## **AMEND BOARD REPORT 02-0123-PR14** RATIFY A SOFTWARE LICENSE AGREEMENT WITH IBM FOR SOFTWARE PRODUCT AND MAINTENANCE

## THE CHIEF EXECUTIVE OFFICER REPORTS THE FOLLOWING DECISION:

Ratify a software license agreement with IBM Corporation ("IBM") for OS390 system software required for the IBM 9672 Mainframe System to be used by the Office of Technology Services ("OTS") at a cost not to exceed \$396,056.00 \$1,421,731.80 for a three (3) year period. Software licensor was selected on a non-competitive basis because the IBM OS 390 software is proprietary to IBM. A written license agreement for such software product is currently being negotiated. Software upgrades and fixes will be provided for an annual maintenance fee included in the contract price. No payment shall be made to software Licensor prior to the execution of the written license agreement. The authority granted herein shall automatically rescind in the event a written agreement is not executed within ninety (90) days of the date of this amended Board Report. Information pertinent to this agreement is stated below.

This amendment is necessary to restructure the business terms with IBM as follows: (i) approve entering into an agreement with IBM to cover all software licenses and maintenance services; (iii) extend the term of the agreement; and (iv) increase the dollar amount of the agreement by \$1,025,675.80.

**SPECIFICATION No.:** 01-250337

**SOFTWARE LICENSOR: IBM** Corporation

One IBM Plaza 330 N. Wabash

Chicago, Illinois 60611

Contact: Kai-Bunch Jim Lautenbach

Telephone No. 312-245-3581 (312) 245-3581

Vendor Number: 13388

USER: Office of Technology Services

125 South Clark, 3rd Floor Chicago, Illinois 60603

Contact: Robert Runcie, Chief Information Officer

Elaine L. Williams, Chief Technology Officer

Arlene Love, Deputy CTO - Operations

Telephone No. (773) 553-1300

TERM: The term of this software license agreement shall commence on October 1, 2001 and shall end September 30, 2002 2004. This agreement shall have the option to renew for continuous periods of twelve (12) months each upon subsequent Board approval. The yearly renewal maintenance fee will be set at a cost which equals 15% of the prevailing license fee for this software product, not to exceed a 5% increase per year.

EARLY TERMINATION RIGHT: The Board may terminate this agreement with thirty (30) days written notice.

USE OF SOFTWARE: IBM will provide a license and maintenance to the Board to use the OS/390 software products for the IBM 9672 CPU system, including the upgrade to OS/390 Release 2.10, Version 7, DB2 Utility Suite upgrade and subscription and Software Xcel. IBM will also provide maintenance on this licensed software, which consists of program corrections and enhancements that IBM may develop during the term of this agreement as long as the Board's maintenance fee is current.

**DELIVERABLES:** IBM will deliver the software, program corrections and enhancements that IBM may develop during the term of the agreement, on magnetic tape, CD, email attachment or via downloadable FTP.

**OUTCOMES:** The software program product, OS/390, will further secure the Board's critical data thru September 16, 2002 September 30, 2004.

COMPENSATION: Under the agreement, IBM shall be paid as follows: upon invoicing, a one time charge of \$13,875.00 for DB2 Utility Suite upgrade, the annual fee of \$2,077.40 for DB2 Subscription, the monthly sum of \$33,322.55 for the OS/390 software maintenance, the monthly sum of \$7,362.70 for DB2 maintenance, and the monthly sum of \$1,300.00 for Software Xcel service, for an aggregate cost for the three (3) year period not to exceed \$1,421,731.80.

**MAINTENANCE FEE:** The annual maintenance fee will be 15% of the then license fee for the software product, not to exceed a 5% increase per year. Software-Licensor-shall be paid, upon invoicing, a monthly sum of \$33,005.00.

**AUTHORIZATION:** Authorize the General Counsel to include other relevant terms and conditions in the written license agreement. Authorize the President and Secretary to execute the license agreement. Authorize the Chief Technology Officer to execute all ancillary documents required to administer or effectuate this license agreement.

**AFFIRMATIVE ACTION**: The M/WBE goals for this contract include: 35% total MBE, 22% total African American, 10% total Hispanic, 2% total Asian and 5% total WBE.

However, the Waiver Review Committee recommends that a full waiver of the participation goals for this contract as required by the Revised Remedial Plan for Minority and Women Business Enterprise Contract Participation (M/WBE Plan) be waived because the contract scope is not further divisible.

LSC REVIEW: Local School Council approval is not applicable to this report.

**FINANCIAL**: Charge to Office of Technology Services: \$396,056.00 + 1,025,675.80 = \$1,421,731.80

Budget Classification: 0960-210-000-7536-5470 \$297,042.00 FY02

0960-210-000-1116-5470	\$99,014.00 <u>+ 365,225.28 = \$464,239.28</u> FY03
0960-210-000-1116-5470	\$1,714.18 FY99 P.O.#C682393
0960-210-000-1116-5470	\$26,880.19 FY00 P.O.#C944636
0960-210-000-1116-5470	\$505,900.40 FY04
0960-210-000-1116-5470	\$125,955.75 FY05

## **GENERAL CONDITIONS:**

Inspector General – Each party to the agreement shall acknowledge that, in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

General Counsel

Conflicts – The agreement shall not be legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former Board members during the one-year period following expiration or other termination of their terms of office.

Indebtedness – The Board's Indebtedness Policy adopted July 26, 1995 (95-0726-EX3), as amended from time to time, shall be incorporated into and made a part of the agreement.

Ethics – The Board's Ethics Code adopted September 27, 1995 (95-0927-RU3), as amended from time to time, shall be incorporated into and made a part of the agreement.

Contingent Liability – The agreement shall contain the clause that any expenditure beyond the current fiscal year is deemed a contingent liability, subject to appropriation in the subsequent fiscal year budget(s).

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Approved for Consideration:	Approved:
O-P. N.	arre Duncan
Sean P. Myrphy Chief Purchasing Officer	Arne Duncan Chief Executive Officer
Within Appropriation:	
Penass a Davis	
Peggy A Davis Chief of Staff	
Approved as to Legal Form:	
Kuth Morcordil	
Ruth Moscovitch	