

HDE97HRZ

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: WARRANTY DEED

NAME OF AGENCY OR CONTRACTOR: HORIZON DRIVE ENTERPRISES, INC

STREET ADDRESS/PARCEL NAME/SUBDIVISION: 740 HORIZON  
DRIVE, VCB MINOR SUBDIVISION, LOT 1

CITY DEPARTMENT: VISITORS AND CONVENTION BUREAU

YEAR: 1997

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

WARRANTY DEED

~~1826085 12/30/97 1128AM  
MONIKA TODD CLK&REC MESA COUNTY CO  
REC FEE \$5.00 SURCHG \$1.00  
DOCUMENTARY FEE \$EXEMPT~~

Grantor, HORIZON DRIVE ENTERPRISES, INC., a Colorado corporation whose address is 2764 Compass Drive, #101, Grand Junction, County of Mesa, State of Colorado, for the consideration of Ten Dollars (\$10) and other good and valuable consideration, in hand paid, hereby sells and conveys to THE CITY OF GRAND JUNCTION, a Colorado municipality, whose legal address is 250 N. 5th Street, Grand Junction, County of Mesa, and State of Colorado, 81501, the following real property in the County of Mesa, and State of Colorado, to wit:

Lot 1, V.C.B. Minor Subdivision

Together with all water, water rights, ditches and ditch rights appurtenant thereto.

also known by street and number as: 740 Horizon Drive, Grand Junction, CO 81506

with all its appurtenances, and warrants the title to the same, subject to: 1997 general taxes, payable in 1998, and all subsequent taxes; easements, rights-of-way, restrictions, covenants, conditions and reservations of record or in use.

Signed this 23 day of December, 1997.

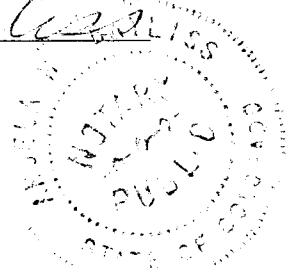
HORIZON DRIVE ENTERPRISES, INC., a Colorado corporation

By: [Signature]  
President

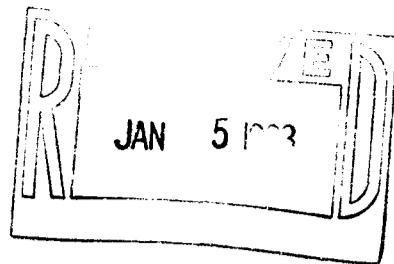
STATE OF COLORADO )  
                                          )ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of December, 1997 by John L. Moss, the President of Horizon Drive Enterprises, Inc., a Colorado corporation.

My commission expires: October 29, 2001  
Witness my hand and official seal.

[Signature]  
Notary Public  


*[Handwritten note]*



# First American Title Company

330 GRAND AVENUE • GRAND JUNCTION, COLORADO 81501 • (970) 241-8555 • FAX (970) 241-0934

December 30, 1997

Mr. Dan Wilson  
City Attorney of Grand Junction  
250 North 5th Street  
Grand Junction, Colorado 81501

**Re: Purchase of 740 Horizon Drive  
Our File No. 128681**

*copy all to : file  
sm 1/5/98  
T.M.W.  
Debbie K  
Finance*

Dear Dan:

I have enclosed a set of closing documents for your file. The original deed will be returned to you directly by the Clerk and Recorder. We recorded the deed earlier today.

*originals to  
City Clerk -  
thx*

Please give Joni Jackson or me a call if you have any questions.

