



Neenah-Menasha Fire Rescue

AGENDA

**Neenah-Menasha Fire Rescue Joint Finance & Personnel Committee
November 26, 2019
Hauser Room – City of Neenah
5:30 p.m.**

NOTICE IS HEREBY GIVEN, pursuant to the requirements of Wis. Stats. Sec. 19.84, that a majority of the Neenah and/or Menasha Common Council may be present at this meeting. Common Council members may be present to gather information about a subject over which they have decision making responsibility. This constitutes a meeting of the Neenah Common Council or Menasha Common Council Members and must be noticed as such. The Council will not take any formal action at this meeting.

- I. Attendance
- II. Public Forum
- III. Approval of Minutes:
 - a. October 22, 2019 (attached)
- IV. Automatic Aid Update with Appleton Fire Department
- V. Activity & Automatic/Mutual Aid Reports (attached)
 - a. October 2019
- VI. Consideration and Action of Contract with Brycer, LLC (attached)
- VII. Firehouse Cloud Memo (attached)

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the City of Neenah will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. If you need assistance, or reasonable accommodation in participating in this meeting or event due to a disability as defined under the ADA, please call **Tara Ellis 886-6200**, tellis@nmfire.org or the City's ADA Coordinator at (920) 967-3608 or e-mail pcaptaini@ci.menasha.wi.us at least 48 hours prior to the scheduled meeting or event to request an accommodation.

NMFR Joint Finance & Personnel Committee Meeting
October 22, 2019 – 5:30 p.m.
Conference Room #132 – City of Menasha

Present: Ald. Stevenson, Grade, Kunz, Sevenich, Ropella and Boyette

Also Present: DC Voss, Director Jacobs and MA Ellis

Public: Sheriff Matz, Captain Ciancilo, Garrett Gee, Greg Wroblewski, Jamie Leonard and Jeff Ellis,

Ald. Sevenich called the meeting to order at 5:30 p.m.

Public Forum: No members of the public chose to speak.

Meeting Minutes: The committee reviewed the September 24, 2019 meeting minutes. **MSC Ropella/Stevenson to approve the September 24, 2019 meeting minutes and place on file, all voting aye.**

Automatic Aid Update: Sheriff Matz handed out a project timeline that was reviewed with the committee regarding the interface issues to get automatic aid working between NMFR and Appleton Fire Department. He noted there is a cost to have an interface between the two different systems. Progress has been made but every time progress is made issues arise and it has to be sent back to fixed by both vendors. He's confident we will get there but not sure when this will happen. Ald. Ropella asked if this would have been an issue if both counties had the same vendor. He said that we probably wouldn't have had these issues. Ald. Kunz said he doesn't feel this system will ever work as these are two different systems. The issue is the counties have to work together as this is a failure to not have the ability to talk to each other. He feels the long term solution is that both counties need to be on the same system. Sheriff Matz said Outagamie County had issues with Motorola when everyone was in the Fox Comm partnership. When Fox Comm dissolved each County had to find a new CAD system. It was up to each County to decide what system they felt would work best. Captain Cianciolo noted Winnebago County chose to stay with Motorola as this saved the County \$1 million dollars in licensing fees and they could re-use hardware that they already owned. They didn't have to relicense anything as they already paid those fees with Motorola. Outagamie County chose Spillman. When the contract was written with Spillman, Outagamie County put into their contract that it was Spillman's responsibility to create this interface and this is something they have never done before. When this system was purchased by Outagamie County Spillman was not owned by Motorola.

Sheriff Matz has researched CAD to CAD interfaces. It is currently being done in other municipalities that have Motorola. However, there's nothing out there between two different CAD systems. This interface project costs Winnebago County \$250,000 with an annual maintenance plan of \$35,000. At this time, Winnebago County is holding off paying this bill until the interface works. Under the old CAD system, the AVL program had to be written for the system in order for it to work. However, they could make it work as both Counties had the same CAD system.

