative will result in the finding of Adverse Effect for a total of 13 resources. Included in this total is the Alfred R. Wessel District (5DV10126), which is counted as a single resource. The Partial Cover Lowered Alternative, Basic Option will demolish nine contributing properties and partially acquire (0.002 acre) one contributing property to the district, which constitutes an Adverse Effect to the district as a whole.

With the Partial Cover Lowered Alternative, Modified Option, five contributing properties will be demolished within the district. This also constitutes an Adverse Effect to the district as a whole. Exhibit 5.6-3 shows the Adverse Effect findings for historic properties. The Partial Cover Lowered Alternative (Basic and Modified Options) will result in No Adverse Effects to 47 historic resources, including the Safeway Historic District (5DV9232), and No Historic Properties Affected for three resources.

**Exhibit 5.6-3. Adverse effect findings for historic properties**

Site No.	Resource Name/ Location	Eligibility Criteria or Criterion	No-Action Alternative		Revised Viaduct Alternative		Partial Cover Lowered Alternative		Description of Adverse Effect
			North Option	South Option	North Option	South Option	Basic Option	Modified Option	
5DV6248.4	Denver and Kansas Pacific/UPRR Segment	Support the eligibility of overall linear resource					X	X	Bore and/or phase construction of storm drain beneath railroad in two locations; replace UPRR bridge; temporary track relocation; place an easement on 549 feet of railroad
5AM1298.2	Market Street Railroad/Chicago, Burlington & Quincy Railroad Segment	Support the eligibility of overall linear resource					X	X	Relocation of 2,000 feet of track onto two new bridges; elimination of easternmost track; boring pipeline under railroad
5DV7048.2	Kansas Pacific/UPRR Segment	A			X	X	X	X	Relocate 1,230 feet of track and change historic grade
5DV11283	York Street/East 40th Avenue Brick Sanitary Sewer	D					X	X	Remove and replace sewer line
5DV7130	Colonial Manor Motel 2615 East 46th Ave	A & C	X		X		X	X	Full acquisition and demolition
5DV9245	Nestlé Purina PetCare Company 2151 East 45th Avenue	A		X		X			Full acquisition and demolition
5DV9655	Sanchez Business 2381 East 46th Avenue	A & C	X		X		X	X	Full acquisition and demolition

**Exhibit 5.6-3. Adverse effect findings for historic properties**

Site No.	Resource Name/ Location	Eligibility Criteria or Criterion	No-Action Alternative		Revised Viaduct Alternative		Partial Cover Lowered Alternative		Description of Adverse Effect
			North Option	South Option	North Option	South Option	Basic Option	Modified Option	
5DV9667	Brown and Alarid Residence 4637 Claude Court	C					X	X	Full acquisition and demolition
5DV9668	Kelly Residence 4639 Claude Court	C					X	X	Full acquisition and demolition
5DV9678	Rodriguez Residence 4539 Clayton Street	C				X			Full acquisition and demolition
5DV9679	Zale Property 4541 Clayton Street	C				X			Full acquisition and demolition
5DV9735	Bernal Residence 4618 High Street	C	X		X	X	X	X	Full acquisition and demolition
5DV9745	Kenworthy Residence 4529 Josephine Street	C				X			Full acquisition and demolition
5DV9746	Portales Residence 4608 Josephine Street	C	X		X		X	X	Full acquisition and demolition
5DV9780	Garcia Residence 4617–4625 Race Street	C	X		X	X	X	X	Full acquisition and demolition

**Exhibit 5.6-3. Adverse effect findings for historic properties**

Site No.	Resource Name/ Location	Eligibility Criteria or Criterion	No-Action Alternative		Revised Viaduct Alternative		Partial Cover Lowered Alternative		Description of Adverse Effect
			North Option	South Option	North Option	South Option	Basic Option	Modified Option	
5DV9801	Sanchez Business 4600 York Street	A	X		X		X	X	Full acquisition and demolition
5DV10126	Alfred R. Wessel Historic District Northwest corner of I-70/Vasquez Boulevard	A, B & C	X		X		X	X	<p><u>No-Action Alternative, North Option:</u> Fully acquires and demolishes two contributing properties from the district</p> <p><u>Revised Viaduct Alternative, North Option:</u> Fully acquires and demolishes seven contributing properties from the district</p> <p><u>Partial Cover Lowered, Basic Option:</u> Fully acquires and demolishes nine contributing properties and acquires 0.002 acre of right of way from one contributing property within the district.</p> <p><u>Partial Cover Lowered, Modified Option:</u> Fully acquires and demolishes five contributing properties.</p>

