


## REQUEST FOR RESOLUTION FOR A TIER III ENCROACHMENT PERMIT

**TO:** Katie Ehlers, City Attorney's Office

**FROM:** Glen Blackburn, PE, Director, Right of Way Services 

**PROJECT NO.:** 2024-ENCROACHMENT-0000014

**DATE:** January 31, 2025

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Anderson-ORP Trust, their successors and assigns, to encroach into the right-of-way with a 12-inch diameter storm sewer line across Race Street between 3925 North Race Street and 3924 North Race Street.

**It is requested that the above subject item be placed on the next available Mayor Council Agenda.**

This office has investigated the request from Raleigh Wood of Kimley-Horn & Associates dated January 1, 2024, on behalf of Anderson-ORP Trust for the granting of the above subject permit.

This matter has been checked by this office and has been coordinated with DOTI ROWS DES Transportation; CPD DS Project Review Coordinator; DOTI ROWS Survey; DOTI ROWS DES Wastewater; City Council District # 9; DOTI ROWS ER Transportation & Wastewater; CenturyLink/Lumen; Xcel Energy; Regional Transportation District; Comcast; Metro Water Recovery; DOTI Street Maintenance; Office of Emergency Management; CPD Building Department; DOF Real Estate; Denver Fire Department; Denver Water; Parks & Recreation; DOTI Policy & Planning; Office of Disability Rights; DOTI ROWS Construction Engineering; DOTI TES Sign & Stripe; City Forester; Historic Preservation/Landmark; Colorado Department of Transportation; DOTI IPP Infrastructure Engineering, all of whom have indicated no objection for the proposed encroachment.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to Anderson-ORP Trust, their successors and assigns, to encroach into the right-of-way with a 12-inch diameter storm sewer line across Race Street between 3925 North Race Street and 3924 North Race Street.

**INSERT ENCROACHMENT AREA LEGAL DESCRIPTION ROW 2024-ENCROACHMENT-0000014-002  
HERE**

And benefitting the following described parcel of property:

**INSERT PARCEL LEGAL DESCRIPTION ROW 2024-ENCROACHMENT-0000014-001 HERE**

### STANDARD PROVISIONS

The revocable permit ("Permit") granted by this Resolution is expressly granted upon and subject to each and all of the following terms and conditions (terms not defined herein are defined in the Rules and Regulations Governing Encroachments & Encumbrances in the Public Right of Way):

City and County of Denver Department of Transportation & Infrastructure  
Right-of-Way Services | Engineering & Regulatory  
201 W Colfax Ave, Dept 507 | Denver, CO 80202  
[www.denvergov.org/rowplanreview](http://www.denvergov.org/rowplanreview)  
Phone: (720) 865-3003

(a) Permittee shall obtain a street occupancy permit, street cut permit, and/or ROW construction permit from the City's Department of Transportation and Infrastructure ("DOTI") Permit Operations through [www.denvergov.org/dotipermits](http://www.denvergov.org/dotipermits) prior to commencing construction.

(b) Permittee shall be responsible for obtaining all necessary permits and shall pay all costs for installation and construction of items permitted herein.

(c) If the Permittee intends to install any underground facilities in or near a Public road, street, alley, ROW or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado (Colorado 811) through <https://colorado811.org/> or at 303-232-1991, 16361 Table Mountain Pkwy, Golden, Colorado, 80403. Further, Permittee shall contact the Utility Notification Center (Colorado 811) at <https://colorado811.org/> or 303-232-1991 to request locates for existing underground facilities prior to commencing excavation.

(d) Permittee is fully responsible for any and all damages incurred to facilities of Denver Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the Permits. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the City's Executive Director of DOTI ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the water and/or sewer facilities affected by the Encroachment(s). The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Executive Director. Any and all replacement or repair of facilities of Denver Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by Denver Water, Utility Company, and/or the City and County of Denver at the sole expense of the Permittee. In the event the Permittee's facilities are damaged or destroyed due to Denver Water's, Utility Company's, or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and hold the City harmless and to repair or pay for the repair of any and all damages to said water, storm, sanitary sewer facilities or other Utility Company facilities, or those damages resulting from the failure of the water, storm, sanitary sewer facilities or other Utility Company facilities to properly function because of the Encroachment(s).

(e) Permittee shall comply with all requirements of affected Utility Companies and pay for all costs of removal, relocation, replacement or rearrangement of Utility Company facilities. Existing utility facilities shall not be utilized, obstructed or disturbed.

(f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code and [City and County of Denver Department of Transportation & Infrastructure Transportation Standards and Details for the Engineering Division](#).

(g) Permittee shall observe and comply with all Federal, State and local laws, regulations, ordinances, and public safety requests regarding the use of the Encroachment Area.

(h) Plans and Specifications governing the construction of the Encroachment(s) shall be approved by DOTI prior to construction.

(i) Permittee shall pay all costs of construction and maintenance of the Encroachment(s). Upon revocation of the Permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment(s) from the Encroachment Area and restore the Encroachment Area to a condition in accordance with [City and County of Denver Department of Transportation & Infrastructure Transportation Standards and Details for the Engineering Division](#) under the supervision of DOTI.

(j) Permittee shall remove and replace any and all street/alley paving, Sidewalks, Streetscapes, Amenity Zones, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during, in the opinion of DOTI, the course of construction or maintenance of the Encroachment(s). In the future, Permittee shall also remove, replace or repair any street/alley paving, Sidewalks, and curb and gutter that become broken or damaged when, in the opinion of DOTI, the damage has been caused by the Encroachment(s) or the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of DOTI.

(k) The City reserves the right to make an inspection of the Encroachment(s) and the Encroachment Area.

(l) During the existence of the Encroachment(s) and the Permit, Permittee, its successors and assigns, at its expense, and without cost to the City, shall procure and maintain Commercial General Liability insurance policy with a limit of not less than \$1,000,000 per occurrence. All coverages are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this Permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Executive Director, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Executive Director at least thirty (30) days prior to the effective date of the cancellation or material change. The City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers shall be included as Additional Insured.

