

**AUTHORIZE ENTERING INTO A LEASE AGREEMENT WITH A RIGHT OF FIRST REFUSAL
AND OPTION TO PURCHASE SCHOOL FACILITIES AT 3633 NORTH CALIFORNIA AVENUE
FOR A NEW AUDUBON ENTREPRENEURIAL ACADEMY HIGH SCHOOL**

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING DECISION:

Authorize entering into a lease agreement with a right of first refusal and an option to purchase with The Congregation of the Resurrection – USA Province for property located at 3633 North California Avenue, Chicago, Illinois (“Gordon Tech High School” or “Property”) for the establishment of the Audubon Entrepreneurial Academy High School. The Board authorizes taking occupancy of the premises as of July 1, 2011. The written lease, right of first refusal and option agreement are being finalized. The authority granted herein shall automatically rescind in the event the written lease with the right of first refusal and an option to purchase agreement (“Lease”) has not been executed within 120 days of the date of this Board Report. Information pertinent to this agreement is stated below.

LESSOR The Congregation of the Resurrection – USA Province
AND c/o Gordon Tech High School, Inc.
SELLER: 3633 North California Avenue
Chicago, Illinois 60618

LEASED PREMISES: A portion of Gordon Tech High School located at 3633 North California Avenue consisting of the exclusive use of 25 classrooms and adjacent corridors, administrative areas, stairwells and restrooms totaling approximately 36,000 square feet and (30) parking spaces (phased in over the first three years of the Lease) and shared use of the gymnasium, locker rooms, cafeteria, library, three science labs and adjacent restrooms. The Board shall have the option to use the science labs on an exclusive basis provided proper notice is given and the gross rent is adjusted proportionally. The Board will be guaranteed use of the shared facilities for a minimum of four (4) hours each school day. The parties shall negotiate a shared use agreement that will set forth the times and terms of each parties’ use of the shared facilities.

USE: Audubon Entrepreneurial Academy is scheduled to open at 3633 N California Avenue in the fall of 2011 as an expansion to the Audubon Elementary School. Currently, Audubon serves kindergarten through 8th grade. Effective July 1, 2011, Audubon Entrepreneurial Academy will serve up to 125 students in 9th grade. Each year Audubon will be expanded by one grade to include, 9th, 10th, 11th and 12th grades.

TERM AND OPTION TERM: The term of the Lease shall commence as of July 1, 2011 and end on June 30, 2021. The Board shall have the option to extend the term for one additional five year period or until June 30, 2026.

RENT: The gross rent for the term and the option term, if exercised, is set forth on the Rent Schedule attached hereto as Exhibit A. Gross rent includes use of the shared facilities, all utility, maintenance and repair charges. Gross rent will be adjusted annually to reflect increases or decreases in utility costs.

MAINTENANCE: The Lessor shall be responsible for maintaining and repairing the Leased Premises.

INSURANCE/INDEMNIFICATION: The Lessor must insure the entire Property and equipment for property damage on a full cost “all risk” basis. The Board and the Lessor shall mutually provide commercial general liability, excess liability insurance, automobile and employers’ liability insurance coverage at the limits set forth in the Lease and workers’ compensation insurance at statutory limits. Such insurance requirements may be satisfied through self-insurance or self-retention amounts. The Lease may include mutual indemnification provisions.

CAPITAL IMPROVEMENTS: By a separate agreement, Lessor is to receive a loan from a private foundation for the purpose of improving the Leased Premises to be occupied by the Board (“Improvements”). The Improvements must be substantially completed no later than June 30, 2011 and in accordance with the plans and specifications prepared and approved by the Board. The Improvements relate to the 36,000 square feet of exclusive use space being leased by the Board and includes the construction of a new lobby, administrative office areas, two elevators and the renovation and retrofitting of 25 classrooms and three (3) science labs. The loan to the Lessor for the Improvements will be amortized over ten (10) years. For each year the Board operates Audubon Entrepreneurial Academy at the property, 10% of the loan balance will be forgiven/deducted. If the Board purchases the Property,

the unamortized balance of the loan will not be required to be paid off at closing. Upon closing, Lessor shall be released from its obligations to repay the loan. The unpaid balance will remain a lien against title and Board will not be required to pay off the loan as long as the high school program continues for 10 years. The loan balance will be reduced by 10% each year and forgiven entirely after 10 years (i.e. June, 2021).

PURCHASE OPTION: The Board has the option to purchase the Property during the initial Lease term (July 1, 2010 to June 30, 2021) and the extended term, if exercised (July 1, 2021 to June 30, 2026). The option price is set forth in the Schedule attached hereto as Exhibit B. Upon execution of the Lease, the Board shall pay to Lessor the sum of \$400,000 for the option, which sum shall be credited against the option price in the event that the Board purchases the Property. If the Board does not exercise the option, the \$400,000 will be forfeited. The Board may exercise its option upon six (6) months prior written notice to Lessor during the term of the Lease or no later than December 31, 2020, or December 31, 2025 if the lease term is extended.

RIGHT OF FIRST REFUSAL: The Board shall also have, during the term of the Lease and any extension thereof, the right to match the price and closing terms of any bona-fide offer for the Property tendered and acceptable to the Lessor. The Board shall have 45 days to exercise this right of first refusal. If the Board exercises its right of first refusal, the Board shall be required to purchase the property in the timeframe and on the terms contained in the bona fide offer.