### **5.6.7 How are the adverse effects from the project alternatives mitigated for historic resources?**

Section 106 of the National Historic Preservation Act of 1966, as amended, requires that federal agencies take into account the effects that a proposed action may have on cultural resources. The most effective mitigation measure is to avoid resources, but this is not always possible. Where avoidance is not possible, alternatives or modifications have been evaluated for the project that minimize or mitigate adverse effects to historic resources. Mitigation is designed to take into account the magnitude of the undertaking and the nature of its effects on historic properties.

CDOT will discuss and develop potential mitigation measures with SHPO and consulting parties as part of the Final EIS and—prior to the ROD. A Section 106 Memorandum of Agreement or Programmatic Agreement will be completed to mitigate adverse effects. At a minimum, mitigation will include Level II archival documentation, as defined by the Colorado Office of Archaeology and Historic Preservation in Form 1595. CDOT also has committed to provide funding and participation in a documentary covering the history of I-70 East and its relationship to the neighborhoods of Elyria and Swansea and Globeville.

Other potential mitigation measures might include relocating structures (where feasible), implementing precautionary measures (e.g., temporary dust shields), training contractors to prevent the effects of flying debris, planning construction staging to avoid adverse effects wherever possible, providing signage and well-marked alternate routes, and constructing noise walls. Additional mitigation will be identified through consultation with SHPO and consulting parties.

Exhibit 5.6-4 summarizes the impacts and mitigation measures for the historic resources.

1 **Exhibit 5.6-4. Summary of historic preservation impacts and mitigations**

Alternative	Impacts and/or Benefits	Mitigation Measures Applicable to All Alternatives
No-Action Alternative	<ul style="list-style-type: none"> <li>• Adverse Effect—1 to 7 historic resources</li> <li>• No Adverse Effect—41 to 47 historic resources</li> <li>• No Historic Properties Affected—15 historic resources</li> <li>• Temporary impacts may include dust and debris, visual and auditory degradation related to construction activities, and decreased access</li> </ul>	<ul style="list-style-type: none"> <li>• Establish a Memorandum of Agreement or Programmatic Agreement with all parties</li> <li>• Provide Level II archival documentation for adversely affected resources</li> <li>• If possible, relocate structures on a case-by-case consultation basis</li> <li>• Implement precautionary measures, such as temporary shields to reduce the impact of dust</li> <li>• Train contractors to prevent effects of flying debris</li> <li>• Provide plan construction staging to avoid these effects wherever possible</li> <li>• Provide signage and well-marked alternate routes for access</li> <li>• Consult on each resource on a case-by-case basis</li> <li>• Construct noise walls, as applicable, to minimize noise impacts</li> <li>• Provide funding and participation in a documentary covering the history of I-70 East and its relationship to Elyria and Swansea and Globeville neighborhoods</li> <li>• Implement other mitigation measures, as identified, in consultation with SHPO and consulting parties</li> </ul>
Revised Viaduct Alternative	<ul style="list-style-type: none"> <li>• Adverse Effect—7 to 8 historic resources</li> <li>• No Adverse Effect—52 to 53 historic resources</li> <li>• No Historic Properties Affected—3 historic resources</li> <li>• Temporary impacts may include dust and debris, visual and auditory degradation related to construction activities, and decreased access</li> </ul>	
Partial Cover Lowered Alternative	<ul style="list-style-type: none"> <li>• Adverse Effect—13 historic resources</li> <li>• No Adverse Effect—47 historic resources</li> <li>• No Historic Properties Affected—3 historic resources</li> <li>• Temporary impacts may include dust and debris, visual and auditory degradation related to construction activities, and decreased access</li> </ul>	