(m) In addition to the requirement herein to comply with all laws, Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the DRMC. The failure to comply with any such provision shall be a proper basis for revocation of the Encroachment(s).

(n) The right to revoke the Permit at any time for any reason and require the removal of the Encroachment(s) is expressly reserved to the City.

(o) By Permittee's use of this Permit and the Encroachment Area, Permittee agrees to the following:

i. Permittee agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to this Permit and the Encroachment(s) ("Claims"). This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Permittee or its subcontractors either passive or active, irrespective of fault, including City's negligence whether active or passive.

ii. Permittee's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether claimant has filed suit on the Claim. Permittee's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

iii. Permittee will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

iv. Insurance coverage requirements specified in this Encroachment Permit shall in no way lessen or limit the liability of Permittee under the terms of this indemnification obligation. Permittee shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

v. This defense and indemnification obligation shall survive the expiration or termination of this Permit.

(p) Pursuant to Chapter 49 of the DRMC, DOTI is authorized to remove or to order the removal of any article, vehicle, object or thing whatsoever encroaching into any street, alley, Sidewalk, or other public way or place.

(q) No third party, person or agency, except for an authorized Special District, may place the Encroachment(s) in front of a property without written permission of the adjacent property owner.

(r) Permittee's use of the ROW for placement of the Encroachment(s) does not create a property right or ownership interest of any kind in the Encroachment Area to the Permittee.

(s) All Encroachment(s) in Amenity Zones containing existing Public Trees and/or with the potential to impact tree roots or tree canopy must be pre-approved by the Office of the City Forester (OCF), by contacting them at [forestry@denvergov.org](mailto:forestry@denvergov.org) or 720-913-0651. Encroachment(s) cannot be attached to or damage any Public Tree, and any damage shall be reported to the OCF immediately for mitigation. All trenching, excavation and grading activities within the Dripline of any Public Tree must be pre-approved by the OCF. City permits are

required for the planting or removal of any Public Trees and can be obtained by emailing [forestry@denvergov.org](mailto:forestry@denvergov.org).

(t) All disturbances associated with construction of the Encroachment(s) shall be managed as required by City standards for erosion control which may require standard notes or CASDP permitting depending on location and scope of project.

(u) Encroachment(s) proposed adjacent to a designated park or within a dedicated parkway shall require the City's Department of Parks and Recreation approval prior to installation.

(v) Encroachment(s) attached to a building may require building and/or zoning permits from the City's Department of Community Planning and Development.

(w) Encroachment(s) in the regulatory floodplain shall require a SUDP and comply with Chapter 4 Floodplain Regulations of the "Storm Drainage Design and Technical Criteria", Chapter 12 Floodplain Management of the "DOTI Rules and Regulations Governing Sewerage Charges and Fees and Management of Wastewater" and the City Floodplain Ordinance in DRMC Section 56-200 through 56-206. Above ground Encroachment(s) in a Floodway require a No-Rise Certification sealed and signed by a Professional Engineer licensed in the State of Colorado. If there is any rise in Base Flood Elevations, a Conditional Letter of Map Revision (CLOMR) and LOMR will be required.

(x) Only clean soil may be brought onto an Encroachment Area. Verification of soil quality must be provided if requested. Material removed from an Encroachment Area must be properly disposed and is the responsibility of the Permittee.

## **SPECIAL CONDITIONS FOR THIS PERMIT**

(a) NONE

A map of the area is attached hereto.

GB: sb

cc: Asset Management,  
City Council Office, Luke Palmisano  
Councilperson and Aides  
Department of Law, Bradley Beck  
Department of Law, Kwali Farbes  
Department of Law, Maureen McGuire  
Department of Law, Martin Plate  
Department of Law, Katie Ehlers  
DOTI, Alba Castro  
DOTI, Alaina McWhorter  
Project File

Property Owner:  
Walter Slatkin  
Anderson-ORP Trust  
3925 N Race St  
Denver, CO 80216

Agent:  
Raleigh Wood  
Kimley-Horn & Associates  
6200 S Syracuse Wy  
Suite 300  
Greenwood Village, CO 80111

City and County of Denver Department of Transportation & Infrastructure  
Right-of-Way Services | Engineering & Regulatory  
201 W Colfax Ave, Dept 507 | Denver, CO 80202  
[www.denvergov.org/rowplanreview](http://www.denvergov.org/rowplanreview)  
Phone: (720) 865-3003

# ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team  
at [MileHighOrdinance@DenverGov.org](mailto:MileHighOrdinance@DenverGov.org) by 9 a.m. Friday. Contact the Mayor's Legislative team with questions

Date of Request: January 31, 2025

Please mark one:  Bill Request or  Resolution Request

Please mark one: The request directly impacts developments, projects, contracts, resolutions, or bills that involve property and impact within .5 miles of the South Platte River from Denver's northern to southern boundary? (Check map [HERE](#))

Yes  No

## 1. Type of Request:

Contract/Grant Agreement  Intergovernmental Agreement (IGA)  Rezoning/Text Amendment

Dedication/Vacation  Appropriation/Supplemental  DRMC Change

Other: Tier III Encroachment Resolution Request

2. **Title:** (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Approves a Resolution granting a revocable permit, subject to certain terms and conditions, to Anderson-ORP Trust, their successors and assigns, to encroach into the right-of-way with a 12-inch diameter storm sewer line across Race Street between 3925 North Race Street and 3924 North Race Street.