Yours truly,

*First American Title Company*

Robert C. Reece  
President

RCR:br  
Enclosures

# First American Title Company

330 Grand Avenue  
Grand Junction, CO 81501  
(970) 241-8555

## BUYERS CLOSING STATEMENT FINAL

Buyer: **City of Grand Junction**

Escrow No: **00128681-001 JJ**  
Close Date: **12/23/1997**  
Proration Date: **12/23/1997**  
Date Prepared: **12/23/1997**

Property: **740 Horizon Drive**  
**Grand Junction, CO 81506**

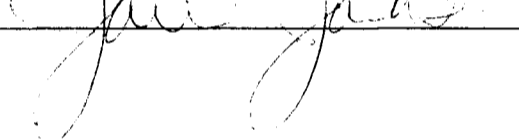
Description	Debit	Credit
<b>TOTAL CONSIDERATION:</b> Total Consideration	<b>125,000.00</b>	
<b>CLOSING CHARGES:</b> Escrow Fee to First American Title Company	<b>60.00</b>	
<b>RECORDING FEES:</b> Recording Fees to Mesa County Clerk & Recorder	<b>6.00</b>	
<b>Sub Totals</b>	<b>125,066.00</b>	
<b>Balance Due From Buyer</b>		<b>125,066.00</b>
<b>Totals</b>	<b>125,066.00</b>	<b>125,066.00</b>

APPROVED AND ACCEPTED.

~~BROKER~~ CLOSING AGENT:

  
\_\_\_\_\_  
Mark K. Achen, City Manager, ASSISTANT

FIRST AMERICAN TITLE

By: 

# First American Title Company

330 Grand Avenue  
Grand Junction, CO 81501  
(970) 241-8555

## SELLERS CLOSING STATEMENT FINAL

Seller: **Horizon Drive Enterprises Inc.**

Escrow No: **00128681-001 JJ**

Close Date: **12/23/1997**

Proration Date: **12/23/1997**

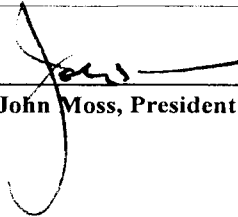
Date Prepared: **12/23/1997**

Property: **740 Horizon Drive  
Grand Junction, CO 81506**

Description	Debit	Credit
<b>TOTAL CONSIDERATION:</b>		
Total Consideration		125,000.00
<b>CLOSING CHARGES:</b>		
Escrow Fee to First American Title Company	60.00	
<b>RECORDING FEES:</b>		
Recording Fees to Mesa County Clerk & Recorder	16.00	
<b>TITLE CHARGES:</b>		
Owners Policy to First American Title Company	542.00	
Cert. of Good Standing to First American Title Company	11.00	
<b>Sub Totals</b>	<b>629.00</b>	<b>125,000.00</b>
<b>Proceeds Due Seller</b>	<b>124,371.00</b>	
<b>Totals</b>	<b>125,000.00</b>	<b>125,000.00</b>

APPROVED AND ACCEPTED

~~BROKER~~ CLOSING AGENT:

  
John Moss, President

FIRST AMERICAN TITLE

By: 



# First American Title Company



## Closing Instructions

The printed portions of this form have been approved by the Colorado Real Estate Commission (CL8-9-95)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

TO: **First American Title Company**  
**330 Grand Avenue**  
**Grand Junction, CO 81501**  
**(970) 241-8555, FAX (970) 241-0934**

ORDER NO. **00128681**

CLOSING DATE: **12/23/1997**

1. **Parties/ Property.** **Horizon Drive Enterprises Inc., a Colorado corporation (SELLER) and City of Grand Junction, a Colorado Municipality (BUYER) engage First American Title Company (CLOSING COMPANY),** which agrees to provide closing and settlement services in connection with the closing of the following described real estate in the County of Mesa, Colorado, to wit

**Lot 1,**  
**V. C. B. Minor Subdivision**

also know as: **740 Horizon Drive, Grand Junction, CO 81506**

2. **Agreement.** Closing Company is authorized to obtain information, and agrees to prepare, obtain, deliver and record all documents, excluding preparation of legal documents, necessary to carry out the terms and conditions of the Contract to Buy and Sell Real Estate, dated **12-17-92** with any counterproposals and amendments attached (CONTRACT).

