

Deferred Compensation Plan BOARD REPORT 12-46

Date: September 12, 2012
To: Board of Deferred Compensation Administration
From: Staff
Subject: Bank of the West Contract Amendment

*Board of Deferred
Compensation Administration
Eugene K. Canzano, Chairperson
John R. Mumma, Vice-Chairperson
Cliff Cannon, First Provisional Chair
Tom Moutes, Second Provisional Chair
Sangeeta Bhatia, Third Provisional Chair
Michael Amerian
William Raggio
Robert Schoonover
Margaret M. Whelan*

Recommendation:

That the Board of Deferred Compensation Administration approve an amendment to the City's contract with Bank of the West incorporating a reduction in the interest rate floor, and authorize the Board Chairperson to execute the amendment.

Discussion:

At its meeting on January 17, 2012, the Board directed staff to work with the Board's consultant and Bank of the West to draft a contract amendment incorporating a reduction in the interest rate ceiling floor provision within the contract. Bank of the West is one of three bank providers utilized within the City's blended FDIC-Insured Savings Option. This option presently divides participant assets evenly (33.3%) among the three banks.

The Board adopted a policy in January 2012 shifting a higher allocation (50%) to the highest interest-rate provider, Bank of the West, with the remaining 50% split evenly between the two other providers. This was done in order to provide all participants in this investment option (approximately 10,196) with a higher rate of return. The current contract with Bank of the West provides for a minimum interest rate of 1%.

Immediately prior to the January 2012 Board meeting, staff was contacted by Bank of the West's relationship manager, Lily Ng, who indicated that the Bank could not accommodate the larger pool of assets at the 1% rate, and in fact was requesting a reduction in the interest rate floor for all assets to 0.75%. At the January 2012 meeting, staff and Mercer reviewed this matter with the Board and reported that the 1% floor was, by all indications, significantly out of alignment with interest rates being offered by other banking institutions in the current interest rate environment. The savings rates offered by Bank of America and City National Bank are 0.10% and 0.15%, respectively. Mercer indicated that the predominant rate quotes currently being offered by other institutions were within this range. Staff/Mercer noted that even at 0.75%, the rate being offered by Bank of the West was still significantly above this range.

Further, staff/Mercer noted that in the event the City did not accept this proposal, there was some risk that Bank of the West might discontinue its relationship with the City.

Although the 1% rate floor is part of the City's contract with Bank of the West, and although the firm has not indicated it would exit the contract, it has the ability to terminate the contract without cause with sixty days notice.

Given this, staff/Mercer recommended that the Board direct staff to enter into negotiations with Bank of the West for the purpose of drafting an amendment to the contract incorporating a reduction in the interest rate floor, and that staff would then return to the Board with a proposed amendment. Processing of the contract amendment was delayed because Bank of the West initially requested that the operational procedures involving Bank of the West and Great-West be updated within the amendment as well. Once it became clear that addressing those procedures would involve some time and negotiation, Bank of the West subsequently agreed to defer that issue and go forward with the interest rate change exclusively.

The attached amendment has been reviewed by Board counsel and consultant. Staff recommends that the Board approve the amendment changing the interest rate floor from 1.00% to 0.75% and authorize the Board Chairperson to execute it. Once the amendment is executed, the shift in allocation within the blended FDIC Fund is expected to become effective November 1, 2012.

Information regarding the change will be communicated to Plan participants in the Third Quarter 2012 newsletter, the participant website, and in a special communication to the approximately 15-20 individuals who will see a reduction in their FDIC coverage as a result of the reallocation.