3. **Requesting Agency:** DOTI, Right-of-Way Services, Engineering and Regulatory

## 4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution (e.g., subject matter expert)	Contact person for council members or mayor-council
Name: Shari Bills	Name: Alaina McWhorter
Email: <a href="mailto:shari.bills@denvergov.org">shari.bills@denvergov.org</a>	Email: <a href="mailto:Alaina.mcwhorter@denvergov.org">Alaina.mcwhorter@denvergov.org</a>

5. **General description or background of proposed request. Attach executive summary if more space needed:**  
(who, what, why)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Anderson-ORP Trust, their successors and assigns, to encroach into the right-of-way with a 12-inch diameter storm sewer line across Race Street between 3925 North Race Street and 3924 North Race Street.

6. **City Attorney assigned to this request (if applicable):** Martin Plate

7. **City Council District:** Councilperson Watson, District 9

8. **\*\*For all contracts, fill out and submit accompanying Key Contract Terms worksheet\*\***

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_

## Key Contract Terms

**Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):**

**Vendor/Contractor Name (including any dba's):**

**Contract control number (legacy and new):**

**Location:**

**Is this a new contract?**  Yes  No **Is this an Amendment?**  Yes  No **If yes, how many?** \_\_\_\_\_

**Contract Term/Duration (for amended contracts, include existing term dates and amended dates):**

**Contract Amount (indicate existing amount, amended amount and new contract total):**

<i>Current Contract Amount</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

**Scope of work:**

**Was this contractor selected by competitive process?**

**If not, why not?**

**Has this contractor provided these services to the City before?**  Yes  No

**Source of funds:**

**Is this contract subject to:**  W/MBE  DBE  SBE  XO101  ACDBE  N/A

**WBE/MBE/DBE commitments (construction, design, Airport concession contracts):**

**Who are the subcontractors to this contract?**

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*To be completed by Mayor's Legislative Team:*

Resolution/Bill Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_

## **RESOLUTION FOR A TIER III ENCROACHMENT EXECUTIVE SUMMARY**

**An Encroachment is a privately-owned improvement located in, or projecting over or under, the public right-of-way.**

**Application Title:** 2024-ENCROACHMENT-0000014 - Tier III 3925 N Race Storm Sewer

**Encroachment Owner:** Anderson-ORP Trust

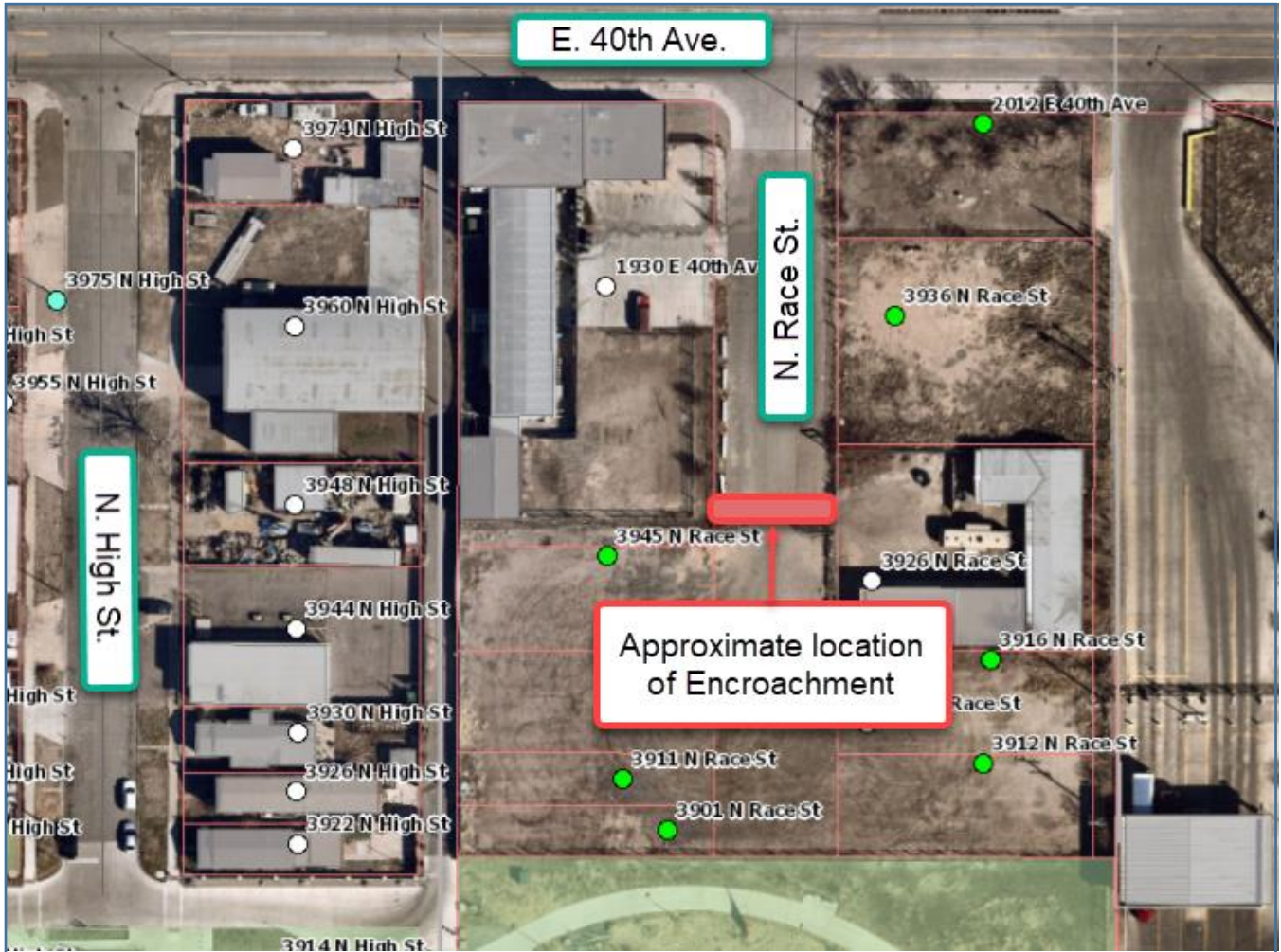
**Description of Proposed Encroachment:** 86 linear feet of 12-inch diameter storm sewer line crossing Race Street between 3924 and 3925 N Race Street.

