

City of Fayetteville Staff Review Form

2021-0668

Legistar File ID

9/21/2021

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Brad Hardin

8/23/2021

FIRE (300)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff requests Council approval to allow the fire department per Ordinance #6447 to contract with the software company Brycer per Sole Source Authorization for a reporting system for fire protection systems inside the City of Fayetteville.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u> No </u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u> No </u>	Item Cost \$ -
Budget Adjustment Attached? <u> No </u>	Budget Adjustment \$ -
	Remaining Budget \$ -

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # Ordinance #6447

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF SEPTEMBER 21, 2021

TO: Mayor and City Council

FROM: Brad Hardin, Fire Chief

DATE: August 23, 2021

SUBJECT: Staff requests Council approval to allow the fire department per Ordinance #6447 to contract per Sole Source with the software company Brycer for a reporting system for fire protection systems inside the City of Fayetteville.

RECOMMENDATION:

Staff requests Council approval to allow the fire department per Ordinance #6447 to contract with the software company Brycer per Sole Source Authorization for a reporting system for fire protection systems inside the City of Fayetteville.

BACKGROUND:

The City Attorney's Office and the Fire Marshal's Office worked together to develop this ordinance to allow the Fayetteville Fire Department to contract with a software company for data compilation pertaining to Fire Protection Systems in businesses and organizations within the city. This Ordinance was passed by City Council on June 15, 2021 (Ordinance 6447). In addition to Fayetteville, Springdale and Rogers are in the process of adopting this system in their respective jurisdictions.

DISCUSSION:

The fire department is requesting sole source authorization with Brycer per the following criteria:

- Brycer does not require companies to purchase proprietary software in order to use the reporting system.
- Other companies would charge the City of Fayetteville to use the system as well as require a software purchase.
- Brycer is the only vendor that will process, email, print and mail first class notifications to building owners which follows Arkansas Fire Prevention Code requirements.
- Brycer is the only vendor that will require agents reporting to follow prescribed form and format as per the Fayetteville Fire Department and Arkansas Fire Prevention Code.
- Brycer is being used by the Springdale and Rogers Fire Departments which will be efficient for the companies reporting to them to use the same system for reporting to the Fayetteville Fire Department.

BUDGET/STAFF IMPACT:

There is not a budget impact or cost to the city with regards to this ordinance and associated sole source utilization of Brycer company for the reporting system.

Attachments:

Brycer Contract; Approved Ordinance

BRYCER, LLC
4355 Weaver Parkway
Suite 230
Warrenville, IL 60555

May 11, 2021

City of Fayetteville, Arkansas
303 W Center St
Fayetteville, AR 72701

Re: "The Compliance Engine"

Dear City of Fayetteville:

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, City of Fayetteville, Arkansas ("CityCity"), with the Solution. The use of the Solution and all matters between Brycer and City 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 City with the Solution for three years, commencing _____, 2021 (the "Initial Term"). Thereafter, the Term shall automatically renew for successive three year periods unless terminated by Brycer or City 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), City shall stop using the Solution; provided, however, Brycer shall make available, and City shall have the right to download, City's data from the Solution for a period of 60 days after the expiration or termination of the Term. City shall have the right to terminate this agreement upon giving 90 days written notice to Brycer.

2. **Fees**: City 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 City's use of the Solution:

- **Availability**. Brycer shall make the Solution available to City 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 City 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 City (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 City a complete and secure (i.e. encrypted and appropriately authenticated) download file of City 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 City data. Brycer shall not (a) modify City data or (b) disclose City 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 City 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 City and all scripts for the overdue calls will be approved by the City.
- **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 City free of any charge or fee.

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

- **Operating System.** City 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 City's equipment (the "City Access Software") and for the installation of network connections to the Internet. In addition to any other City Access Software requirements, City must use version Edge, Firefox version 76, Chrome 60 or Safari (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
- **Training.** City shall allow Brycer at City's facilities to train all applicable personnel of City on the use of the Solution.
- **Information.** City 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 the Fayetteville Fire Department's jurisdiction for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
- **Enforcement.** City 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.** City will require all compliant and deficient test results to be submitted.

