

★ Roll Call Number

09-2126

Agenda Item Number

43

Date November 23, 2009

APPROVING AN EXCEPTION TO THE PROCUREMENT ORDINANCE REQUEST FOR PROPOSALS REQUIREMENT FOR GOOD CAUSE AND APPROVING AN AGREEMENT WITH NESTINGEN, INC. 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. (Carl Nestingen, President, Clive, Iowa) possesses the required skills and abilities to furnish database administration services; 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, 2010 until December 31, 2012 with the option of the City or Nestingen, Inc. to terminate the agreement at the end of the first and second one year periods, a copy of which is on file in the City Clerk's Office; and

WHEREAS, such proposed agreement includes a Copyright Assignment agreement and Non-Exclusive, Limited Copyright License in which Nestingen, Inc. assigns any copyright interest that it may have in the Enterprise Reference System database and the City gives Nestingen, Inc. a non-exclusive right to use such software, excluding City of Des Moines data, and derivatives from such software under the Non-Exclusive, Limited Copyright License; and

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.

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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, including the Copyright License, 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 Director of Information Technology is hereby authorized to exercise the above described option to terminate such agreement after the first or second year of its term, upon his determination that such termination will best serve the needs of the Information Technology Department.

(Council Communication No. 09-803)

MOVED BY Coleman TO ADOPT.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			
<u>T. M. Franklin</u> 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.

Diane Rauh City Clerk