**Applicant's explanation of why the Public Right-of-Way must be utilized for their private improvement:** To maximize efficiency with respect to detention and water quality for new buildings, one shared underground detention and water quality vault has been found to be more efficient and cost effective than two vaults. For the buildings to share one vault, the storm sewer needs to be conveyed across Race St by using an underground storm sewer pipe.

**Annual Fees:** \$200.00 per year

**Location Map:** See next page.





City and County of Denver Department of Transportation & Infrastructure  
Right-of-Way Services | Engineering & Regulatory  
201 W Colfax Ave, Dept 507 | Denver, CO 80202  
[www.denvergov.org/rowplanreview](http://www.denvergov.org/rowplanreview)  
Phone: (720) 865-3003

# EXHIBIT "A"

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 1 OF 2

LAND DESCRIPTION:

A PARCEL OF LAND BEING PORTIONS OF HODGSON'S ADDITION TO SWANSEA AND RACE STREET RIGHT-OF-WAY, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 23 TO BEAR SOUTH 89°50'51" EAST, A DISTANCE OF 2,645.35 FEET BETWEEN A FOUND 3.25" ALUMINUM CAP STAMPED "DEA INC T3S R68W C S1/16 C 2016 PLS 34592" IN RANGE BOX AT THE CENTER-SOUTH SIXTEENTH CORNER OF SECTION 23 AND A FOUND 3.25" ALUMINUM CAP STAMPED "JACOBS T3S R68W S1/16 S23 S24 2016 PLS 24942" IN CONCRETE AT THE SOUTH SIXTEENTH CORNER OF SECTION 23, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID SOUTH SIXTEENTH CORNER OF SECTION 23; THENCE SOUTH 80°16'20" WEST, A DISTANCE OF 1,144.13 FEET TO THE SOUTHWESTERLY CORNER OF LOT 8, BLOCK 2, HODGSON'S ADDITION TO SWANSEA; THENCE ALONG THE WESTERLY LINE OF SAID LOT 9, ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF RACE STREET, SOUTH 00°06'41" WEST, A DISTANCE OF 21.69 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF RACE STREET, SOUTH 00°06'41" WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 89°50'51" WEST, A DISTANCE OF 60.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF RACE STREET; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF RACE STREET, NORTH 00°06'41" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 89°50'51" EAST, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

CONTAINING 600 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

I, JOSHUA BREEDLOVE, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, ARE ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND ARE NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED. SAID PARCEL DESCRIPTION AND EXHIBIT WERE PREPARED AT THE REQUEST OF THE CLIENT AND ARE NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.



JOSHUA BREEDLOVE  
COLORADO P.L.S. #38174  
VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 22-77,297  
DRAWN BY: J. STEPHENSON  
DATE: DECEMBER 4, 2024

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

**Flatirons, Inc.**  
Land Surveying Services



7000 N. BROADWAY,  
SUITE 209  
DENVER, CO 80221  
(303) 936-6997  
[www.FlatironsInc.com](http://www.FlatironsInc.com)

BY:JSTEPHENSON FILE:77297-DESCRIPTIONS-C21.DWG DATE:12/4/2024 7:30 AM

# EXHIBIT "A"

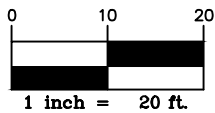
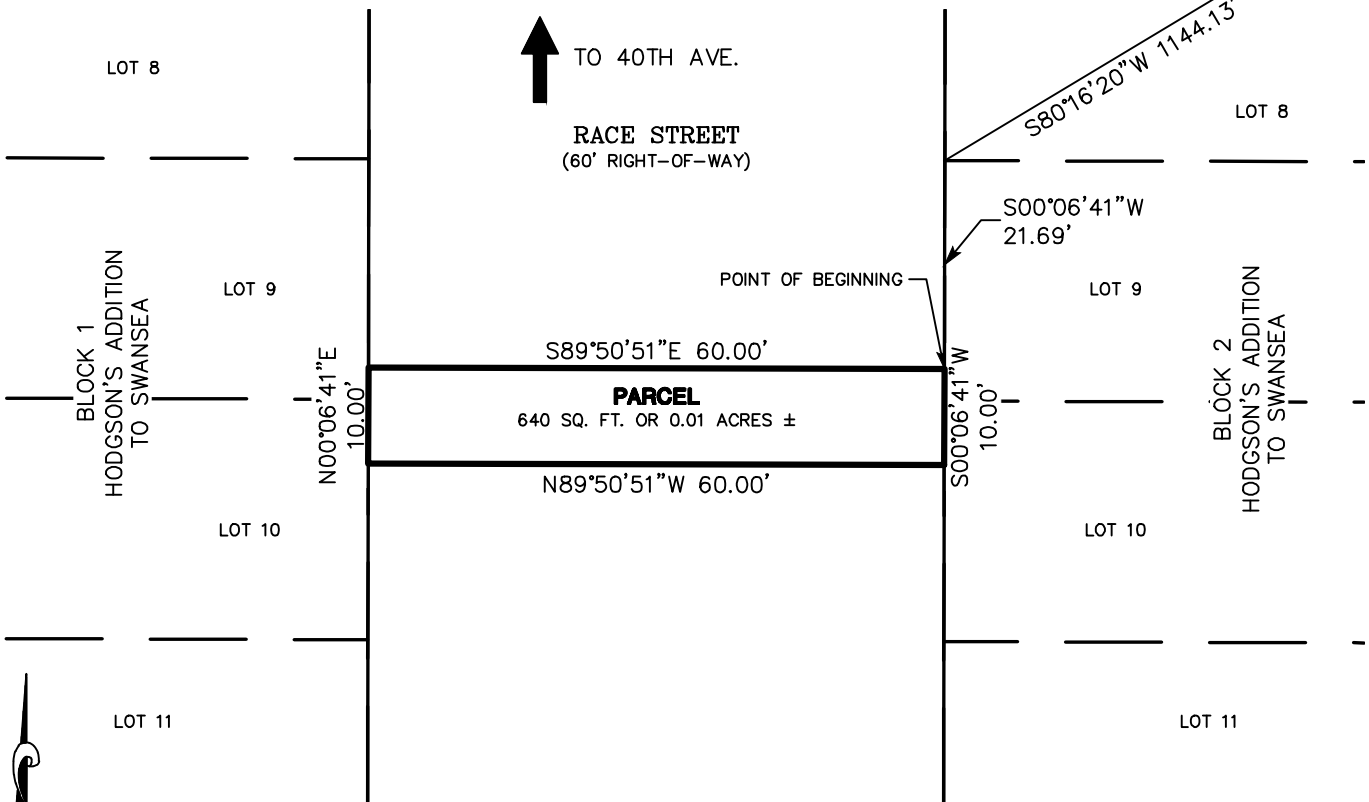
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 2 OF 2