5. **Ownership of Data.** City owns all the data provided by City and received from third party contractors for City. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of City'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: *Matthew B. T. 2*
Its: President

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

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lionel Jordan, Mayor

Date: _____

ATTEST:

By: _____
Kara Paxton

City Clerk-Treasurer

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 City (the "Agreement").

1. **Restrictions on Use.** City shall not copy, distribute, create derivative works of or modify the Solution in any way. City agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of City; (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. City 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. City shall not remove any product identification or notices of such proprietary rights from the Solution. City acknowledges and agrees that, except for the limited

use rights established hereunder, City 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 City 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 City, 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 City 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 City's logos for the purpose of providing the Solution to City.
6. **Confidential Information.** Brycer and City acknowledge and agree that in providing the Solution, Brycer and City, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information shall include, but is not limited to, the Solution, computer programs, screen shots, 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 City and Brycer shall be permitted to comply with any all federal and state laws concerning disclosure. The disclosing party shall immediately provide 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. The nondisclosing party shall have the right to seek a protective order or other relief with respect to such disclosure. In the event that City 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 City 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 City 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 CITY 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 CITY'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD CITY 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 CITY 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. CITY 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.** City 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. City 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. City assumes these risks knowingly and voluntarily releases Brycer from all liability from all such risks. Not in limitation of the foregoing, City 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 City; (3) City's failure to timely or correctly install any updates to the City 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 City's exclusive control.
11. **Indemnity.** Brycer (the "Indemnifying Party") will defend and indemnify City against any damages, losses, liabilities, causes of action, costs or expenses arising from Brycer's breach of this Agreement, gross negligence or intentional misconduct. City 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.
12. **Breach.** Brycer shall have the right to terminate or suspend this Agreement, and all of City's rights hereunder, immediately upon delivering written notice to City detailing City's breach of any provision of this Agreement. If City cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and City shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. **Illegal Payments.** City 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, not 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 CITY 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 CITY 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. .

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 City at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide City with advance notice of any unscheduled downtime.

2. **Response Time.**

Brycer shall respond to telephone calls from City within two hours of the call and/or message and all emails from City 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 City a dedicated customer representative with direct access to their email and work number.



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Ordinance: 6447

File Number: 2021-0420

ENACT §94.06 THIRD PARTY INSPECTION AND REPORTS SYSTEM FIRE PROTECTION AND PREVENTION ORDINANCE:

AN ORDINANCE TO ENACT §94.06 **THIRD PARTY INSPECTION AND REPORTS SYSTEM FIRE PROTECTION AND PREVENTION ORDINANCE** CONCERNING THIRD-PARTY PROTECTION AND CONTROL, INSPECTION, TESTING, AND MAINTENANCE REPORTING OF THE FAYETTEVILLE CODE

WHEREAS, the Arkansas Fire Prevention Code requires periodic testing and maintenance of certain fire protection systems alarms, devices, equipment and other features; and

WHEREAS, the fire code official is authorized by the Arkansas Fire Prevention Code to approve reports of inspection by approved agencies or individuals; and

WHEREAS, pursuant to Section 107.2.1 of the Arkansas Fire Prevention Code and Standards, required tests and inspection reports shall be available to the fire code official at all times and such records shall be filed as directed by the fire code official; and

WHEREAS, the City has adopted the provisions of the Arkansas Fire Prevention Code and Standards, current edition, and the provisions of technical codes and standards and has made the same applicable as the Fire Prevention Code of the City of Fayetteville in §173.02 Fire Prevention Code/Building Code of the *Unified Development Code*; and

WHEREAS, the City Council desires to amend its Fire Prevention Code to require inspection reports to be provided to the City through a third-party inspection reporting system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts §94.06 **Third-Party Inspections and Reporting System** as follows:

“94.06 Third-Party Inspections and Reporting System.

(A) Inspections and Maintenance Required.

The owner of the property where any device, equipment, alarm, system and any other feature is required for compliance of the provisions of this Article or is otherwise installed on the property shall cause maintenance, testing and inspections of all such devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced standards and specified intervals. If, following inspection and testing, any device, equipment, alarm, system and any other feature does not meet manufacture’s specifications or fails to perform as intended, then it shall be repaired or replaced in accordance with subsection (e) below.

Maintenance, testing and inspections shall include, without limitation, the following fire protection systems:

- (1) Automatic Fire Sprinkler System
- (2) Commercial Kitchen Hood System
- (3) Fire Alarm System

(B) Qualifications of Inspectors.