3. **Closing Fee.** Closing Company will receive a fee not to exceed **\$120.00** for providing these closing and settlement services to be the expense of **Buyer and Seller Equally.**

4. **Good Funds.** Closing Company is authorized to receive funds and to disburse funds when all funds received are either: available for immediate withdrawal as a matter of right from the financial institution in which the funds have been deposited, or are available for immediate withdrawal as a consequence of an agreement of a financial institution in which the funds are to be deposited or a financial institution upon which the funds are to be drawn ("Good Funds").

5. **Closing.** Closing Company is not authorized to release any documents or things of value prior to receipt and disbursement of Good Funds, except as provided in Sections 10 and 11 below.

6. **Disbursement.** Closing Company shall disburse all funds, including real estate commissions, except those funds as may be separately disclosed in writing to Buyer and Seller by Closing Company or Buyer's lender on or before closing. All parties agree that no one other than the disbursing party can assure that payoff of loans and other disbursements will actually be made.

7. **Seller's Proceeds.** Seller will receive the net proceeds of closing as indicated:  Cashier's Check at Seller's Expense,  Funds electronically transferred (wire transfer) to an account specified by the Seller, at Seller's expense; or  Closing Company's trust account check.

8. **Compliance.** Buyer and Seller will furnish any additional information and documents required by Closing Company which will be necessary to complete this transaction.

9. **Settlement Statement.** Closing Company will prepare and deliver an accurate, complete and detailed closing statement to Buyer and Seller at time of closing.

10. **No Closing.** If closing does not occur, Closing Company, except as provided herein, is authorized and agrees to return all documents, monies, and things of value to the depositing party and Closing Company will be relieved from any further duty, responsibility or liability in connection with these instructions. In addition, any promissory note, deed of trust, or other evidence of indebtedness signed by Buyer, shall be voided by Closing Company, with the original(s) returned to Buyer and a copy to Buyer's lender.

11. **Conflicting Instructions.** If any conflicting demands are made on the Closing Company, at its sole discretion, Closing Company may hold any monies, documents, and things of value received from any party except Buyer's lender. Closing Company shall retain such items until (1) receipt of mutual written instruction from Buyer and Seller; or (2) until a civil action between Buyer and Seller shall have been resolved in a Court of competent jurisdiction; or (3) in the alternative, Closing Company may, in its sole discretion, commence a civil action to interplead, or interplead in any existing civil action, any documents, monies, or other things of value received by Closing Company. Such deposit with the Court shall relieve Closing Company of all further liability and responsibility and Closing Company shall be entitled to all court costs and reasonable attorney's fees.

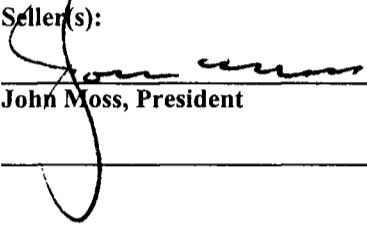
12. **Amendment.** These closing instructions may only be amended or terminated by written instructions signed by Buyer, Seller, and Closing company.

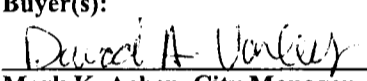
13. **Withholding.** The Internal Revenue Service and the Colorado Department of Revenue may require Closing Company to withhold a substantial portion of the proceeds of this sale when Seller either (a) is a foreign person, or (b) will not be a Colorado resident after closing. Seller should inquire of Seller's tax advisor to determine if withholding applies or if an exemption exists.

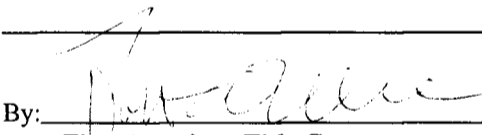
14. **Special Instructions:**

15. **Signing Instructions.** These Closing Instructions may be executed by each Buyer, Seller and Closing Company individually, and when each Buyer, Seller and Closing Company has executed a copy of these Closing Instructions, such copies taken together shall be deemed to be a full and complete contract between the parties.