CENTER-SOUTH SIXTEENTH  
CORNER OF SECTION 23, TOWNSHIP 3  
SOUTH, RANGE 68 WEST OF THE 6TH P.M.  
FOUND 3.25" ALUMINUM CAP STAMPED  
"DEA INC T3S R68W C S1/16 C 2016 PLS  
34592" IN RANGE BOX

POINT OF COMMENCEMENT  
SOUTH SIXTEENTH CORNER OF  
SECTION 23/24, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE 6TH P.M.  
FOUND 3.25" ALUMINUM CAP STAMPED  
"JACOBS T3S R68W S1/16 S23 S24  
2016 PLS 24942" IN CONCRETE

**S89°50'51"E 2645.35'**  
**BASIS OF BEARINGS**



JOB NUMBER: 22-77,297  
DRAWN BY: J. STEPHENSON  
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**Flatirons, Inc.**  
Land Surveying Services



7000 N. BROADWAY,  
SUITE 209  
DENVER, CO 80221  
(303) 936-6997  
[www.FlatironsInc.com](http://www.FlatironsInc.com)

40<sup>TH</sup> AND RACE EXISTING PARCEL DESCRIPTION

PARCEL A:

THE SOUTH 16.00 FEET OF LOT 2 AND ALL OF LOTS 3 TO 16, BLOCK 1, HODGSON'S ADDITION TO SWANSEA, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL B:

LOTS 5 TO 16, INCLUSIVE, BLOCK 2, HODGSON'S ADDITION TO SWANSEA, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

LOTS 3 AND 4, AND THE SOUTH 15 FEET 11 INCHES OF LOT 2, BLOCK 2, HODGSON'S ADDITION TO SWANSEA, CITY AND COUNTY OF DENVER, STATE OF COLORADO.



**TITLE DEPARTMENT – DELIVERY TRANSMITTAL**

**Closing Location:**  
2345 7th Street  
Denver, CO 80211  
Phone: (720)542-6940 Fax: (303)648-4238

Order No.: 109-2143827-S  
Property Address: 1930 E. 40th Ave. and 3945, 3915, 3911 3901, 3936, 3926, 3916, 3912 Race Street, Denver, CO  
2012 E. 40th Avenue, Denver, CO 80207  
Buyer(s)/Borrower(s): DENVER 40th RACE HOLDCO LLC, a Delaware limited liability company  
Seller(s): Anderson-ORP Trust

**BUYER/BORROWER**

DENVER 40th RACE HOLDCO LLC, a Delaware limited liability company  
**Delivered Via Agent**

**SELLER**

Anderson-ORP Trust  
**Delivered Via Agent**

**ATTORNEY**

**NAI SHAMES MAKOVSKY**

Dorit Fischer  
Email: dfischer@shamesmakovsky.com

Hayden Hirschfeld  
Email: hhirschfeld@shamesmakovsky.com

Niccole Sacco  
Email: nsacco@shamesmakovsky.com

**ATTORNEY**

**WOLF SLATKIN**

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June Neveills  
Email: jshanley@wolfslatkin.com

**ATTORNEY**

**NAI SHAMES MAKOVSKY**

Jennifer Gamba  
Email: jgamba@shamesmakovsky.com

Evan Makovsky  
Email: emakovsky@shamesmakovsky.com

**OTHER**

**WYNNE YASMER REAL ESTATE**

Brian Wynne  
Email: brian@wynneyasmer.com

**OTHER**

**LESTE GROUP**

Drew Kreikemeier  
Email: drew.kreikemeier@leste.com

Guilherme Mainart  
Email: guilherme.mainart@leste.com

**OTHER**

**LORE DEVELOPMENT GROUP**

Jorge Rucas  
Email: jorge.rucas@loredvelopmentgroup.com

Above is a list of clients to whom the attached materials have been delivered. First Integrity Title Company has several office locations in which to serve you. The location noted on the commitment may not be your closing location. Please contact the closer below to confirm the closing destination as well as any inquiries or questions you may have. We sincerely thank you for your business and look forward to serving you.

