

# BOARD OF REGENTS BRIEFING PAPER

**1. Agenda Item Title:** \_\_\_\_\_

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

The Nevada System of Higher Education (the System) is currently insured under a large deductible workers compensation program underwritten by the Royal and Sun Alliance (RSA). This program requires that the System reimburse the RSA for claims that the RSA pays that are less than the deductible. The RSA requires a standby letter of credit (LOC) to secure payment in the event the System is unable or unwilling to meet its repayment obligations. On September 8, 2004, through a competitive bid process, the System obtained an LOC in the amount of \$1,280,000 from Bank of America with initial term of 2 years and renewal options. RSA conducts an annual collateral review of the system's workers compensation program and based the annual required LOC amount on the review. The System has exercised the auto renewal provision since inception in various reduced LOC amounts. Currently, the LOC is in the amount of \$629,000; RSA is recommending reducing the LOC to \$584,000 at the next renewal date of September 9, 2009. In light of the recent credit market condition, in June 2009, Bank of America has terminated the auto renewal provision and offers a new proposal with new terms and conditions.

**3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Vice Chancellor Reed requests approval of a resolution to allow the Nevada System of Higher Education, to extend the current Standby Letter of Credit with Bank of America, N.A. for a period of one year.

**4. IMPETUS (WHY NOW?):**

The Letter of Credit expires on September 9, 2009. NSHE's current contract with RSA requires a standby letter of credit in place or a cash deposit for the entire amount.

**5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- A standby Letter of Credit or a cash deposit is required with the existing workers compensation program contract.
- Bank of America is offering LOC rate that is consistent with NSHE's other existing LOC with Bank of America.
- The market for comparably rated Letters of Credit is tight and another provider of a comparably rated Letter of Credit may not be available.

**6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

Although the letter of credit could be bid to other banks, it is unlikely that a more favorable bid would be received and it is unlikely that such a bid could be received, negotiated and approved by the Board of Regents by the expiration date of September 9, 2009.

**7. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

- NSHE should submit a request for proposals to banks to provide a letter of credit.

**8. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title #\_\_\_\_\_ Chapter #\_\_\_\_\_ Section #\_\_\_\_\_
- Amends Current Board Policy: Title #\_\_\_\_\_ Chapter #\_\_\_\_\_ Section #\_\_\_\_\_
- Amends Current Procedures & Guidelines Manual: Chapter #\_\_\_\_\_ Section #\_\_\_\_\_
- Other:\_\_\_\_\_
- Fiscal Impact: Yes\_\_\_\_\_ No\_\_\_\_\_ Explain:\_\_\_\_\_



**Nancy D. Nuerenberg**  
Senior Vice President  
Government Banking

Bank of America  
800 5<sup>th</sup> Ave  
WA1-501-34-03  
Seattle, WA 98104  
Tel: 206.358.6279  
Fax: 206.358.8818  
[nancy.d.nuerenberg@bankofamerica.com](mailto:nancy.d.nuerenberg@bankofamerica.com)

July 7, 2009

Ms. Ruby Camposano  
Director of Banking & Investments  
Nevada System of Higher Education  
2601 Enterprise Road  
Reno, NV 89512

(Delivered via email to: [Ruby\\_Camposano@nshe.nevada.edu](mailto:Ruby_Camposano@nshe.nevada.edu))

Re: Reimbursement Agreement for Irrevocable Standby Letter of Credit dated September 9, 2004 between Bank of America and the University and Community College System of Nevada (currently known as the Nevada System of Higher Education)

Dear Ruby,

Attached is a proposal by Bank of America to extend the expiration date of the above referenced Letter of Credit.

As we discussed, there have been significant recent disruptions in the market for letter of credit facilities and many changes in general since the inception of this letter of credit in 2004. Bank of America is prepared to extend the letter of credit for a one-year term as described in the attached Summary of Terms and Conditions.

