

LESMARK

LesMark Capital, LLC

SELF-AMORTIZING BOND LOAN PROGRAM

Title and Survey Requirements

Title Insurance

On or prior to the Closing Date, the borrower shall have obtained the commitment of a title insurance company of good standing selected by the borrower and satisfactory to the lender and its special counsel, to issue a policy of mortgage title insurance on a standard ALTA Form Mortgage Title Insurance Policy Loan Policy-2006 Form with certain endorsements required by the lender and its special counsel including, without limitation, an ALTA 9 Comprehensive Endorsement, a creditors rights endorsement, a waiver of arbitration endorsement, a usury endorsement, a 3.1 zoning endorsement (with parking), an access endorsement, a survey endorsement, a separate tax lot endorsement, a contiguity endorsement, a doing business endorsement, subdivision endorsement and (as necessary) affirmative coverage (the “ALTA Policy”) in the aggregate amount which will provide for mortgage title insurance in an amount not less than the aggregate principal amount of the Note then and thereafter issued, covering the Property, and showing good and marketable record title in such Property to be vested in the borrower subject only to:

1. The liens, charges and encumbrances, if any, permitted by the Mortgage;
2. Such exceptions as are standard under an ALTA Policy with extended coverage over such exceptions;
3. Such other exceptions as shall be satisfactory to the lender; and

agreeing to insure the lender, upon the proper execution and recording of the Mortgage, against loss or damage sustained by reason of such Mortgage not being a first and paramount lien upon the title to the Property, subject only to the exceptions referred to in the foregoing clauses (1) through (3).

Survey

Borrower should provide sufficient copies of an “As-Built” Survey showing no construction yet to be completed prepared in accordance with the “Minimum Standard Detail Requirements for Land Title Surveys” jointly established and adopted by ALTA and ACSM in 2005, so that the following parties are provided with copies:

1. Borrower’s attorney;
2. The Title Insurance Company; and
3. The Purchaser’s attorney (two copies)

The survey is to be dated within ninety (90) days of loan closing and should be delivered to the Purchaser’s counsel at the earliest possible date in order to facilitate document preparation and revision (unless requested otherwise). **The surveyor must receive a copy of the title commitment or pro forma from the title insurance company. The surveyor must address each exception in Schedule B of the title commitment or pro forma policy, refer to each such exception specifically (with a clear letter or number reference to the specific exception on the policy), and locate all exceptions on the survey with the same letter or number reference, or if the exception is not locatable or if the surveyor believes the exception does not affect the property, clearly state such.**

In order to provide the Purchaser with an adequate and accurate “as-built” record of this project, this survey plat shall include, but not be limited to, the following information, all of which shall be shown on a 24" x 36" survey drawing:

1. Scale.
2. Date (date of Survey Certificate should be after the date of physical survey).

3. North arrow.
4. Legend.
5. Easements with recording data (Note: Beware of centerlines plotted next to improvements).
6. Encroachments.
7. The security boundary (shown with a heavy black line) (all property lines' deflection points must have an iron pin set in place - note whether pin was "set" or "found").
8. Lot, block or square designation, if applicable, or written legal description by metes and bounds on the survey plat (of the property to be secured).
9. Section, township and range if not subdivided (use dotted lines to reflect section division or lot lines).
10. The point of beginning of description (labeled on plat map).
11. True point of beginning of description (labeled on plat map).
12. Certificate of "True and Correct" survey by surveyor to include this terminology:

"[Lender],

In connection with the closing of a mortgage loan to [Borrower] by [Lender] (the "Purchaser"), the undersigned, understanding that the Purchaser will rely upon the certifications contained herein in making and disbursing said loan, hereby certifies to the Purchaser, its successors and assigns, [Title Insurance Company] ("Title Insurance Company") and [Borrower] ("Borrower") that:

