

# NEBRASKA ECONOMIC DEVELOPMENT CORPORATION

## INFORMATION SHEET

### TITLE POLICY REQUIREMENTS FOR 504 LOANS

In order to clarify and expedite the processing of 504 Loan Packages, NEDCO requests that bankers provide this Information Sheet to the proposed issuer of a title policy in connection with a 504 Loan.

**To: Title Insurance Company:**

Please note that the following requirements must be met in issuing a title policy insuring the interest of the Nebraska Economic Development Corporation and the U.S. Small Business Administration (“NEDCO/SBA”) in relation to any 504 loan.

- The policy must show as the insured the following:

**Nebraska Economic Development Corporation and the U.S. Small Business Administration and their successors and assigns, as their interest may appear.**

- The policy must show the Deed of Trust or Mortgage of NEDCO/SBA in second position, subordinate only to the Bank’s Deed of Trust as the Third Party Lender.
- All easement documents and other documents relating to exceptions must be provided to legal counsel for NEDCO so that the effect of such easements and other exception documents can be evaluated.
- The policy to be issued must be an extend ALTA policy, that is, the standard exceptions regarding:
  - Rights or claims of parties in possession not shown by the current public records;
  - Easements or claims of easements not show by the current public records
  - Encroachments, overlaps, boundary line disputes or other matters which would be disclosed by an accurate survey and inspection of the premises;
  - Any lien or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law, and not shown by the current records; and
  - Taxes and special assessments which are not shown as existing liens by the current public records

**Must all be deleted.**

- The standard provision relating to “Liability Noncumulative” which is usually found as paragraph 10 on the ALTA policy jacket and which reads as follows:

**If** the insured acquires title to the estate or interest in satisfaction of the indebtedness secured by the insured mortgage, or any part thereof, 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.

**Must be deleted.** This is an SBA requirement and the policy must be accompanied by an endorsement indicating waiver of that provision.

- In addition to those title policy requirements set forth above, the title agency must see that Schedule B – Part II lists all subordinate matters. **Among the matters that must be subordinate to the insured deed of trust are the following:**
  - Any assignment of rents to the insured (NEDCO/SBA);
  - The Third party lender Agreement;
  - NEDCO/SBA’s financing statement, if any; and
  - The rights of tenants evidenced by any memorandum of lease.
  
- Issuance of the title policy or a “marked-up” commitment is crucial to completing funding of the NEDCO/SBA loan. Please make every effort to honor the deadline date indicated in the loan package. A missed deadline will likely increase interest costs to the Borrower.

Unless the above are complied with, the title policy will not be acceptable to NEDCO/SBA and the required opinion of counsel letter cannot issue.

Thank you for your cooperation.

Nebraska Economic Development Corp.