Submitted by _____
Steven Montagna

Approved by: _____
Alejandrina Basquez

**FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT
(CITY CONTRACT NO. C-116758) BETWEEN
THE CITY OF LOS ANGELES AND
BANK OF THE WEST
REGARDING BANK DEPOSIT FUND MANAGEMENT FOR
THE CITY OF LOS ANGELES DEFERRED COMPENSATION PLAN**

This First Amendment (the “First Amendment”) to City Contract No. C-116758 is entered into by and between the City of Los Angeles, a municipal corporation, by and through the City of Los Angeles Board of Deferred Compensation Administration, (hereinafter referred to collectively as “City”), and Bank of the West, a California state bank (hereinafter “Contractor”).

RECITALS

1. Effective October 1, 2009, City and Contractor entered into City Contract No. C-116758 (the “Agreement”) for Contractor to provide an interest-bearing bank deposit account (“Account”) for the City of Los Angeles Deferred Compensation Plan;
2. City and Contractor are desirous of amending the Agreement for the purpose of, among other things, reducing the introductory interest rate paid on the Account from 1.00% to 0.75%, with no change to the base rate of the 91-Day T-Bill.
3. The Board of Deferred Compensation Administration, at its meeting of ____, 2012, approved the amendment of the Agreement as provided hereby.

NOW, THEREFORE, in consideration of the premises and of the terms, covenants and conditions set forth herein, the parties hereto covenant, agree and represent as follows:

1. Article I – Introduction, Section (A)(1)(b) shall be amended to delete the representative of the Contractor and add the following new representative:

Lily Ng, Vice President
Bank of the West Government Banking
300 South Grand Avenue, Los Angeles, CA 90071
Telephone: 213-972-0646 Fax: 866-235-9308
lily.ng@bankofthewest.com

2. Article II. – Term and Services to be Provided, Section (I), entitled “Interest”, shall be amended to delete the first sentence therein and add the following new provision to the beginning of this subsection:

“The interest rate paid on the Account shall be based on the 91-Day T-Bill rate; however, notwithstanding any prior rate guarantees in effect during the term of the Agreement, effective _____, Contractor will provide a 0.75% rate until the 91-Day T-Bill reaches 0.75% or above, at which point the rate each month will be based on the last 91-day T-Bill rate announced in the preceding calendar month.”

3. Article II – Terms and Services to be Provided, Section (I), entitled “Interest”, shall be amended to replace the term “The Bank” with “Contractor” in second and third sentences.

4. Article IV. – Standard Provisions, Section A, entitled “Standard Provisions for City Contracts,” shall be amended to delete the first sentence therein and replace it with the following:

“Contractor agrees to comply with the Standard Provisions for City Contracts (Rev. 6/12), attached hereto as Attachment B and made a part hereof.”

5. Attachment B to the Agreement, entitled “Standard Provisions for City Contracts (Rev. 03/09),” is hereby deleted and replaced in its entirety with Attachment B hereto, entitled “Standard Provisions for City Contracts (Rev. 6/12)” and incorporated herein by reference.

6. Article V. – Miscellaneous, Section I(2), entitled “Entire Agreement,” shall be revised to read as follows:

“In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by the Standard Provisions for City Contracts (Rev. 6/12) (Attachment B).”

Except as amended by this First Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be signed by their respective duly authorized officers. By signing this First Amendment, the parties certify that they have read and understood it, that they agree to be bound by the terms of the Agreement, as amended, and that they have the authority to sign it. This First Amendment is not binding on either party until approved by both parties.

THE CITY OF LOS ANGELES DEFERRED COMPENSATION PLAN

By: _____
Eugene K. Canzano
Chairperson, Board of Deferred
Compensation Administration

Date: _____

BANK OF THE WEST

By: _____
Caren Galloway
Senior Vice President

Date: _____

APPROVED AS TO FORM:

ATTESTED:

Carmen A. Trutanich, City Attorney

June Lagmay, City Clerk

By: _____
Curtis S. Kidder
Assistant City Attorney

By: _____
Deputy City Clerk

City Business License Number

Internal Revenue Service Taxpayer Identification Number

Agreement Number

C-116758

ATTACHMENT B

Standard Provisions for City Contracts (Rev. 6/12)