



## Legislation Text

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**File #:** 84375, **Version:** 1

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### **Fiscal Note**

Fiscal note pending.

### **Title**

Authorizing the Mayor and City Clerk to enter into a 3-year, competitively selected Microsoft Enterprise Enrollment Agreement with Microsoft Corporation, and a 3-year, competitively selected services agreement with CDW Government, LLC, a reseller of Microsoft and other software.

### **Body**

WHEREAS, the City has used Microsoft for Windows licenses and desktop, server and business tools for many years and traditionally purchases licenses and support through software resellers that have been selected by the State of Wisconsin through a competitive selection process administered by the State; and,

WHEREAS, under MGO 4.26, the City's competitive purchasing requirements are satisfied by making purchases from a vendor that has been selected by the State; and,

WHEREAS, CDW Government, LLC (CDW-G) is one such vendor selected by the State as a reseller of Microsoft products and services and the state's contract includes a process for local government to participate; and,

WHEREAS, Information Technology Department continues to leverage the City's investment in the cloud based M365 infrastructure to advance the availability and the adoption of collaboration tools (email, instant messaging, collaboration tools, video, and voice conferencing) across the enterprise; and,

WHEREAS, this requires Enrollment Agreements for Microsoft subscriptions, through a contract with CDW-G, as well as signing a new agreement directly with Microsoft Corporation; and,

WHEREAS, APM 1-1 requires Common Council approval before the City can indemnify another party. The current Microsoft Universal Licensing Terms for Only Services includes the following clause: "Customer agrees to defend, indemnify and hold Microsoft harmless from and against all damages, costs and attorneys' fees in connection with any claims arising from a High-Risk Use associated with the Online Services, including any claims based in strict liability or that Microsoft was negligent in designing or providing the Online Service(s) to Customer. The foregoing indemnification obligation is in addition to any defense obligation set forth in Customer's licensing agreement and is not subject to any limitation of, or exclusion from, liability contained in such agreements." The Common Council authorizes the City to enter into an agreement with Microsoft that includes the foregoing clause or one substantially similar to it. Upon review the Risk Manager has approved this clause as it presents minimal risk to the City; and

WHEREAS, the City routinely purchases approximately \$2,500,000 per year in software products and services from CDW-G as a State authorized reseller, approximately \$1,850,000 in Microsoft 365 licenses; and

WHEREAS, the City's current reseller agreement with CDW-G will expire in September and must be renewed

to maintain these critical software licenses and services; and

WHEREAS, under MGO 4.26(3)(e), service contracts of more than one year that average more than \$100,000 per year in cost require Common Council approval and signature by the Mayor and City Clerk.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Clerk are authorized to sign a reseller service agreement with CDW Government, LLC for 3 years, for the purchase of software and software maintenance or subscriptions as needed; and

BE IT FURTHER RESOLVED, the Mayor and City Clerk are authorized to sign a 3-year State and Local Volume Pricing Microsoft Enterprise Enrollment agreement with Microsoft Corporation for the Microsoft 365 subscription, and the Finance Director or designee is authorized to sign Amendments, Mid-Term Product Selection forms, etc. with Microsoft if needed to add software products during the term of the three-year agreement.

BE IT FINALLY RESOLVED, that the Finance Director or designee is authorized to sign future Microsoft Enrollment Agreements and reseller service agreements with CDW Government for the lifetime of the State contract with CDW Government pending availability of funds in the budget and in a form approved by the City Attorney.