Only qualified personnel shall make inspections or perform testing required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes. Qualified personnel shall include, but not be limited to:

- (1) Personnel who are factory-trained and certified for the type and brand of device, equipment, alarm, system, or feature being inspected or tested.
- (2) Personnel who are certified by a nationally recognized certification organization approved by the City.
- (3) Personnel who are registered, licensed or certified by Arkansas or the City of Fayetteville to perform the required inspections and testing.
- (4) Personnel of the Fire Department.

(C) Reporting of Inspections and Tests.

Records of all installations, inspections, tests and maintenance required by this Section shall be provided electronically to the City's designated electronic reporting system. Completed records shall be submitted no later than fifteen (15) days following the applicable installation, inspection, test and maintenance. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00) for each type of fire protection system.

(D) Retention of Records.

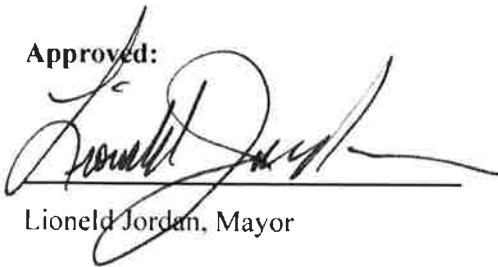
Records of any device, equipment, alarm and system inspections, tests and maintenance required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes shall be maintained on the premises for a minimum of three (3) years following the date of any inspection, test and maintenance and shall be copied to the fire department and its contractors pursuant to either the provisions of the City Code or upon the request of the fire code official.

(E) Repairs.

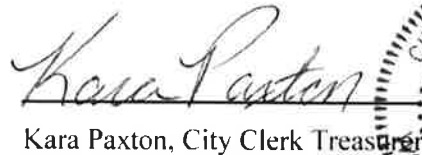
If any device, equipment, alarm, system and any other feature fails its inspection or operational test, within thirty (30) days of such inspection or test, the property owner shall make all necessary repairs to make the item fully operational. Defective parts must be replaced with manufacturer approved parts. If repair is not possible, the item must be replaced with devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced standards. Completed records shall be submitted no later than fifteen (15) days following the applicable maintenance, repair or replacement. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00). Additional inspections and testing may be required of the repaired or replaced device, equipment, alarm, system or other feature upon the request of the fire code official."

PASSED and APPROVED on 6/15/2021

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2021-0420

Agenda Date: 6/15/2021

Version: 1

Status: Passed

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C.1

ENACT §94.06 THIRD PARTY INSPECTION AND REPORTS SYSTEM FIRE PROTECTION AND PREVENTION ORDINANCE:

AN ORDINANCE TO ENACT §94.06 **THIRD PARTY INSPECTION AND REPORTS SYSTEM FIRE PROTECTION AND PREVENTION ORDINANCE** CONCERNING THIRD-PARTY PROTECTION AND CONTROL, INSPECTION, TESTING, AND MAINTENANCE REPORTING OF THE FAYETTEVILLE CODE

WHEREAS, the Arkansas Fire Prevention Code requires periodic testing and maintenance of certain fire protection systems alarms, devices, equipment and other features; and

WHEREAS, the fire code official is authorized by the Arkansas Fire Prevention Code to approve reports of inspection by approved agencies or individuals; and

WHEREAS, pursuant to Section 107.2.1 of the Arkansas Fire Prevention Code and Standards, required tests and inspection reports shall be available to the fire code official at all times and such records shall be filed as directed by the fire code official; and

WHEREAS, the City has adopted the provisions of the Arkansas Fire Prevention Code and Standards, current edition, and the provisions of technical codes and standards and has made the same applicable as the Fire Prevention Code of the City of Fayetteville in §173.02 Fire Prevention Code/Building Code of the *Unified Development Code*; and

WHEREAS, the City Council desires to amend its Fire Prevention Code to require inspection reports to be provided to the City through a third-party inspection reporting system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts §94.06 **Third-Party Inspections and Reporting System** as follows:

“94.06 Third-Party Inspections and Reporting System.

(A) Inspections and Maintenance Required.

