APPROVE EXERCISING THE FIRST OPTION TO RENEW A SOFTWARE LICENSE AGREEMENT WITH MERCURY INTERACTIVE CORPORATION FOR KINTANA SOFTWARE PRODUCTS AND CONSULTING SERVICES

THE CHIEF EXECUTIVE OFFICER REPORTS THE FOLLOWING DECISION:

Approve exercising the first option to renew a software license agreement with Mercury Interactive Corporation (Mercury Interactive) for Kintana software products and consulting to be used by the Office of Technology Services ("OTS") at a cost for the option not to exceed $192,440.92. Software licensor was selected on a non-competitive basis because of their expertise in Project Management software. A written license document exercising this option is currently being negotiated. No payment shall be made to software Licensor prior to the execution of the written document. The authority granted herein shall automatically rescind in the event a written document is not executed within ninety (90) days of the date of this Board Report. Information pertinent to this option is stated below.

SPECIFICATION No.: 03-250255

SOFTWARE LICENSOR:
Mercury Interactive Corporation
379 North Whisman Road
Mountain View, CA 94043
Contact: Tamara Bodner
Telephone No.: (650) 603-4611
Vendor Number: 36036

USER:
Office of Technology Services
125 South Clark, 3rd Floor
Chicago, Illinois 60603
Contact: Robert W. Runcie, Chief Information Officer
Telephone No.: (773) 553-1300

ORIGINAL AGREEMENT: The original Agreement (authorized by Board Report # 03-1119-PR15 as amended by Board Report # 04-1215-PR13) in the amount of $812,118.30 is for a term commencing December 1, 2003 and shall end November 30, 2006, with the Board having three (3) options to renew for periods of one (1) year each. The original Agreement was awarded on a non-competitive basis.

OPTION PERIOD: The term of this software license agreement is being extended for a period to commence on December 1, 2006 and end on November 30, 2007.

OPTION PERIODS REMAINING: There are two (2) options to renew remaining.

USE OF SOFTWARE: Mercury Interactive will continue to provide a license to the Board to use the Kintana software products. Mercury Interactive will also provide maintenance on this licensed software, which consists of program corrections and enhancements that Mercury Interactive may develop during the option period as long as the Board's maintenance fee is current.

OUTCOMES: The Kintana software program products will secure the Board's capacity to provide program management and project management services for all future technology projects.

LICENSE FEE: Software Licensor shall be paid a lump sum in the amount of $115,149.82 for the licensing of Kintana products.

MAINTENANCE FEE: Upgrades and bug fixes will be subject to an annual maintenance and support fee of $77,291.10. The yearly renewal maintenance fee will be set at a cost which equals 12% for maintenance and 12% for support of the net license fee for paid and new software products.

SCOPE OF SERVICES: Mercury Interactive will continue to provide the following services related to the Kintana software modules:

- Provide technical knowledge and development skills in the required development tools and knowledge of the Kintana Project Management modules.
- Provide deep and relevant business and functional knowledge of the Kintana Project Management modules.
- Provide online training.
- Provide hosting services for the development and production instances of the software.

DELIVERABLES: Mercury Interactive will continue to deliver the software, program corrections and enhancements that Mercury Interactive may develop during the term of the agreement, on magnetic tape, CD, email attachment or via downloadable FTP. In addition, Mercury Interactive will provide the following as part of their product:

- Deliver source code for new reports, interfaces, customizations and extensions based on written business / functional requirements. Specifically, five modifications are allowed per year.
- Training for project managers, program managers and standard project users.

COMPENSATION FOR SERVICES: Mercury Interactive shall be paid with separate purchase orders within 60 days of execution of the renewal agreement in the following manner: $115,149.82 for the license fee and $77,291.10 for maintenance and support services.

TOTAL COMPENSATION: The total compensation in the aggregate for all fees and services shall not exceed $192,440.92.

AUTHORIZATION: Authorize the General Counsel to include other relevant terms and conditions in the written renewal agreement. Authorize the President and Secretary to execute the renewal agreement. Authorize the Chief Information Officer to execute all ancillary documents required to administer or effectuate this renewal 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 M/WBE participation goals for this contract as required by the Revised Remedial Plan be granted because the contract scope is not further divisible.

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

FINANCIAL: Charge to the Office of Technology Services: $192,440.92
Budget Classification: 0220-210-000-1157-5410 $ 70,200.00 FY 07
0220-210-000-1157-5470 $ 122,240.92 FY 07

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.

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).

Approved for Consideration:

Heather A. Obora
Heather A. Obora
Chief Purchasing Officer

Approved:

Arne Duncan
Chief Executive Officer

Within Appropriation:

Maiorca
John Maiorca
Chief Financial Officer

Approved as to Legal Form:

Patrick S Rocks
Patrick Rocks
General Counsel