**APPROVED AND ACCEPTED**

Seller(s):  Social Security Number: \_\_\_\_\_ Date: 12-23-97  
John Moss, President

Buyer(s):  Social Security Number: 84-6000592 Date: 12-23-97  
Mark K. Achen, City Manager ASSISTANT

By:   
First American Title Company

**(TO BE COMPLETED ONLY BY BROKER AND CLOSING COMPANY)**

N/A (Broker) engages Closing Company as Broker's Scrivener to complete, for a fee not to exceed \$ \_\_\_\_\_ at the sole expense of Broker, the following legal documents:

Deed  Bill of Sale  Colorado Real Estate Commission Approved Promissory Note and  
 Colorado Real Estate Commission Approved Deed of Trust

The documents stated above shall be subject to Broker's review and approval and Broker acknowledges that Broker is responsible for the accuracy of the above documents.

Closing Company shall pay real estate commissions at disbursement as follows:

Listing Company, N/A paid by \_\_\_\_\_ %  
Selling Company, N/A paid by \_\_\_\_\_ %  
Other \_\_\_\_\_ %

**APPROVED AND ACCEPTED**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Broker Closing Company  
Date \_\_\_\_\_ Date \_\_\_\_\_

**TAX, TAX PRORATION, WATER, SEWER AND  
HOMEOWNER'S ASSOCIATION AGREEMENT**

**PROPERTY: 740 Horizon Drive Grand Junction, CO 81506**

**THE UNDERSIGNED, have read and understand the following, and by their signatures below, agree to the following:**

**I. TAXES, TAX PRORATIONS**

Purchaser has received, as of this date, a credit from seller for taxes for this year in the amount of \$N/A. This proration was calculated based on:

- ( ) Taxes for the calendar year immediately preceding closing.
- ( ) An estimate of taxes for the current year in the amount of \$ \_\_\_\_\_, calculated by multiplying the most recent total assessed value of \$ \_\_\_\_\_, by the most recent mill levy of \_\_\_\_\_.
- (X) Other **This property is tax exempt.**

**THIS ADJUSTMENT BETWEEN SELLER AND PURCHASER SHALL BE CONSIDERED A FINAL SETTLEMENT.**

Seller warrants that the above property **IS NOT** subject to a pending tax protest or appeal. Seller further warrants that special assessments, if any, affecting subject property are paid in full, except as reflected on the statement of settlement.

**II. WATER AND SEWER**

- ( ) Closing Agent has withheld \$ \_\_\_\_\_ from Seller's proceeds to pay the final billing for any water and/or sewer charges. Any balance from the amount of the billing will be refunded to Seller.
- (X) Any payment for water and/or sewer charges will be made by Seller or Purchaser as they may agree. **THE CLOSING AGENT IS HEREBY RELIEVED OF AND HELD HARMLESS FROM THIS RESPONSIBILITY.**

**III. IRRIGATION WATER**

The Secretary or Manager of the irrigation water company affecting subject property has provided **VERBAL INFORMATION** to the Closing Agent, and has indicated that, for the current year, the assessments of \$N/A ( )has ( )has not been paid. Also, a transfer fee (if applicable) is to be charged to ( )Purchaser ( )Seller.

**IV. HOMEOWNER'S/CONDOMINIUM ASSOCIATION**

The Secretary or Manager of the applicable homeowner's or condominium association has provided **VERBAL OR WRITTEN INFORMATION** to the Closing Agent, and has indicated that for the current assessable period, the assessment of \$N/A ( )has ( )has not been paid. Also the assessment ( )is ( )is not to be prorated between the Seller and Purchaser.