- a. *The survey to which this certificate is attached, prepared by the undersigned, a professional registered engineer or registered land surveyor of [Survey Company] ("Survey Company") entitled the [Title of Survey] ("Survey") was actually made by instrument survey upon the ground versus photogrammetry or other methods.*
- b. *The Survey was prepared in accordance with the document entitled "[Lender] Survey Requirements" and contains and shows all information required thereby and constitutes an accurate "as-built" survey of [generic name of property (i.e., XYZ Store)] known by the street address of [Property Common Address].*
- c. *The Survey and the information, courses and distances shown thereon, including, without limitation, all setback and yard lines, are correct and the boundary description on the survey forms a mathematically closed figure.*
- d. *The title lines described in Schedule A to the title commitment (hereinafter described and shown on the Survey) and the lines of actual possession are the same.*
- e. *The size, location and type of buildings, structures and improvements are as shown.*
- f. *Said buildings, structures and improvements constitute all of the improvements on said premises and all are within the boundary lines of the property.*
- g. *There are no violations of zoning ordinances, restrictions or other rules and regulations with reference to the location of said buildings, structures and improvements, including, without limitation, restrictions relating to height, frontage area, yard size and set back areas.*
- h. *Based upon a careful physical inspection of the premises, there are no easements or rights of way over, encroachments by improvements located on adjacent property onto, or uses affecting, this property or easement areas existing for the benefit of land adjacent to this property, except as follows: (if none, state "none.")*
- i. *There are no encroachments by any of the improvements located on said premises onto adjacent property or onto easement areas of others, except as follows: (if none, state "none.")*
- j. *The property is serviced by all public utility services required for the operation of the premises. All such utilities either enter the premises through adjoining public streets or the Survey shows the point of entry and location of any utilities which pass through or are located on adjoining private land.*
- k. *The premises have direct access to [Public Street Names], dedicated public way(s) (list all access routes to all public streets) and there are no streets abutting the property which are described in recorded documents, yet not physically opened.*
- l. *The Survey shows the location and direction of all storm drainage systems for the collection and disposal of all roof and surface drainage.*
- m. *Any discharge into streams, rivers or other conveyance systems is shown on the Survey.*
- n. *That certain preliminary insurance commitment dated [Title Commitment Date] issued by [Title Insurance Company] through its agent [Title Insurance Agent], was reviewed by the undersigned and the Survey reflects all of the exceptions contained in Schedule B of that commitment or, if any such*

exceptions cannot be located, the same are indicated in the notes appearing on this Survey as being unlocatable.

- o. Record bearings, angles and distances do not differ from measured bearings, angles or distances unless clearly indicated on the survey.*
- p. The property surveyed is a separate and distinct parcel and is not part of an overall larger parcel of land and represents a separate parcel for real estate tax purposes.*
- q. There does not appear to be any use of the property other than by its occupants.*
- r. There are no visible cemeteries or burying grounds on the property.*
- s. The parcel(s) described hereon does (do) not lie within any flood hazard areas as defined by FEMA through its NFIP as reflected on either the FHBM or FIRM maps, as amended from time to time.*
- t. The property has a total of [_____] on-site parking spaces, of which [_____] are reserved for the physically challenged.*
- u. This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2011, and includes Items 2, 3, 6, 7(a), 7(b)(1), 7(c), 8, 9, 10, 11, 13, 14, 15, 16 and 17 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of [_____], the Relative Positional Accuracy of this survey does not exceed that which is specified therein."*

- 13. Surveyor's seal or stamp clearly showing registration number.
- 14. Surveyor's original signature on all copies of survey.
- 15. Curve data/information to support length of curves used on survey.
- 16. Field notes on survey, if applicable.
- 17. Area of land.
- 18. Vicinity sketch showing closest thoroughfare intersection (if the property is not part of a recorded plat).
- 19. Show adjoining street, road, highway, alley right-of-way lines, names, right-of-way width and distance to property.
- 20. Utilities (including connecting lines to this project from public utility lines).
- 21. Paved parking area, size and number of spaces (please shade edges).
- 22. Walkways (please "dot" concrete).
- 23. Ingress and egress (curb cuts and driveways - use arrowheads to show traffic flow).
- 24. Outline all buildings and structures. Give number of stories, perimeter dimensions and total area of buildings.
- 25. All buildings to be located in both directions from property lines.
- 26. Street address of each building.
- 27. Building set-back lines shown on property (as defined by local zoning entity or plat map). If no set-back lines, so state.
- 28. State whether or not the property appears in any Flood Insurance Boundary Map, and, if so, further state map number and whether or not any part of the property appears to be in the "Flood Hazard Area" shown on that map. Submit a copy of map used.
- 29. The full legal description and street address must be shown. The legal description must be identical to the title report description or discrepancies explained. If the premises are described as being on a filed map, the survey should contain a legend relating the parcel to the map on which it is shown.
- 30. All exceptions on the title report must be plotted (or identified on the face of the survey as not plotable). Indicate reason that any exception (except any lien) is not plotable.
- 31. The location of rubbish fills, sloughs, springs, filled in wells or cisterns and seep holes should be charted wherever possible.

Note: Be sure this checklist goes to surveyor as soon as possible so he may be prepared for the work.