**Escrow Team:**

Kaylee Wickham  
E-Mail Address: Kaylee.Wickham@FirstIntegrityTitle.com  
Phone: 303-630-1811  
2345 7th Street  
Denver, CO 80211

Heather Kersley  
E-Mail Address: HKersley@FirstIntegrityTitle.com  
Phone: 720-636-8364  
2345 7th Street  
Denver, CO 80211

**WIRE INSTRUCTIONS:**

**Bank Name:** First Western Trust Bank  
**Bank Address:** 1900 16th Street, Suite 1200, Denver, CO 80202  
**ABA NO.:** 102007011  
**ACCOUNT:** 2067300  
**CREDIT:** First Integrity Title Company  
**REFERENCE:** 109-2143827-S

**All Cashier's Checks must be payable to:  
First Integrity Title Company**



**ALTA COMMITMENT FOR TITLE INSURANCE**  
**Issued By**  
**CHICAGO TITLE INSURANCE COMPANY**

**NOTICE**

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

**COMMITMENT TO ISSUE POLICY**

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, Chicago Title Insurance Company, (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within 90 after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

**Issued By:**

**CHICAGO TITLE INSURANCE COMPANY**



By:   
Michael J. Nolan  
President

ATTEST:   
Marjorie Nemzura  
Secretary

## COMMITMENT CONDITIONS

### 1. DEFINITIONS

- a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
  - b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
  - c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
  - e. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
  - g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - h. "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
  - i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
  - j. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.
2. If all of the Schedule B, Part I-Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
  3. The Company's liability and obligation is limited by and this Commitment is not valid without:
    - a. the Notice;
    - b. the Commitment to Issue Policy;
    - c. the Commitment Conditions;
    - d. Schedule A;
    - e. Schedule B, Part I-Requirements; and
    - f. Schedule B, Part II-Exceptions; and
    - g. a counter-signature by the Company or its issuing agent that may be in electronic form.

### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

### 5. LIMITATIONS OF LIABILITY

- a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - i. comply with the Schedule B, Part I-Requirements;
  - ii. eliminate, with the Company's written consent, any Schedule B, Part II-Exceptions; or
  - iii. acquire the Title or create the Mortgage covered by this Commitment.
- b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.



- d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
- e. The Company is not liable for the content of the Transaction Identification Data, if any.
- f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I-Requirements have been met to the satisfaction of the Company.
- g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM**

- a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
- c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- d. The deletion or modification of any Schedule B, Part II-Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. CLAIMS PROCEDURES**

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

**10. CLASS ACTION**

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

**11. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of Insurance is \$2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

**Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:**

Issuing Agent: **First Integrity Title Company**  
Loan ID No.:  
Commitment No.: 109-2143827-S  
Property Address: 1930 E. 40th Ave. and 3945, 3915, 3911 3901, 3936, 3926, 3916, 3912 Race Street,  
Denver, CO  
2012 E. 40th Avenue, Denver, CO 80207

**SCHEDULE A**

1. Commitment Date: **January 17, 2025**
2. Policy to be issued: **Premium**
  - a. ALTA Owners Policy (06/17/06) **\$9,237.00**  
Proposed Insured: Race WAY Invest, LLC, a Colorado limited liability company, its successors and assigns  
Proposed Amount of Insurance: \$11,150,000.00  
The estate or interest to be insured: Fee Simple

**Endorsements:**

CO-110.1 Delete 1-7	<b>\$95.00</b>
ALTA Endorsement 8.2-06 (Commercial Environmental Protection Lien)	<b>\$1,000.00</b>
ALTA Endorsement 9.2-06 (Covenants, Conditions and Restrictions - Improved Land - Owner's Policy)	<b>\$2,000.00</b>
ALTA Endorsement 17-06 (Access and Entry)	<b>\$500.00</b>
ALTA Endorsement 18.1 (Multiple Tax Parcel)	<b>\$250.00</b>
ALTA Endorsement 22-06 (Location)	<b>\$100.00</b>
ALTA Endorsement 26-06 (Subdivision)	<b>\$250.00</b>
ALTA Endorsement 25-06 (Same As Survey)	<b>\$1,000.00</b>

**Additional Title Charges:**

Tax Certificate x 10 **\$250.00**

3. The estate or interest in the Land at the Commitment Date is:  
Fee Simple

4. The Title is, at the Commitment Date, vested in:

[Anderson-ORP Trust](#)

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule A

AMERICAN  
LAND TITLE  
ASSOCIATION



109-2143827-S

5. The Land is described as follows:

SEE SCHEDULE C ATTACHED HERETO

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule A



109-2143827-S

## SCHEDULE B, PART I Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Payment of all taxes, charges and assessments, levied and assessed against the subject premises which are due and payable.
6. Receipt by the Company of the appropriate affidavit and indemnity executed by the owners of the subject property.
7. Release of the Deed of Trust from Anderson-Orp Trust to the Public Trustee of Denver County for the benefit of Shames-Makovsky Mortgage Company, a Colorado corporation to secure an indebtedness in the principal sum of \$3,300,000.00, and any other amounts and/or obligations secured thereby, dated June 23, 2021 and recorded on June 23, 2021 at Reception No. 2021120363.

First Amendment recorded May 13, 2022 at Reception No. [2022065613](#).

Second Amendment recorded May 30, 2024 at Reception No. [2024048404](#).

(Affects Parcels A and B)

8. Intentionally deleted.
9. Intentionally deleted.
10. Special Warranty Deed must be sufficient to convey the fee simple estate or interest in the land described or referred to herein, to the proposed insured, Schedule A, item 2A.

Note: C.R.S. §38-35-109(2) required that a notation of the purchaser's legal address, (not necessarily the same as the property address) be included on the face of the Deed to be recorded.

11. Deed of Trust sufficient to encumber the fee simple estate or interest in the land described or referred to herein for the benefit of the proposed insured, Schedule A, item 2(b) or 2(c).
12. Intentionally deleted.
13. A copy of the properly signed and executed operating agreement for DENVER 40th RACE HOLDCO LLC, a Delaware limited liability company to be submitted for review.

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule BI



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14. Record a Statement of Authority for DENVER 40th RACE HOLDCO LLC, a Delaware limited liability company to provide prima facie evidence of existence of an entity capable of holding property, and the name of the person authorized to execute instruments affecting title to real property as authorized by C.R.S. §38-30-172.
15. Intentionally deleted.
16. Intentionally deleted.
17. Intentionally deleted.
18. Intentionally deleted.
19. Receipt of the Site Plan for the future improvements.

NOTE: This requirement is needed in order to issue ALTA Endorsements 28.3 and 35.3.

20. Release of the Deed of Trust from Anderson-ORP Trust to the Public Trustee of Denver County for the benefit of Shames-Makovsky Mortgage Company to secure an indebtedness in the principal sum of \$1,967,000.00, and any other amounts and/or obligations secured thereby, dated May 29, 2024 and recorded on May 30, 2024 at Reception No. [2024048403](#). (Affects Parcel C)
21. Intentionally deleted.

**THE PARTIES INVOLVED IN THE TRANSACTION MUST INFORM THE COMPANY, IN WRITING, IF ANY PORTION OF THE PROPERTY WILL BE USED IN CONNECTION WITH THE CULTIVATION, DISTRIBUTION, MANUFACTURE OR SALE OF MARIJUANA.**

**NOTICE: PLEASE BE AWARE THAT DUE TO THE CONFLICT BETWEEN FEDERAL AND STATE LAWS CONCERNING THE CULTIVATION, DISTRIBUTION, MANUFACTURE OR SALE OF MARIJUANA, THE COMPANY IS NOT PERMITTED TO PROVIDE ESCROW SERVICES OR TITLE INSURANCE FOR ANY TRANSACTION INVOLVING REAL PROPERTY THAT IS ASSOCIATED WITH THESE ACTIVITIES.**

**End of Schedule B, Part I**

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule BII



109-2143827-S

## SCHEDULE B, PART II Exceptions

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.**

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. Rights, interest or claims of parties in possession not shown by the public records.
3. Easements or claims of easements not shown by the public records.
4. Discrepancies, conflicts in boundary lines, encroachments, overlaps, variations or shortage in area or content, party walls and any other matters that would be disclosed by a correct survey and/or physical inspection of the land.
5. Any lien, or right to lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public record.
6. Any water or well rights, or rights or title to water or claims thereof, in, on or under the land.
7. Unpatented mining claims; reservations or exceptions in patents or in the Acts authorizing the issuance of said patents.
8. All taxes, assessments, levies and charges which constitute liens or are due or payable including unredeemed tax sales.

NOTE: UPON COMPLIANCE WITH ALL REQUIREMENTS SET FORTH IN SCHEDULE A, EXCEPTIONS 1-7 WILL BE DELETED FROM THE FINAL POLICY BY ENDORSEMENT 110.1 WHEN ISSUED. EXCEPTION 8 WILL BE MODIFIED ON THE FINAL POLICY TO READ AS FOLLOWS: Taxes and assessments for the year 2024, and all subsequent years (which are shown as existing liens by the public records) which are not yet due and payable.

9. ANY EXISTING LEASES OR TENANCIES.

NOTE: THIS EXCEPTION MAY BE DELETED UPON CONFIRMATION ON THE SELLER'S AFFIDAVIT STATING NO LEASES ARE IN FORCE OR EFFECT AS OF THE DATE OF CLOSING.

10. AN EASEMENT FOR UTILITIES AND INCIDENTAL PURPOSES GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO BY THE INSTRUMENT RECORDED ON JUNE 15, 2015 AT RECEPTION NO. [2015078479](#).
11. Intentionally deleted.
12. Intentionally deleted.

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule BII



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13. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON ALTA/NSPS LAND TITLE SURVEY CERTIFIED October 14, 2022, PREPARED BY FLATIRONS, INC., JOB NUMBER 22-77,297 AS FOLLOWS:
- A.) THE FENCE AND GATE EXTEND ACROSS THE RIGHT-OF-WAY OF RACE STREET AND ACROSS THE 10 FOOT ALLEY, AS SHOWN.
14. RESTRICTIONS IMPOSED BY THE ORDINANCE RECORDED ON JUNE 13, 2022 AT RECEPTION NO. 2022079759 PERTAINING TO ZONING.

**End of Schedule B, Part II**

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule BII



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**SCHEDULE C  
(Exhibit A)**

The Land referred to is described as follows:

**PARCEL A:**

The South 16.00 feet of Lot 2 and all of Lots 3 to 16, inclusive, Block 1, Hodgson's Addition to Swansea, City and County of Denver, State of Colorado.

**PARCEL B:**

Lots 5 to 16, inclusive, Block 2, Hodgson's Addition to Swansea, City and County of Denver, State of Colorado.

For information purposes only: 1930 E. 40th Ave. and 3945, 3915, 3911 3901, 3936, 3926, 3916, 3912 Race Street, Denver, CO

APN/Parcel ID: 022402023000; 0223401012000; 022340215000, 0223402017000; 0223401008000; 0223402016000, 0223402018000; 0223401010000; and 0223401011000; 0223401007000

**PARCEL C:**

LOTS 3 AND 4, AND THE SOUTH 15 FEET 11 INCHES OF LOT 2,  
BLOCK 2,  
HODGSON'S ADDITION TO SWANSEA,  
CITY AND COUNTY OF DENVER,  
STATE OF COLORADO.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY AND COUNTY OF DENVER, IN SPECIAL WARRANTY DEED RECORDED JUNE 16, 2005 AT RECEPTION NO. 2005099254.

For information purposes only: 2012 E. 40th Avenue, Denver, CO 80207

APN/Parcel ID: 02234-01-012-000

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ALTA Commitment for Title Insurance (07-01-2021)  
Schedule C



109-2143827-S



# FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

Effective August 1, 2021

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

## **Collection of Personal Information**

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

## **Collection of Browsing Information**

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

## **Other Online Specifics**

**Cookies.** When you visit an FNF Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

**Web Beacons.** We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

**Do Not Track.** Currently our FNF Websites do not respond to "Do Not Track" features enabled through your browser.

**Links to Other Sites.** FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

## **Use of Personal Information**

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates', and others' products and services, jointly or independently.

