

Date December 9, 2013

**APPROVING AN EXCEPTION TO THE PROCUREMENT ORDINANCE  
REQUEST FOR PROPOSALS REQUIREMENT FOR GOOD CAUSE AND APPROVING  
AN AGREEMENT WITH NESTINGEN, INC. D/B/A RELYDB FOR DATABASE  
ADMINISTRATIVE SERVICES**

**WHEREAS**, the City of Des Moines Information Technology Department has an immediate and continuing need for database administrative services to support the current and future City server projects; and

**WHEREAS**, the skills required to perform these services are highly technical, are unique to the individual possessing such skills, and are developed over a substantial period of time; and

**WHEREAS**, the required skills are not currently available in the Information Technology Department; and

**WHEREAS**, the required skills are scarce and in high demand in the marketplace and substantial efforts to find additional sources of the required skills on an employment or contract basis have been unsuccessful; and

**WHEREAS**, Nestingen, Inc. d/b/a RelyDB (Carl Nestingen, President, Clive, Iowa) possesses the required skills and abilities to furnish database administration services; and

**WHEREAS**, on November 23, 2009, by Roll Call No. 09-2126, the City Council approved an agreement with Nestingen, Inc. for such services which expired on December 31, 2012; and

**WHEREAS**, on May 20, 2013, by Roll Call No.13-0813, the City Council approved a one year renewal amendment to such agreement, which expires on December 31, 2013; and

**WHEREAS**, Nestingen, Inc. and Information Technology Department staff have negotiated an agreement to provide such database administration services for the period from January 1, 2014 until June 30, 2017, a copy of which is on file in the City Clerk's Office; and

**WHEREAS**, such proposed agreement includes a Copyright Assignment agreement in which the City assigns all of its rights to certain software created by Nestingen, Inc. under prior agreements (the Prior Works) and a Non-Exclusive, Limited Copyright License in which Nestingen, Inc. gives the City a perpetual, non-exclusive and non-transferable license to use certain software created during the term of the proposed agreement (the New Works) and to the Prior Works; and

34

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WHEREAS, the City Manager and the Information Technology Director recommend that the above described procurement be exempted from the Request For Proposals requirements for good cause shown, pursuant to Section 2-710(b) of the Municipal Code of the City of Des Moines.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:**

1. That good cause has been shown to exempt the procurement of database administration services from the Procurement Ordinance Request For Proposals requirements.
2. That the City Council hereby accepts and approves the procurement of services for database administration and the Mayor is authorized and directed to execute the above described Agreement, a copy of which is on file in the City Clerk's Office, and the City Clerk is directed to attest to his signature.
3. That the Chief Information Officer is hereby authorized and directed to execute addendums to the Exhibit D Copyright License attached to the Agreement as new works are created for which the City will receive a perpetual, non-exclusive license, at no further cost to the City.

(Council Communication No. 13- 599 )

MOVED BY \_\_\_\_\_ TO ADOPT.

APPROVED AS TO FORM:

*Ann DiDonato*  
 Ann DiDonato  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk