

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: ITS

Council Meeting Date: 3/26/2015

Department Contact: Tracy Rosser

Phone # 256-427-5097

Contract or Agreement: DIB ISAC Inc.

Document Name: Mutual Nondisclosure Agreement

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

Not Applicable

Not Applicable

Grant-Funded Agreements

Not Applicable

Grant Name:

Department	Signature	Date
1) Originating	<i>W.M. [Signature]</i>	3/17/15
2) Legal	<i>Mary C. [Signature]</i>	3/23/15
3) Finance <i>CC</i>	<i>[Signature]</i>	3/25
4) Originating	<i>[Signature]</i>	3/25
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Mar 26, 2015

Action Requested By: ITS

Agenda Type: Resolution

Subject Matter:

Mutual Nondisclosure Agreement with DIB ISAC, Inc.

Exact Wording for the Agenda:

A Resolution authorizing the Mayor to enter into a Mutual Nondisclosure Agreement with DIB ISAC, Inc.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

The City wish to discuss the desireability of entering into a transaction(the Potential Venture), with DIB ISAC, Inc., in order to evaluate the Potential Venture, the City wishes to exchange confidential technical and business information.

Associated Cost: 0

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Wm. [Signature]

Date: Mar 17, 2015

RESOLUTION NO. 15-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama that the Mayor be, and he is authorized on behalf of the City of Huntsville, a Municipal Corporation in the State of Alabama, to enter into a Mutual Nondisclosure Agreement by and between the City of Huntsville and DIB ISAC, Inc., a Delaware Corporation, which said Agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Mutual Nondisclosure Agreement between the City of Huntsville, Alabama and DIB ISAC, Inc.", consisting of two(2) pages, and the date of March 26, 2015 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this 26th day of March, 2015.

President of the City Council of the
City of Huntsville, Alabama

APPROVED this 26th day of March, 2015.

Mayor of the City of Huntsville,
Alabama

MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NONDISCLOSURE AGREEMENT ("*Agreement*") is made and entered into as of March 26, 2015 ("*Effective Date*"), by and among the City of Huntsville, Alabama, ("*The City*"), and DIB ISAC, Inc., a Delaware Corporation (the "*Second Party*").

RECITALS

A. The City of Huntsville, Alabama and DIB ISAC, Inc. wish to discuss the desirability of entering into a transaction (the "*Potential Venture*").

B. In order to evaluate the Potential Venture, the City wishes to exchange confidential technical and business information, and the City is willing to disclose and receive such information on a confidential basis subject to the terms and conditions set forth in this Agreement.

AGREEMENT

1. Definitions. For purposes of this Agreement, "*Recipient*" shall mean the party that receives or obtains Confidential Information, "*Discloser*" shall mean the party that discloses or provides Confidential Information, and "*Confidential Information*" shall mean all information in any form concerning the Discloser that is obtained by the Recipient during the course of the discussions, including but not limited to technical know-how, patent applications, customer and supplier lists, product roadmaps, concepts, ideas, methods and procedures of operations, and marketing and financial information and which the Discloser, in the case of tangible disclosures, marks as "Confidential" or with a similar legend or, in the case of oral, visual or audio disclosures, designates as confidential at the time of disclosure; provided, however, that regardless of whether so marked or designated, any information which the Recipient has reason to know is confidential or proprietary of the Discloser shall be deemed Confidential Information of the Discloser.

2. Protection of Confidential Information. For a period of five (5) years from the date of receipt, the Recipient:

- shall maintain Confidential Information in confidence, shall not disclose Confidential Information, or any portion thereof, to any third party, and shall protect Confidential Information with at least the same degree of care as the Recipient uses in maintaining as secret its own confidential and proprietary information, but in no case less than a reasonable degree of care;
- shall restrict disclosure of Confidential Information solely to employees of the Recipient having a need to know such Confidential Information in order to evaluate the Potential Venture;
- shall advise each such employee, before he or she receives access to such Confidential Information of the obligations of the Recipient under this Agreement; and
- shall use Confidential Information received from the Discloser only for purposes of its internal evaluation of the Potential Venture.

3. Exceptions. This Agreement imposes no obligation on the Recipient with respect to any portion of Confidential Information which the Recipient can demonstrate through written or other tangible proof:

- was generally available to the public prior to Discloser's first disclosure thereto to Recipient or subsequently becomes generally available to the public through no fault of the Recipient;
- was in Recipient's possession prior to receipt from Discloser and not acquired directly or indirectly from Discloser;
- is lawfully received by the Recipient from a third party not directly or indirectly associated with Discloser and having no obligation of confidentiality with respect thereto;
- is disclosed to third parties without obligation of confidentiality with the prior written consent of Discloser; or
- is independently developed by Recipient without benefit of Confidential Information.

