

SAMPLE SET ASIDE LETTER

Sample: To be typed on Bank stationary and returned to the Company's Branch Office servicing the account.

To: American Contractors Indemnity Company
601 S. Figueroa Street, Suite 1600
Los Angeles, CA 90017

Re: (Name of Principal)

Gentlemen:

(Name of Bank) has approved a loan for (Name of Principal) in the amount of \$ _____ for the construction of (Name of Project) and the off-site improvements required by law in a project legally described as (Legal Description) and (Name of Bank) has received from said (Name of Principal) a promissory note and deed of trust as security for the above-referenced loan. (Name of Bank) is desirous of making public its record of this loan, however, in accordance with the provisions of the Subdivision Map Act (California Government Code, Division 2), (Name of Bank) cannot record its loan until the subject Subdivision Map is recorded. This recordation requires surety bond(s) guaranteeing to the (Name of City/County) that the off-site improvements referenced above will be completed in said Subdivision. Therefore, in consideration of AMERICAN CONTRACTORS INDEMNITY COMPANY furnishing the surety bond(s) on behalf of (Name of Principal) in favor of the (Name of City/County) in the amount of \$ _____ enabling (Name of Bank) to record its loan, (Name of Bank) will pay into a special impound account the sum of \$ _____ within ten (10) days after the Subdivision Map and bond(s) are filed and recorded.

The escrow covering the project will provide that the funds in said impound account are subject to withdrawal up on the approval of (Name of Principal), and said funds are to be disbursed for payment of the subdivision improvements mentioned above and only after (Name of Bank) has satisfied itself that the work paid for has actually been performed.

(Name of Bank) further agrees that in the event it is necessary to institute foreclosure proceedings against (Name of Principal) on the property legally described herein, it will immediately notify AMERICAN CONTRACTORS INDEMNITY COMPANY and further, take all necessary steps to protect the interests of AMERICAN CONTRACTORS INDEMNITY COMPANY as respects its liability on surety bond(s) issued pursuant to this letter howsoever AMERICAN CONTRACTORS INDEMNITY COMPANY'S liability may be affected by said foreclosure.

In the event (Name of Principal) fails to complete and/or pay for improvements or meet its obligations to parties with which (Name of Principal) has contracted to do the work (as required by the City/County under said bond(s) described herein) all funds remaining in said impound account shall, upon request, be paid to AMERICAN CONTRACTORS INDEMNITY COMPANY to complete and pay the costs of said improvements, and in such event, (Name of Principal) waives any claim or interest in the remaining funds. AMERICAN CONTRACTORS INDEMNITY COMPANY shall not in any way be obligated to repay said funds so used to (Name of Bank).

(Name of Bank) acknowledges that the surety is relying on the availability of funds under such lending agreement with *(Name of Principal)* pledged for its use and benefit and as a condition to the issuing of any bond obligations entered into on behalf of *(Name of Principal)*, as surety on the above described project and as such *(Name of Bank)* agrees that, in the event that the final lending agreement referenced herein with *(Name of Principal)* is not entered into, the *(Name of Lender)* shall, within 24 hours of its determining that the final lending agreement shall not be entered into, notify the surety, by certified mail, that it has not and will not enter into such a lending agreement and the surety shall within 48 hours of receipt of such notice return the set aside letter to *(Name of Bank)*.

This is an irrevocable commitment of funds which is not subject to recall or offset by *(Name of Bank)*.

We agree and consent to the foregoing agreement:

(NAME OF BANK)

Signature

Typed Name and Title

AMERICAN CONTRACTORS INDEMNITY COMPANY

Signature

Typed Name and Title

(NAME OF PRINCIPAL)

Signature

Typed Name and Title