Ald. Stevenson said there is always a risk every time there is a change made to a canned program. He recognizes each County makes a decision it's on a total package that works for them and automatic aid is a small item in the total package. At this time, our tax payers are affected as this means longer response times and this could have dramatic affects with people's lives. Capital dollars were spent on placing NMFR's current Station #36 due to having the automatic aid agreement. Sheriff Matz said he does understand everyone's concern. Before the changes, we had a product that was very good and it saved time and could have saved lives. Ald. Kunz asked if the lack of functionality between these two systems has affected anyone else. Sheriff Matz said our departments are not the only ones that are affected. It has affected the police side as they lost the ability to look at what is going on in Outagamie County on their computers. They can see Calumet but cannot see Outagamie anymore. However, all departments are meeting industry standards with response times it's just not the times we had prior to the switch.

DC Voss said this is Outagamie County's project to manage as they made it Spillman's responsibility in the contract. Appleton Fire and Greg are good about sharing information with us once they receive it. We do not receive a lot of information as it's a project managed by Outagamie County.

Captain Cianciolo said Motorola and Spillman have set November 7th and 8th to test the systems to make sure no ground has been lost with the new changes. On November 14th, it will be tested by Winnebago County before anything is done live. If the changes work it will be implemented. If not it will go back to both vendors to work on. They will have a better idea of where we are at with the project after November 14th.

The Committee thanked Sheriff Matz and Captain Cianciolo for taking the time to come and talk to the committee.

Activity and Automatic/Mutual Aid Reports: The Committee reviewed the September and quarterly activity and automatic/mutual aid reports. Ald. Sevenich asked about citizen complaints about opening burning and if both Cities have the requirement for a permit. DC Voss confirmed this. **MSC Stevenson/Grade to approve the September and Quarterly Activity and Automatic/Mutual Aid Reports and place on file, all voting aye.**

Quarterly Budget Reports: The Committee reviewed the quarterly budget report. **MSC Stevenson/Grade to approve the quarterly budget report and place on file, all voting aye.**

2020 Budget: The Committee reviewed the 2020 operating and capital improvement (CIP) budgets. Director Jacobs noted the reports reflect the cuts that were made by both Mayors which is a total of \$220,000. There were additional revenues found to bring this to the proposed budget. Director Jacobs handed out information that reflects the initial budget request, what it is at now and how this will be funded by both Cities per the cost distribution formula. A large portion of the reduction came from the funding levels of sick leave. After the retirements, this will be reviewed again for funding.

DC Voss explained how the banked sick leave worked and that it was funded at 65% for all employees. It was reduced to 60% and this brought a \$100,000 in savings. Ald. Stevenson said Neenah's question will

be if 60% funding is an appropriate funding level as we have a responsibility to make sure this is funded appropriately. DC Voss said during the original meeting the department had with both Mayors and Finance Directors we were asked to reduce our budget to a 2.5% increase. That was done through reductions and revenues. Mayor Merkes asked for additional cuts so Menasha's portion of the CIP project for the training center could be funded through the operating budget and not CIP. Further cuts were made and because we had to get to a certain dollar amount for Menasha there ends up being a greater reduction within the total budget due to the cost distribution formula for funding.

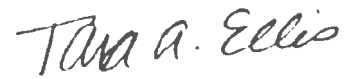
Ald. Ropella asked what the professional services line item is used for. MA Ellis explained it is for annual physicals, chest x-rays and EKG's for anyone in the department required to wear a respirator for their job. Ald. Ropella asked why this is not run through the employee's health insurance and to have them pay for this and applied to their deductible. Director Jacobs said this is not done through their own health insurance as this is a requirement for their job. Ald. Boyette asked if these services could be done through the City of Neenah Employee Health Clinic to save any money. DC Voss explained the clinic doesn't have the ability to do some of the tests and these also have to be completed by an Occupational Health doctor.