The owner of the property where any device, equipment, alarm, system and any other feature is required for compliance of the provisions of this Article or is otherwise installed on the property shall cause maintenance, testing and inspections of all such devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced standards and specified intervals. If, following inspection and testing, any device, equipment, alarm, system and any other feature does not meet manufacture's specifications or fails to perform as intended, then it shall be repaired or replaced in accordance with subsection (e) below.

Maintenance, testing and inspections shall include, without limitation, the following fire protection systems:

- (1) Automatic Fire Sprinkler System
- (2) Commercial Kitchen Hood System
- (3) Fire Alarm System

(B) Qualifications of Inspectors.

Only qualified personnel shall make inspections or perform testing required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes. Qualified personnel shall include, but not be limited to:

- (1) Personnel who are factory-trained and certified for the type and brand of device, equipment, alarm, system, or feature being inspected or tested.
- (2) Personnel who are certified by a nationally recognized certification organization approved by the City.
- (3) Personnel who are registered, licensed or certified by Arkansas or the City of Fayetteville to perform the required inspections and testing.
- (4) Personnel of the Fire Department.

(C) Reporting of Inspections and Tests.

Records of all installations, inspections, tests and maintenance required by this Section shall be provided electronically to the City's designated electronic reporting system. Completed records shall be submitted no later than fifteen (15) days following the applicable installation, inspection, test and maintenance. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00) for each type of fire protection system.

(D) Retention of Records.

Records of any device, equipment, alarm and system inspections, tests and maintenance required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes shall be maintained on the premises for a minimum of three (3) years following the date of any inspection, test and maintenance and shall be copied to the fire department and its contractors pursuant to either the provisions of the City Code or upon the request of the fire code official.

(E) Repairs.

If any device, equipment, alarm, system and any other feature fails its inspection or operational test, within thirty (30) days of such inspection or test, the property owner shall make all necessary repairs to make the item fully operational. Defective parts must be replaced with manufacturer approved parts. If repair is not possible, the item must be replaced with devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced standards. Completed records shall be submitted no later than fifteen (15) days following the applicable maintenance, repair or replacement. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00). Additional inspections and testing may be required of the repaired or replaced device, equipment, alarm, system or other feature upon the request of the fire code official."

City of Fayetteville Staff Review Form

2021-0420

Legistar File ID

6/15/2021

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Brad Hardin

5/24/2021

FIRE (300)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff requests Council approval of an ordinance to allow the fire department to contract with a software company for a reporting system for fire protection systems inside the City of Fayetteville.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	NA	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF JUNE 15, 2021

TO: Mayor and City Council

FROM: Brad Hardin, Fire Chief

DATE: May 24, 2021

SUBJECT: Staff requests Council approval of an ordinance to allow the fire department to contract with a software company for a reporting system for fire protection systems inside the City of Fayetteville.

RECOMMENDATION:

The Fayetteville Fire Department recommends the adoption of the ordinance to allow the use of a inspection reporting system as outlined in the City Council packet.

BACKGROUND:

The City Attorney's Office and the Fire Marshal's Office worked together to develop this ordinance to allow the Fayetteville Fire Department to contract with a software company for data compilation pertaining to Fire Protection Systems in businesses and organizations within the city. In addition to Fayetteville, Springdale and Rogers are in the process of adopting this system in their respective jurisdictions.

DISCUSSION:

The Arkansas Fire Prevention Code requires periodic testing and maintenance of all fire protection equipment; to include fire sprinkler, fire alarm and hood vent systems. The fire code also requires that the third-party inspector of included fire protection systems submit completed inspection reports as directed by the fire code official. The current system has some inspections being submitted by fax, some by email, some by mail and others are not submitted at all. For example, out of the 753 active fire sprinkler systems in the City, the Fayetteville Fire Marshals Office received 361 inspection reports over the preceding 12 months. This system will help us to track fire protection systems, increase inspection and testing code compliance, reduce false alarms activity and ensure a safer community. Moving to this type of inspection reporting system will allow us to efficiently review and track inspections; will allow us to develop a follow-up inspection process, reduce administrative tasks and help us gather detailed analytics to assist in our accreditation process. The system we are requesting is similar to the backflow inspection reporting system that is currently being used by the City of Fayetteville Water Department.

