

MUS935TH

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: DEED (GENERAL WARRANTY)

NAME OF AGENCY OR CONTRACTOR: MUSEUM OF WESTERN COLORADO,  
INC. A COLORADO NON-PROFIT CORPORATION BY: TERRANCE W.  
WAKEFIELD (CHAIRMAN)

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: 233 SOUTH  
5TH OR 5TH AND UTE LOTS 17 THROUGH 24, INCLUSIVE BLOCK 125  
(C D SMITH BUILDING)

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1993

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

**WARRANTY DEED**

Grantor(s), MUSEUM OF WESTERN COLORADO, INC.  
a Colorado non-profit corporation

whose address is 246 S. 4th St., Grand Junction, CO 81501

Colorado \*County of Mesa, State of

for the consideration of  
Ten Dollars and other good and valuable consideration  
~~XXXXXX~~, in hand paid, hereby sell(s)

and convey(s) to the City of Grand Junction

whose legal address is 250 N. 5th St., Grand Junction, CO 81501

County of Mesa, and State of Colorado

the following real property in the County of Mesa, and State of

Colorado, to wit:

Lots 17 through 24, inclusive  
Block 125  
City of Grand Junction

together with all water and water rights, ditch and ditch rights appurtenant thereto

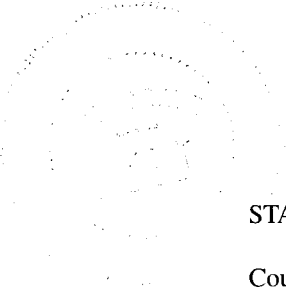
also known by street and number as 233 South 5th Street, Grand Junction, CO 81501

with all its appurtenances, and warrant(s) the title to the same, subject to 1993 taxes due and payable in 1994 and all subsequent taxes and assessments thereafter and a deed of trust dated December 31, 1993 in favor of The Sterling Company recorded at Book 2038 Page 265, Mesa County Records securing an obligation in the face amount of \$250,000.00 which obligation shall be satisfied by Grantor according to its terms.

Signed this 31<sup>st</sup> day of December, 1993

MUSEUM OF WESTERN COLORADO, INC.,  
a Colorado non-profit corporation

By: Terrance W. Wakefield  
Terrance W. Wakefield, Chairman



STATE OF COLORADO,  
County of Mesa } ss.

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of December, 1993, by Terrance W. Wakefield as Chairman of MUSEUM OF WESTERN COLORADO, INC., a Colorado non-profit corporation.

My commission expires 1/12/95

Witness my hand and official seal.

[Signature]  
Notary Public

\*If in Denver, insert "City and".

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

Consideration \$775,000.00

BOOK 2038 PAGE 291

1666415 01:25 PM 01/03/94  
MONIKA TODD CLK&REC MESA COUNTY CO  
DOC EXEMPT



Original to City Clerk

ISSUED BY

cc: *Jim Woodmansee*

**TRANSAMERICA  
TITLE INSURANCE COMPANY**

POLICY NUMBER

144-125157

**OWNER'S POLICY OF TITLE INSURANCE**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, TRANSAMERICA 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.

IN WITNESS WHEREOF, TRANSAMERICA TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

**TRANSAMERICA TITLE INSURANCE COMPANY**

By: *Jeanice A Swank*  
Authorized Countersignature



By: *Robert Tuller*  
President

Attest: *James J D Lynch Jr*  
Secretary

**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.

C.D. Smith Bldg (Museum of Western Colorado) @ 5th & 4th

**SCHEDULE A**

Policy No. 144-125157

Amount of Insurance \$ 775,000.00

Order No. 893203

Date of Policy January 3, 1994 at 1:26 P.M.

Sheet 1 of 3

1. Name of Insured:

THE CITY OF GRAND JUNCTION

2. The estate or interest in the land described herein and which is covered by this policy is:

IN FEE SIMPLE

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

THE CITY OF GRAND JUNCTION

Policy No. 144-125157  
Order No. 893203

**SCHEDULE A—Continued**

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

Lots 17, 18, 19, 20, 21, 22, 23 and 24  
in Block 125 in the  
CITY OF GRAND JUNCTION