Ald. Kunz asked about maintenance of motor vehicles increase. DC Voss said even with a newer engine there are still other vehicles that age each year. E36's warranty does run out next year. We review the trending for costs for maintenance and repairs for all vehicles and ask for what is appropriate. At this time, there are several repairs that do need to be made but we are holding off on making these to reduce the amount of money we will go over in 2019's budget.

Ald. Kunz expressed a concern on the capital expenses for the training center and the amount of money we continue to put into this. DC Voss said the department looks at what is the best way to utilize this training center. When Fox Valley Tech knew they were moving out and building a new facility, they didn't maintain it as they knew they were moving out. A majority of the money spent so far has been to make repairs and bring it back up to an acceptable level for us to use for training. The CIP request is for a training prop that will give us the ability to do confined space and trench rescue training in a safer manner. Right now we dig a hole in the ground. The new prop will give us the ability to train in a more controlled and safe environment. He also noted the roadway extensions project is not a high priority and we have continued to push this out so we can fund higher priority items within the CIP budget. Director Jacobs said the next large CIP item coming up is a new truck purchase in 2021. Ald. Grade asked about the flooring project for Station 36. DC Voss said he and Thad do not feel this floor needs to be re-epoxied. They have done research and think they have a better alternative and this will be cheaper than re-doing the entire floor. **MSC Stevenson/Kunz recognize NMFR's Joint Finance & Personnel Committee has reviewed NMFR's 2020 operating and CIP budgets with the Mayor's reductions and recommends the City of Neenah and City of Menasha Common Councils adopt NMFR's 2020 Operating and CIP budgets, all voting aye.**

MSC Stevenson/Boyette to adjourn at 6:25 p.m., all voting aye.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tara A. Ellis". The signature is written in a cursive, flowing style.

Tara Ellis

Management Assistant

Neenah Menasha Fire Rescue

Aid Responses by Department Report

Alarm Date Between {10/1/2019} And {10/31/2019}

Incident	Notified	Type of Aid	Fire	EMS	Resc	Other
70020 Village of Fox Crossing FDID 70020						
19-0002224	10/03/2019	3 Mutual aid given	#Personnel	0	0	0
Their Inci	19-0000845	Response Time: 00:06:28	#Appartus	0	0	0
Subtotal Responses: 1			Average Response Time for Dept:			00:06:28

Response time calculated from time notified to arrival.

Neenah Menasha Fire Rescue

Incident Type Period Comparisons

Alarm Date Between {10/01/2019} and {10/31/2019}

Incident Type	10/01/2019 to 10/31/2019	10/01/2018 to 10/31/2018	10/01/2017 to 10/31/2017	10/01/2016 to 10/31/2016
111 Building fire	0	1	4	1
113 Cooking fire, confined to container	0	1	2	0
114 Chimney or flue fire, confined to chimney or	0	0	1	1
1181Materials on stove top	0	0	0	1
130 Mobile property (vehicle) fire, Other	0	0	0	1
131 Passenger vehicle fire	3	1	0	0
154 Dumpster or other outside trash receptacle fire	1	0	1	0
221 Overpressure rupture of air or gas pipe/pipeline	0	0	0	2
300 Rescue, EMS incident, other	1	0	0	0
311 Medical assist, assist EMS crew	160	173	129	170
311AMedical assist, assist EMS crew, Advanced Skills	21	14	9	18
320 Emergency medical service, other	0	0	3	2
322 Motor vehicle accident with injuries	3	1	1	3
331 Lock-in (if lock out , use 511)	0	0	2	1
353 Removal of victim(s) from stalled elevator	1	0	1	0
400 Hazardous condition, Other	0	0	1	1
410 Combustible/flammable gas/liquid condition,	0	0	1	0
411 Gasoline or other flammable liquid spill	0	0	2	2
412 Gas leak (natural gas or LPG)	0	1	3	1
413 Oil or other combustible liquid spill	0	0	1	0
424 Carbon monoxide incident	4	0	2	0
440 Electrical wiring/equipment problem, Other	5	1	0	0
444 Power line down	2	2	0	0
445 Arcing, shorted electrical equipment	0	1	0	0
463 Vehicle accident, general cleanup	1	3	2	2
500 Service Call, other	0	0	1	1
511 Lock-out	4	4	1	4
520 Water problem, Other	3	0	0	0
522 Water or steam leak	0	3	1	0
531 Smoke or odor removal	1	0	0	0
5311Smoke or odor investigation	5	5	6	9
541 Animal problem	0	0	1	0
542 Animal rescue	0	0	1	0
551 Assist police or other governmental agency	0	2	0	2
552 Police matter	1	0	0	0
561 Unauthorized burning	3	0	0	2
600 Good intent call, Other	1	0	0	0
611 Dispatched & cancelled en route	1	0	4	3
622 No Incident found on arrival at dispatch address	1	5	1	2
651 Smoke scare, odor of smoke	1	2	0	1
671 HazMat release investigation w/no HazMat	0	0	1	0

