

DATE: June 24, 1986

TO: Paul Mutascio, Assistant City Clerk
FROM: City Attorney
SUBJECT: Release of Letters of Credit

You recently inquired whether you were required to surrender the original Letter of Credit upon exoneration of the surety.

A "letter of credit" may be broadly defined as any written instrument by which the writer authorizes the person to whom it is addressed or delivered to provide goods or services and evidences an agreement whereby the writer assumes responsibility of the debt. *Lafargue v. Harrison*, 70 Cal. 380 (1886). There is actually a scarcity of case law on the subject and the entire field is covered in Cal. Uniform Comm. Code sections 5101-5117.

In the above cited sections, no section deals specifically with the release of a letter of credit. But since the key to honoring a letter of credit is the "presentation" of the document (Cal. Uniform Comm. Code sections 5110 and 5112), we believe that where the surety is released you may release the original document since there would no longer be a need to preserve it for "presentation." Of course, prudence dictates that the demand for its release, the reason for release and a copy of the original be maintained in the file to show compliance with the particular surety provision. We note that maintaining a copy can be accomplished with letter instruments as well as the other forms of surety you may receive.

We believe this procedure will maintain the integrity of your files as well as accurately reflect the receipt of the surety and its disposition.

JOHN W. WITT, City Attorney
By
Ted Bromfield
Chief Deputy City Attorney

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ML-86-72