## SCHEDULE B

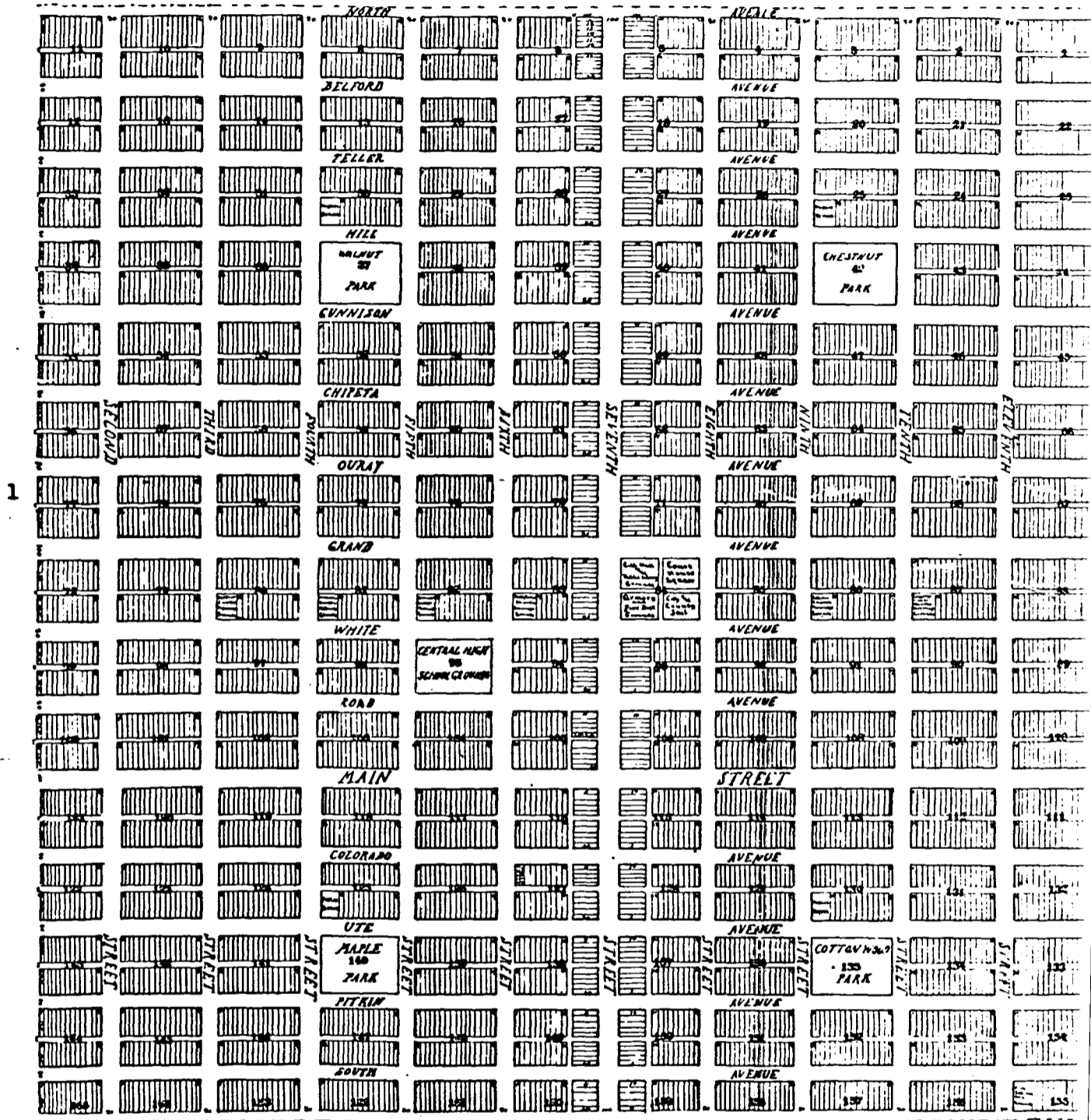
### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Easements, or claims of easements, not shown by the public records.
2. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
3. Taxes due and payable; and any tax, special assessments, charge or lien imposed for water or sewer service, or for any other special taxing district.
4. Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement from:       The Museum of Western Colorado  
to the Public Trustee of the County of Mesa  
for the use of:                    The Sterling Company  
to secure:                         \$250,000.00  
dated:                             December 31, 1993  
recorded:                         January 3, 1994 in Book 2038 at  
page 265.

# PLAT OF THE TOWN OF WEST EAST GRAND JUNCTION

Mesa County, Colorado



Grand and Gunnison Avenues and Main and Seventh streets are 100 feet wide. All others are 80 feet except on the East, North and West which are half streets. All alleys are 20 feet wide and run East and West except those running North and South in the rear of Seventh street from Block 6 to 160 and Block 5 to 159, which are 15 feet wide.

(Continued)

**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 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 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 rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, 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 be addressed to Transamerica Title Insurance Company, 4683 Chabot Drive, Suite 101, Pleasanton, CA 94588.