Neenah Menasha Fire Rescue

Incident Type Period Comparisons

Alarm Date Between {10/01/2019} and {10/31/2019}

Incident Type	10/01/2019 to 10/31/2019	10/01/2018 to 10/31/2018	10/01/2017 to 10/31/2017	10/01/2016 to 10/31/2016
700 False alarm or false call, Other	0	0	1	8
710 Malicious, mischievous false call, Other	1	0	0	0
733 Smoke detector activation due to malfunction	3	4	1	1
734 Heat detector activation due to malfunction	1	0	0	0
735 Alarm system sounded due to malfunction	4	0	3	4
736 CO detector activation due to malfunction	3	0	0	1
740 Unintentional transmission of alarm, Other	3	0	2	0
740ASystem damage due to tow motor	0	0	1	0
741 Sprinkler activation, no fire - unintentional	0	1	0	0
743 Smoke detector activation, no fire -	1	3	3	1
744 Detector activation, no fire - unintentional	8	1	7	3
745 Alarm system activation, no fire - unintentional	9	14	4	5
746 Carbon monoxide detector activation, no CO	6	11	5	4
900 Special type of incident, Other	1	0	0	0
911 Citizen complaint	0	0	0	1
911ACitizen complaint unauthorized burning.	2	0	2	1
911BCitizen complaint unauthorized burning no permit	2	4	3	1
911CAuthorized Recreational Burning	1	0	0	0
Totals	<u>268</u>	<u>258</u>	<u>214</u>	<u>260</u>

BRYCER, LLC
4355 Weaver Parkway
Suite 330
Warrenville, IL 60555

October 30, 2019

Neenah Menasha Fire Rescue
125 E Columbian Avenue
Neenah, WI 54956

Re: "The Compliance Engine"

Dear Neenah Menasha Fire Rescue:

We look forward to providing you with "The Compliance Engine" (the "Solution"). This proposal letter provides the basic terms by which Brycer, LLC ("Brycer") will provide you, Neenah Menasha Fire Rescue ("Client"), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard "Terms and Conditions" attached to this proposal as Exhibit A. The basic terms are as follows:

1. **Term:** Brycer will provide Client with the Solution for three years, commencing _____ (the "Initial Term"). Thereafter, the Term shall automatically renew for successive three year periods unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the then current Term (each, a "Renewal Term" and together with the Initial Term, the "Term"). Following the expiration or termination of the Term (as provided in the Terms and Conditions), Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, Client's data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this agreement upon giving 90 days written notice to Brycer.
2. **Fees:** Client shall not pay any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution.
3. **Brycer Responsibilities:** During the Term, Brycer shall be responsible for the following in connection with Client's use of the Solution:
 - **Availability.** Brycer shall make the Solution available to Client as set forth on Exhibit B. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.
 - **Service Level.** Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
 - **Backup.** Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client (which can be no more than once a month) or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and

integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.

- ***Retention of Information.*** Brycer will maintain all information entered into the database by third party inspectors for at least five years from the time such information is entered into the database.
- ***Notices.*** Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; and (c) notices of completed inspection reports which contain one or more deficiencies.
- ***Call Center*** Phone calls by Brycer on behalf of the Client to the property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
- ***Updates and Enhancements.*** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide such updates or corrections to Client free of any charge or fee.