**IF THE AMOUNTS WITHHELD BY CLOSING AGENT IS INSUFFICIENT TO PAY THE AMOUNTS DUE FROM SELLER FOR ANY OF THE ABOVE CHARGES, SELLER HEREBY AGREES TO PAY THE BALANCE DUE WHEN THAT AMOUNT BECOMES KNOWN.**

**SELLER**

**PURCHASER**

**Horizon Drive Enterprises Inc., a Colorado Corporation**

**City of Grand Junction, a Colorado Municipality**

**John Moss, President**

~~Mark K. Achen, City Manager, ASSISTANT~~

\_\_\_\_\_  
*John Moss*  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
*David A. Vancig*  
\_\_\_\_\_  
\_\_\_\_\_



V.C.B. Soviet Information Center @  
Horizon Drive + I-70



Peggy  
Original to City Clerk  
cc: Dan Wilson  
Debbie Kovalik  
Lin Woodmansee

## First American Title Company

TO: THE CITY OF GRAND JUNCTION  
250 N. 5TH STREET  
GRAND JUNCTION, CO 81501

DATE: MAR 31 1993

ORDER NO.: 128681

OWNER: CITY OF GRAND JUNCTION

ADDRESS: 740 HORIZON DRIVE

PLEASE FIND ATTACHED:

OWNER'S TITLE POLICY # J 823409

LENDER'S TITLE POLICY # CW

*Your Title Insurance Policy should be kept with your permanent records. All premiums were paid at the time of closing. Please feel free to contact our title department if you should have any questions in connection with this policy.*

*We will maintain a file on your property enabling us to give you fast and accurate service in the future. In the event you chose to sell or refinance your property within the next 3 years, First American Title Company offers a discount on insurance premiums.*

*Thank You for Choosing First American Title Company*

330 GRAND AVENUE · GRAND JUNCTION, COLORADO 81501-2448  
(970) 241-8555 · FAX (970) 241-0934

PLEASE REFER POLICY QUESTIONS TO THE POLICY DEPARTMENT AT THE ABOVE PHONE NUMBER.

TRANSP.TTL.12/95

FIRST AMERICAN



*First American Title Insurance Company*

**POLICY  
OF  
TITLE  
INSURANCE**



## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule (A), and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A), nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or acts as lessor of the

by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

### 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue

for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

### 11. LIABILITY NONCUMULATIVE.

It is expressly understood that the Amount of Insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

### 12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

### 13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) **The Company's Right of Subrogation.**

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant. The Company shall be subrogated to and be entitled to all

estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against

(i) to pay or otherwise settle with parties other than the insured or with the insured claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

### 7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the Amount of Insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or (ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

### 8. APPORTIONMENT.

If the land described in Schedule (A)(C) consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the Amount of Insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

### 9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable

the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

### (b) The Company's Rights Against non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

### 14. ARBITRATION.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

### 16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

### 17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at 114 East Fifth Street, Santa Ana, California 92701, or to the office which issued this policy.

Form No. 1402.92  
(10/17/92)  
ALTA Owner's Policy



# POLICY OF TITLE INSURANCE



ISSUED BY

## *First American Title Insurance Company*

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

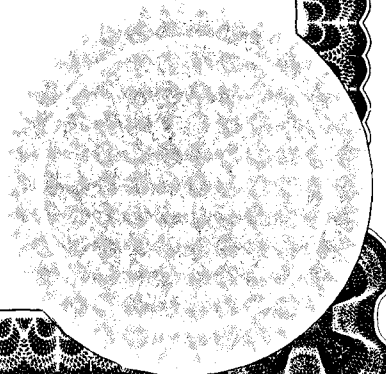
The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

*First American Title Insurance Company*

BY *Parker S. Kennedy* PRESIDENT

ATTEST *Mark R. Arnesen* SECRETARY

J 823409



**SCHEDULE A**

Total Fee for Title Search, Examination  
and Title Insurance **\$542.00**

Amount of Insurance: **\$125,000.00**

Policy No. **J823409**  
Order No. **00128681**

Date of Policy **December 30, 1997 at 11:29 A.M.**

1. Name of Insured:

**The City of Grand Junction, a Colorado Municipality**

2. The estate or interest referred to herein is at Date of Policy vested in:

**The City of Grand Junction, a Colorado Municipality**

3. The estate or interest in the land described in Schedule C and which is covered by this policy is:

**Fee Simple**

## SCHEDULE B

This Policy does not insure against loss or damage, including attorney fees, by reason of the matters shown below:

1. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
2. Easements or claims of easement which are not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any other facts which a correct survey would disclose, and which are not shown by public records.
4. Any water rights or claims or title to water in, on or under the land.
5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Right of way for ditches or canals constructed by the authority of the United States, as reserved in United States Patent recorded October 8, 1907, in Book 70 at Page 374.
7. Right of the Proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as reserved in United States Patent recorded October 8, 1907, in Book 70 at Page 374.
8. Utilities easement, said easement being over the South 15 feet and the East 10 feet of subject property, as shown on the Plat of said Subdivision.
9. Wall easement, said easement being over the Northwesterly 6 feet of subject property, as shown on the Plat of said Subdivision.
10. Avigation easement as granted to Walker Field, Colorado, Public Airport Authority, in instrument recorded June 11, 1992, in Book 1905 at Page 417.
11. Utility easement as granted to Public Service Company of Colorado in instrument recorded July 10, 1992, in Book 1911 at Page 459.
12. The effect of Notice recorded November 10, 1988, in Book 1718 at Page 328.
13. Terms, conditions, provisions and restrictions of that certain Memorandum of Lease recorded January 26, 1993, in Book 1952 at Page 601.  
NOTE: This exception will not appear on Owners Policy once Requirement No. 2 herein is satisfied.
14. Perpetual and non -exclusive easement for ingress, egress and 5 parking spaces for the use and benefit of Lot 2, V.C.B. Minor Subdivision Horizon Drive Enterprises, Inc. as reserved in instrument recorded December 30, 1997 in Book 2390 at Page 236.
15. Any lease not of record but in existence, and any and all assignments of interest therein.

**SCHEDULE C**

The land referred to in this policy is situated in the State of **Colorado** County of **Mesa** and is described as follows:

**Lot 1,**  
**V. C. B. Minor Subdivision**



WARRANTY DEED

Grantor, HORIZON DRIVE ENTERPRISES, INC., a Colorado corporation whose address is 2764 Compass Drive, #101, Grand Junction, County of Mesa, State of Colorado, for the consideration of Ten Dollars (\$10) and other good and valuable consideration, in hand paid, hereby sells and conveys to THE CITY OF GRAND JUNCTION, a Colorado municipality, whose legal address is 250 N. 5th Street, Grand Junction, County of Mesa, and State of Colorado, 81501, the following real property in the County of Mesa, and State of Colorado, to wit:

Lot 1, V.C.B. Minor Subdivision

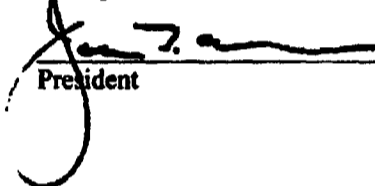
Together with all water, water rights, ditches and ditch rights appurtenant thereto.

also known by street and number as: 740 Horizon Drive, Grand Junction, CO 81506

with all its appurtenances, and warrants the title to the same, subject to: 1997 general taxes, payable in 1998, and all subsequent taxes; easements, rights-of-way, restrictions, covenants, conditions and reservations of record or in use.

Signed this 23 day of December, 1997.

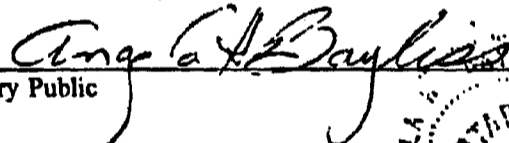
HORIZON DRIVE ENTERPRISES, INC., a Colorado corporation

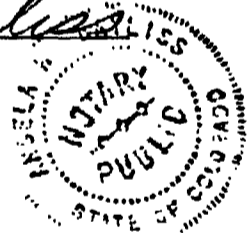
By:   
President

STATE OF COLORADO )  
                                                  )ss.  
COUNTY OF MESA            )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of December, 1997 by John L. Williams, the President of Horizon Drive Enterprises, Inc., a Colorado corporation.

My commission expires: October 29, 2001  
Witness my hand and official seal.

  
Notary Public



Recorded by  
First American Title Co