

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:

Gentlemen:

(Name of Bank) has arranged financing for *(Name of Borrower)* in the amount of \$_____ for the construction of _____ and the adjacent improvements in tract _____. In consideration of the execution by AMERICAN CONTRACTORS INDEMNITY COMPANY, hereinafter referred to as Surety, of bond(s) in the approximate amount of \$_____ on behalf of *(Name of Principal)* guaranteeing the *(Name of Municipal Body/County)* completion of certain public improvements in said tract _____ and as a direct inducement to Surety to execute said bond(s), *(Name of Bank)* agrees that immediately upon recordation of the construction loan it will pay into a special impound account a sum of not less than \$_____. This impound account is to be opened at the _____ office of *(Depository)* and will be designated: _____

The agreement covering the project will provide that the funds in said impound account are subject to withdrawal upon the approval of *(Name of Borrower)*, 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 Borrower)* 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 Borrower/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 be immediately available to AMERICAN CONTRACTORS INDEMNITY COMPANY to complete and pay the costs of said improvements, and in such event, *(Name of Borrower)* 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)*.

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(Name of Bank) acknowledges that the surety is relying on the availability of funds under such lending agreement with *(Name of Borrower)* 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 Borrower)* is not entered into, the *(Name of Bank)* 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 BORROWER)

Signature

Typed Name and Title