4. **Client Responsibilities:** During the Term, Client shall be responsible for the following in connection with Client's use of the Solution:

- ***Operating System.*** Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the Client's equipment (the "Client Access Software") and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use version Internet Explorer 11.0, Edge, Firefox version 37, Chrome 40 or Safari 7.1 (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
- ***Training.*** Client shall allow Brycer at Client's facilities to train all applicable personnel of Client on the use of the Solution.
- ***Information.*** Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within [jurisdiction] for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
- ***Enforcement.*** Client shall take all actions necessary to require (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
- ***Reports.*** Client will require all compliant and deficient test results to be submitted.

5. **Ownership of Data.** Client owns all the data provided by Client and received from third party contractors for Client. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client's data.

Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

Brycer, LLC

By: _____
Its: _____

Acknowledged and Agreed to this
____ day of _____, 20____:

City of Neenah

Dean Kaufert - Mayor

City of Menasha

Don Merkes - Mayor

Exhibit A

Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and Client (the "Agreement").

1. **Restrictions on Use.** Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution (g) it shall not permit anyone other than the Authorized Users to view or use the Solution and any screen shots of the Solution and (h) it shall not disclose the features of the Solution to anyone other than the Authorized Users. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. **Proprietary Rights.** All right, title and interest in and to the Solution, the features of the Solution and images of the Solution as well any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. **Independent Contractor.** Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of Client and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. **Reservation of Rights.** Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.
5. **Use of Logos.** During the term of this Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client.
6. **Confidential Information.** Brycer and Client acknowledge and agree that in providing the Solution, Brycer and Client, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Notwithstanding the foregoing, the parties acknowledge that Client and Brycer shall be permitted to comply with any all federal and state laws concerning disclosure provided that any such required disclosure will not include any of Brycer's screen shots. The disclosing party shall provide prior written notice of any required disclosure of the nondisclosing party's Confidential Information to the nondisclosing party and shall disclose only the information that is required to be disclosed by law. In the event that Client requests from Brycer any reports or other information for purposes of complying with federal and state disclosure laws, Brycer shall provide such information within five business day following such request. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith.
7. **Brycer Warranty.** Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.
8. **Disclaimer.** All information entered into Brycer's database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.**
9. **LIMITATION ON DAMAGES. BRYCER SHALL ONLY BE LIABLE TO CLIENT FOR DIRECT DAMAGES PURSUANT TO THE AGREEMENT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. CLIENT ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.**
10. **Risks Inherent to Internet.** Client acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. Client assumes these risks knowingly and voluntarily releases Brycer from all liability from all

such risks. Not in limitation of the foregoing, Client hereby assumes the risk, and Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under Client's exclusive control.

11. Indemnity. Brycer (the "Indemnifying Party") will defend and indemnify Client against any damages, losses, liabilities, causes of action, costs or expenses arising from Brycer's breach of this Agreement, gross negligence or intentional misconduct. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees) arising from Client's breach of this Agreement, gross negligence or intentional misconduct. Client acknowledges that Brycer does not create any of the data and information included in the Solution and is not responsible for and does not assess or make any suggestions or recommendations with respect to any such data or information. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees), claims, demands, suits or proceedings made or brought against Brycer by a third party in connection with Client's or an Authorized User's use of the Solution, or any action or inaction taken by a third party, including, but not limited to, third party inspectors, in connection with such third party providing services for Client or otherwise at Client's or an Authorized User's request or direction. Client does not waive statutory protections afforded to it as a government entity.
12. Breach. Brycer shall have the right to terminate or suspend this Agreement, and all of Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's breach of any provision of this Agreement. If Client cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and Client shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. Illegal Payments. Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.
14. Beneficiaries. There are no third party beneficiaries to the Agreement.
15. Force Majeure. Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused.