4. Required Disclosures. If Recipient receives a subpoena or is served with other legal process seeking to compel it to disclose Confidential Information, Recipient will, to the extent permitted by law: (a) promptly notify Discloser of the details of the legal proceeding and the information sought; (b) consult in good faith with Discloser regarding possible responses to the order and, to the extent possible, cooperate with Discloser if Discloser initiates legal proceedings, to narrow the order's scope, obtain a protective order from the court, or have the documents produced to the court or government body under seal with appropriate instructions regarding preservation of the information's confidentiality; and (c) if disclosure is required to prevent Recipient from being subjected to contempt sanctions or other penalties, disclose only the Confidential Information that, is legally required to be disclosed, consistent with a reasonable interpretation of the order.

5. Ownership and Return of Confidential Information. All tangible information, including without limitation documentation, drawings and specifications furnished hereunder by either party to the other shall remain the property of the party of origin. Within thirty (30) days following request by the Discloser, the Recipient shall deliver to the Discloser any tangible information submitted by the other party hereunder, and either deliver, or destroy with a certificate attesting to such destruction by an officer of the Recipient, all copies, notes, diagrams, computer memory media and other materials prepared or created by the Recipient containing any portion of Confidential Information.

President of the City Council of the
City of Huntsville, Alabama
Date; _____

6. No Licenses Granted. Except as expressly provided herein, this Agreement shall not be construed as granting or conferring, either expressly or impliedly, any rights or licenses with respect to Confidential Information, or any intellectual property rights relating thereto. Confidential Information shall remain the sole property of the Discloser. Neither this Agreement nor the disclosure of any Confidential Information hereunder shall result in any obligation on the part of Second Party or Jive Software to enter into any further agreement with the other, with respect to the subject matter hereof or otherwise, to license or sell any technology products or services to or license or purchase any technology products or services from the other, or to require any party to disclose any particular Confidential Information. Nothing in this Agreement creates or shall be deemed to create any employment, joint venture, or agency between the parties.

7. Term. This Agreement shall become effective as of the Effective Date and shall expire one (1) year thereafter, unless extended by the mutual agreement of Second Party and the City or terminated sooner by the mutual agreement of Second Party and the City. Expiration or termination of this Agreement shall not relieve the parties of any obligations set forth herein with respect to Confidential Information received under this Agreement prior to its expiration or termination, and all such obligation shall continue in accordance with the terms of this Agreement.

8. Disclaimer. THE CITY AND SECOND PARTY DO NOT MAKE ANY REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO, OR WARRANT, ANY INFORMATION PROVIDED UNDER THIS AGREEMENT.

9. Remedies. In the event of a breach or threatened breach of this Agreement by either party, the other party, in addition to any other rights and remedies available to it at law or in equity, shall be entitled to seek preliminary and final injunctions, enjoining and restraining such breach or threatened breach or intended breach.

10. Export. The Recipient shall not export, directly or indirectly, any technical data acquired from the Disclosure or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval, without first obtaining such license or approval.

11. Assignment. Neither party may assign this Agreement or any rights or duties hereunder without the prior written consent of the other party and any attempted assignment without such consent shall be void, except that either party shall be entitled to assign this Agreement to a successor in interest who obtains all or substantially all of the assigning party's business and assets as a part of a merger, sale of assets, sale of stock, operation of law or otherwise. Subject to the foregoing, this Agreement shall be binding upon both parties, and their respective successors and assigns.

12. Governing Law. The validity, construction and performance of this Agreement shall be governed by the laws of the State of Alabama, without giving effect to the principles of conflicts of laws. In the event of invalidity or unenforceability of any provision of this Agreement, such invalidity or unenforceability shall not affect the remaining provisions of this Agreement.

13. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior confidential disclosure agreements, written or oral communications, representations, undertakings or understandings between the parties with respect to the subject hereof. Any additions or modifications to this Agreement must be in writing and signed by both parties.

IN WITNESS WHEREOF, intending to be legally bound, each party has caused this Mutual Non-disclosure Agreement to be executed by its duly authorized representative.

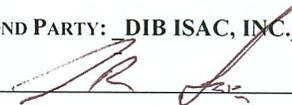
CITY OF HUNTSVILLE, ALABAMA

By: _____

Name: _____

Title: _____

SECOND PARTY: DIB ISAC, INC. _____

By:  _____

Name: Steve Lines _____

Title: President and Executive Director _____