FOOD SERVICE: Lessor will provide food service for the Board's students. Lessor's lunchroom personnel will prepare the meals on the school premises, serve meals, and clean the kitchen and service areas to comply with federal, state and local health code and food service requirements. The parties shall enter into a food service agreement setting forth the cost and reimbursement rates for all meals served to the Board's students.

SALE TO THIRD PARTY: If the Property is sold to a party other than the Board, the sale shall be subject to the Lease, including the Board's option to renew the Lease for an additional five (5) years and the Board's option to purchase the Property. The purchaser of the Property may not cancel the lease unless the Board is in default under the Lease.

AUTHORIZATION: Authorize the General Counsel to include other relevant terms and conditions in the written Lease, option agreement and right of first refusal, including indemnification requirements. Authorize the President and Secretary to execute the Lease, option agreement and right of first refusal. Authorize the General Counsel to execute all ancillary documents required to administer or effectuate the Lease, option agreement and right of first refusal. Authorize the Chief Purchasing Officer or Officer of Nutrition Support Services to execute the food service agreement.

AFFIRMATIVE ACTION: Exempt.

LSC REVIEW: Local School Council approval is not applicable to acquisition of real estate.

PERSONNEL IMPLICATIONS: None.

FINANCIAL: Charge to: Operations- Real Estate
Budget Classification: 11910-230-57705-254903-000000-2011

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 restrict the employment of or the letting of contracts to, former Board members during the one (1) year period following expiration or other termination of their terms of office.

Indebtedness – The Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time shall be incorporated into and made a part of the agreement.

Ethics – The Board's Ethics Code adopted June 23, 2004 (04-0623-PO4), as amended from time to time shall be incorporated into and made a part of the agreement.

Contingent Liability – The Lease 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:


Patricia L. Taylor
Chief Operating Officer

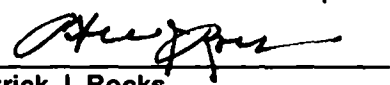
Approved: 

Ron Huberman
Chief Executive Officer

Within Appropriation:


Diana S. Ferguson
Chief Financial Officer

Approved as to legal form. 



Patrick J. Rocks
General Counsel

EXHIBIT A – RENT SCHEDULE FOR AUDUBON HIGH SCHOOL SPACE IN GORDON TECH

Rent: 36,000 Square Feet - Exclusive Use Space @ \$9.50/Year (Gross) + 3% increase per year Includes all utility and maintenance costs and shared space*		
Lease Year	Term	Rent
1	July 1, 2011-June 30, 2012	\$342,000
2	July 1, 2012-June 30, 2013	\$352,260
3	July 1, 2013-June 30, 2014	\$362,828
4	July 1, 2014-June 30, 2015	\$373,713
5	July 1, 2015-June 30, 2016	\$384,924
6	July 1, 2016-June 30, 2017	\$396,472
7	July 1, 2017-June 30, 2018	\$408,366
8	July 1, 2018-June 30, 2019	\$420,617
9	July 1, 2019-June 30, 2020	\$433,235
10	July 1, 2020-June 30, 2021	\$446,232
Option Term		
11	July 1, 2021-June 30, 2022	\$459,619
12	July 1, 2022-June 30, 2023	\$473,408
13	July 1, 2023-June 30, 2024	\$487,610
14	July 1, 2024-June 30, 2025	\$502,239
15	July 1, 2025-June 30, 2026	\$517,306
Total		\$6,360,829

* Rent may be adjusted annually for increase or decreases in utility costs and for the exclusive use of the science labs.

EXHIBIT B – OPTION PRICE SCHEDULE FOR GORDON TECH HIGH SCHOOL

TEN YEAR LEASE TERM			
LEASE YEAR	Term	% INCREASE	OPTION PRICE
Year 1	July 1, 2011-June 30, 2012	0.000%	\$19,250,000.00
Year 2	July 1, 2012-June 30, 2013	2.0000%	\$19,635,000.00
Year 3	July 1, 2013-June 30, 2014	2.0000%	\$20,027,700.00
Year 4	July 1, 2014-June 30, 2015	2.0000%	\$20,428,254.00
Year 5	July 1, 2015-June 30, 2016	2.0000%	\$20,836,819.00
Year 6	July 1, 2016-June 30, 2017	2.0000%	\$21,253,555.38
Year 7	July 1, 2017-June 30, 2018	2.0000%	\$21,678,626.49
Year 8	July 1, 2018-June 30, 2019	2.5000%	\$22,220,592.15
Year 9	July 1, 2019-June 30, 2020	2.5000%	\$22,776,106.95
Year 10	July 1, 2020-June 30, 2021	2.5000%	\$23,345,509.63
OPTION TERM			
Year 11	July 1, 2021-June 30, 2022	3.5000%	\$24,162,602.46
Year 12	July 1, 2022-June 30, 2023	3.5000%	\$25,008,293.55
Year 13	July 1, 2023-June 30, 2024	3.5000%	\$25,883,583.82
Year 14	July 1, 2024-June 30, 2025	3.5000%	\$26,789,509.26
Year 15	July 1, 2025-June 30, 2026	3.5000%	\$27,727,142.08