## **When Information Is Disclosed**

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law. We may share your Personal Information with affiliates (other companies owned by FNF) to directly market to you. Please see "Choices with Your Information" to learn how to restrict that sharing.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

## **Security of Your Information:**

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

## **Choices With Your Information:**

If you do not want FNF to share your information among our affiliates to directly market to you, you may send an "opt out" request as directed at the end of this Privacy Notice. We do not share your Personal Information with nonaffiliates for their use to direct market to you without your consent.

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

**For California Residents:** We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

**For Nevada Residents:** You may be placed on our internal Do Not Call List by calling (888) 714-2710 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: [BCPINFO@ag.state.nv.us](mailto:BCPINFO@ag.state.nv.us).

**For Oregon Residents:** We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

**For Vermont Residents:** We will not disclose information about your creditworthiness to our affiliates and will not disclose your personal information, financial information, credit report, or health information to nonaffiliated third parties to market to you, other than as permitted by Vermont law, unless you authorize us to make those disclosures.

### **Information From Children**

The FNF Websites are not intended or designed to attract persons under the age of eighteen (18). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

### **International Users**

FNF's headquarters is located within the United States. If you reside outside the United States and choose to provide Personal Information or Browsing Information to us, please note that we may transfer that information outside of your country of residence. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection, transfer, and use of such information in accordance with this Privacy Notice.

### **FNF Website Services for Mortgage Loans**

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice titled When Information is Disclosed, Choices with Your Information, and Accessing and Correcting Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Personal Information. FNF does not share Personal Information collected through the Service Websites, except as required or authorized by contract with the mortgage loan servicer or lender, or as required by law or in the good-faith belief that such disclosure is necessary: to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

### **Your Consent To This Privacy Notice; Notice Changes**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information in accordance with this Privacy Notice. We may change this Privacy Notice at any time. The Privacy Notice's effective date will show the last date changes were made. If you provide information to us following any change of the Privacy Notice, that signifies your assent to and acceptance of the changes to the Privacy Notice.

### **Accessing and Correcting Information; Contact Us**

If you have questions, would like to correct your Personal Information, or want to opt-out of information sharing for affiliate marketing, visit FNF's [Opt Out Page](#) or contact us by phone at (888) 714-2710, or by mail to:

Fidelity National Financial, Inc.  
601 Riverside Avenue,  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

# First Integrity Title Company

## PRIVACY POLICY

### Committed to Protecting Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information particularly any personal or financial information. You have a right to know how we will utilize the personal information you provide to us. Therefore, **First Integrity Title Company** has adopted this Privacy Policy to govern the use and handling of your personal information.

### Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- b. Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- c. Information about your transactions with us, our agents, or others; and
- d. Information we receive from a consumer-reporting agency.

### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis.

### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities that need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Thank you for giving us the opportunity to provide your closing and settlement services.

## DISCLOSURE STATEMENT

- Pursuant to Section 38-35-125 of Colorado Revised Statutes and Colorado Division of Insurance Regulation 8-1-2 (Section 5), if the parties to the subject transaction request us to provide escrow-settlement and disbursement services to facilitate the closing of the transaction, then all funds submitted for disbursement must be available for immediate withdrawal.
- Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph H, requires that "Every title insurance company shall be responsible to the proposed insured(s) subject to the terms and conditions of the title insurance commitment, other than the effective date of the title insurance commitment, for all matters which appear of record prior to the time of recording. Whenever the title insurance company, or its agent, conducts the closing and settlement service that is in conjunction with its issuance of an Owner's Policy of Title Insurance and is responsible for the recording and The Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception No. 1 in Schedule B-2 will not appear in the Owner's Title Policy and Lender's Title Policy when issued.
- Colorado Division of Insurance Regulation 8-1-2, Paragraph M of Section 5, requires that prospective insured(s) of a single-family residence be notified in writing that the standard exception from coverage for unfiled Mechanics or Materialmans Liens may or may not be deleted upon the satisfaction of the requirement(s) pertinent to the transaction. These requirements will be addressed upon receipt of a written request to provide said coverage, or if the Purchase and Sale Agreement/Contract is provided to the Company then the necessary requirements will be reflected on the commitment.
- Colorado Division of Insurance Regulation 8-1-3, Paragraph C. 11.f. of Section 5 - requires a title insurance company to make the following notice to the consumer: "A closing protection letter is available to be issued to lenders, buyers and sellers".
- If the sales price of the subject property exceeds \$100,000.00 the seller shall be required to comply with the Disclosure of Withholding Provisions of C.R.S. 39-22-604.5 (Nonresident Withholding).
- Section 39-14-102 of Colorado Revised Statutes requires that a Real Property Transfer Declaration accompany any conveyance document presented for recordation in the State of Colorado. Said Declaration shall be completed and signed by either the grantor or grantee.
- Recording statutes contained in Section 30-10-406(3)(a) of the Colorado Revised Statutes require that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right, and bottom margin of at least one-half of an inch. The clerk and recorder may refuse to record or file a document that does not conform to the requirements of this paragraph.
- Section 38-35-109 (2) of the Colorado Revised Statutes, 1973, requires that a notation of the purchasers' legal address, (not necessarily the same as the property address) be included on the face of the deed to be recorded.
- Regulations of County Clerk and Recorder's offices require that all documents submitted for recording must contain a return address on the front page of every document being recorded.
- Pursuant to Section 10-11-122 of the Colorado Revised Statutes, 1987 the Company is required to disclose the following information:
  - The subject property may be located in a special taxing district.
  - Information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder or the County Assessor.
- Pursuant to Section 10-11-123 of the Colorado Revised Statutes, when it is determined that a mineral estate has been severed from the surface estate, the Company is required to disclose the following information: that there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and that such mineral estate may include the right to enter and use the property without the surface owner's permission.

**Note:** Notwithstanding anything to the contrary in this Commitment, if the policy to be issued is other than an ALTA Owner's Policy, the policy may not contain an arbitration clause, or the terms of the arbitration clause may be different from those set forth in this Commitment. If the policy does contain an arbitration clause, and the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.