Please let me know no later than Friday, August 14<sup>th</sup> if you would like to proceed with the extension on these terms so that we may have the extension in place prior to the September 9<sup>th</sup> expiration date. Bank counsel will prepare an amendment to the Reimbursement Agreement at no charge to the System. The Bank will accept the System's internal legal counsel opinion for this extension as noted in the attached.

We appreciate the opportunity to present you with this proposal. Please call me at (206)358-6279, or Greg Titus at (775)688-8783, to discuss any questions you may have.

Sincerely,

Nancy Nuerenberg, SVP  
Senior Product Delivery Officer

cc: Greg Titus, Bank of America  
Brennan Church, Bank of America

**Summary of Terms and Conditions**  
**Nevada System of Higher Education**  
**July 7, 2009**

<b>BORROWER:</b>	Nevada System of Higher Education (the "Borrower")
<b>LENDER:</b>	Bank of America, N.A. ("Bank of America")
<b>CREDIT FACILITY:</b>	Irrevocable Standby Letter of Credit # 3065375 (the "Letter of Credit") as documented by the Reimbursement Agreement for Irrevocable Standby Letter of Credit dated September 9, 2004 between Bank of America and the University and Community College System of Nevada (currently known as the Nevada System of Higher Education), the "Agreement".
<b>AMOUNT OF LETTER OF CREDIT:</b>	The amount of the Letter of Credit shall be reduced to \$584,000.
<b>EXPIRATION DATE:</b>	The Expiration Date of the Letter of Credit shall be extended to September 9, 2010.
<b>LETTER OF CREDIT FEE:</b>	<p>Borrower shall pay a Letter of Credit fee equal to:</p> <p>0.70% per annum for a one year extension.</p> <p>Such fee shall be calculated on the face amount of the Credit Facility and shall be payable annually in advance.</p>
<b>DOWNGRADE PRICING:</b>	<p>The above pricing is based in the Borrower's current long term, unenhanced revenue bond debt ratings of Aa3 / AA-</p> <p>The Letter of Credit Fee will be increased one time per level by: (i) 10 bppa for each rating downgrade of any revenue bonds below "A2" / "A" / "A" by any of Moody's, S&amp;P or Fitch, as applicable, and an additional (ii) 150 bppa should a rating be withdrawn or suspended for any reason, and (iii) 150 bppa upon the occurrence of an Event of Default as described in the Agreement. All such fee increases will be cumulative.</p>
<b>DOCUMENTATION:</b>	<p>Amendment to the Agreement to be prepared by Bank counsel reflecting the above changes to the terms of the Agreement.</p> <p>In addition, the Amendment to the Agreement to incorporate a new Schedule 1 providing an update of position authorized for the actions outlined in items 1 and 2 of Schedule 1.</p>
<b>EXTENSION FEE:</b>	None.
<b>EXPENSES:</b>	Borrower will pay all reasonable costs and expenses associated with the preparation, due diligence, administration and enforcement of all documentation executed in connection with this extension. There will be no charge for Bank internal legal counsel.

**LEGAL OPINION:**

Borrower to provide Bank of America an unqualified legal opinion from Borrower's internal counsel, in form and substance acceptable to Bank of America and its legal counsel, that (i) all documents related to the extension of the Letter of Credit and amendment of the Agreement have been properly adopted, authorized and executed; and (ii) all documents related to the extension of the Letter of Credit and amendment of the Agreement constitute a legally binding obligation of the Borrower, enforceable according to their terms.

**ALL OTHER TERMS AND CONDITIONS:**

There shall be no other changes to terms and conditions of the Letter of Credit or the Agreement other than those described above.

The terms of this Summary of Terms and Conditions are confidential and, except for disclosure on a confidential basis to the accountants, attorneys and other professional advisors retained by the System in connection with the products and services therein or as may be required by law (including any public meeting or public disclosure law), may not be disclosed by the System or any of such advisers in whole or in part to any other person or entity without our prior written consent.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**