BUDGET/STAFF IMPACT:

There is not a budget impact or cost to the city with regards to this ordinance approval

Attachments:

Ordinance Details

ORDINANCE NO. 0447

AN ORDINANCE TO ENACT §94.06 **THIRD PARTY INSPECTION AND REPORTS SYSTEM FIRE PROTECTION AND PREVENTION ORDINANCE** CONCERNING THIRD-PARTY PROTECTION AND CONTROL, INSPECTION, TESTING, AND MAINTENANCE REPORTING OF THE FAYETTEVILLE CODE

WHEREAS, the Arkansas Fire Prevention Code requires periodic testing and maintenance of certain fire protection systems alarms, devices, equipment and other features; and

WHEREAS, the fire code official is authorized by the Arkansas Fire Prevention Code to approve reports of inspection by approved agencies or individuals; and

WHEREAS, pursuant to Section 107.2.1 of the Arkansas Fire Prevention Code and Standards, required tests and inspection reports shall be available to the fire code official at all times and such records shall be filed as directed by the fire code official; and

WHEREAS, the City has adopted the provisions of the Arkansas Fire Prevention Code and Standards, current edition, and the provisions of technical codes and standards and has made the same applicable as the Fire Prevention Code of the City of Fayetteville in §173.02 Fire Prevention Code/Building Code of the *Unified Development Code*; and

WHEREAS, the City Council desires to amend its Fire Prevention Code to require inspection reports to be provided to the City through a third-party inspection reporting system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts §94.06 **Third-Party Inspections and Reporting System** as follows:

“94.06 Third-Party Inspections and Reporting System.

(a) Inspections and Maintenance Required.

The owner of the property where any device, equipment, alarm, system and any other feature is required for compliance of the provisions of this Article or is otherwise installed on the property shall cause maintenance, testing and inspections of all such devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced standards and specified intervals. If, following inspection and testing, any device, equipment, alarm, system and any other feature does not meet manufacture’s specifications or fails to perform as intended, then it shall be repaired or replaced in accordance with subsection (e) below.

Maintenance, testing and inspections shall include, without limitation, the following fire protection systems:

- (1) Automatic Fire Sprinkler System
- (2) Commercial Kitchen Hood System
- (3) Fire Alarm System

(b) Qualifications of Inspectors.

Only qualified personnel shall make inspections or perform testing required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes. Qualified personnel shall include, but not be limited to:

- (1) Personnel who are factory-trained and certified for the type and brand of device, equipment, alarm, system, or feature being inspected or tested.
- (2) Personnel who are certified by a nationally recognized certification organization approved by the City.
- (3) Personnel who are registered, licensed or certified by Arkansas or the City of Fayetteville to perform the required inspections and testing.
- (4) Personnel of the Fire Department.

(c) Reporting of Inspections and Tests.

Records of all installations, inspections, tests and maintenance required by this Section shall be provided electronically to the City's designated electronic reporting system. Completed records shall be submitted no later than fifteen (15) days following the applicable installation, inspection, test and maintenance. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00) for each type of fire protection system.

(d) Retention of Records.

Records of any device, equipment, alarm and system inspections, tests and maintenance required by the current editions of the Arkansas Fire Prevention Code and the adopted provisions of technical codes shall be maintained on the premises for a minimum of three (3) years following the date of any inspection, test and maintenance and shall be copied to the fire department and its contractors pursuant to either the provisions of the City Code or upon the request of the fire code official.

(e) Repairs.

If any device, equipment, alarm, system and any other feature fails its inspection or operational test, within thirty (30) days of such inspection or test or the property owner shall make all necessary repairs to make the item fully operational. Defective parts must be replaced with manufacturer approved parts. If repair is not possible, the item must be replaced with devices, equipment, alarms, systems and features in accordance with this Code and applicable referenced

standards. Completed records shall be submitted no later than fifteen (15) days following the applicable maintenance, repair or replacement. The submitted report shall contain all information required by the City's designated electronic reporting system. The fee for any report filed using the electronic reporting system shall not exceed fifteen dollars (\$15.00).

Additional inspections and testing may be required of the repaired or replaced device, equipment, alarm, system or other feature upon the request of the fire code official."

PASSED and **APPROVED** this 15 day of June, 2021.


APPROVED:

ATTEST:

By:


LIONEL B. JORDAN, Mayor

By:


KARA PAXTON, City Clerk/Treasurer