16. Notices. All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.
17. JURISDICTION AND VENUE. THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH CLIENT EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH CLIENT EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
18. Attorneys' Fees. The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' and paralegals' fees and costs incurred by such party in connection with any such proceeding.
19. Entire Agreement. The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.
20. Amendment. The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
21. Expiration. The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

Exhibit B

Maintenance Schedule and Minimum Service Levels

1. **Uptime and Maintenance.**

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime.

2. **Response Time.**

Brycer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The toll free number is 1-855-279-2371

Brycer will assign client a dedicated customer representative with direct access to their email and work number.



Memorandum

TO: Fire Chief Kloehn, Director Wenninger

FROM: Deputy Chief Voss

DATE: October 25, 2019

RE: FH Cloud

I have been researching the best plan of the future of our Records Management System (RMS) for a number of years. We have been a Firehouse Software (FH) customer since the mid 1990's and have been through many changes with them. Our use of FH has also increased and our reliance on it for day to day operations has continued to expand. For most of our employees it is the only RMS they have ever known.

Over the years NMFR has attended the FH training in order to best configure and use the software. Our knowledge base with this product is extremely high.

Firehouse Software as a company has been passed around over the last 8 – 10 years. A company that started out small, gained huge market shares became a company that was attractive to buy out. FH was first sold to Affiliated Computer Services (ACS), then ACS was sold to Xerox. Xerox split the ACS products up and sold off FH in late 2017 to ESO. ESO is a privately owned medical records software that is a growing company. Overnight, ESO's customer base went from 1400 to over 12,000 emergency service organizations.

Since ESO purchased FH from Xerox we have seen great improvements to repairing things that FH had never done to its software. ESO is a data company and they use data to project industry trends in fire and medical response. They have made a significant investment in the FH product, support and development teams. I believe they have invested in the best RMS and intend to continue to improve upon what they have.

Looking towards the future of data it is evident that Cloud storage will become more prevalent. Running Software as a Service (SaaS) vs. On Premise seems to be the future of data storage and applications.

We are in a position right now that it makes sense to consider a move. In my research it appears the best direction for NMFR would be to move our data to the FH Cloud service. This move will cause a number of changes both for NMFR and the Neenah IS Department.

- All NMFR FH data will be migrated to the FH Cloud
- FH CAD monitor will be migrated and operated on the FH Cloud
- FH Pre-plan Viewer will be discontinued by NMFR

- FH Auto-tasks will no longer run on the FH server but will be managed at FH
- There will be no changes to FH Inspector Ipad
- There will be no installs of FH on NMFR computers, “thin” clients or MDC’s
- FH will be accessible from any web browser
- FH will no longer limit the number of users logged in concurrently (site licensing)
- All updates and tech support will be done by FH
- Customization of the software is still allowed but done with FH tech support

Currently our support contract with FH is \$5680.00 annually and starts on April 1 each year. This is paid to FH and includes technical support and version updates on all of our applications. This pricing was set with 7 concurrent users and are limited to that. Director Wenninger provided an estimated \$12,100 reduction in our IS services budget with the move to the FH Cloud. This estimate mostly reflects the savings on needed hardware, “help desk”, installs and local troubleshooting of issues.

FH Cloud will cost NMFR \$24,255.00 annually. The difference between our current contract, the savings from the IS Department and the ESO quote is \$6475 annually.

Our annual maintenance fee for FH is paid out of “Maintenance of Software” account #180-2301-712-0218.

We have been anticipating a significant change in our software RMS needs for a few years. Not knowing when would be the best time to make the changes needed. “Computer Hardware Outlay” account #180-2301-712-8115 has funds for hardware replacements that we thought would be needed to upgrade our system. The industry trend changed from needing more hardware, to using Cloud storage and SaaS. NMFR would use \$6475 out of this account to make up the difference needed in the “Maintenance of Software” account.

My goal would be to make this transition in February of 2020. There may be a pro-rated refund of a few hundred dollars on our current maintenance agreement. There should be no loss of service during the transition and no end user training needed.