

City Council Work Session Meeting Minutes

Bixby Municipal Building
111 N. Cabaniss Ave., Bixby, OK 74008
April 13, 2026 at 5:00 PM

The agenda for the regularly scheduled meeting of the City Council Work Session of the City of Bixby was posted on the bulletin board at the Bixby Municipal Building, 111 N. Cabaniss Avenue, Bixby, OK 74008 on April 9, 2026, on or before 4:00 p.m.

Call to Order

Councilor Hirshey gave the Invocation.

Mayor Girard called the Bixby City Council Work Session to order at 5:00 pm.

Roll Call

Shannon Duran, City Clerk, called the roll, and the following were present:

Members Present:

Mayor Girard
Vice Mayor Schultz
Councilor Hirshey
Councilor David
Councilor Payne

Staff Present:

Joey Wiedel, City Manager
Kim Coody, Interim Assistant City Manager
JT Hammons, City Attorney
Shannon Duran, City Clerk
Charles Barnes, Finance Director
Dylan Warner, Public Works Director
Todd Blish, Police Chief
Joe Sherrell, Fire Chief

Agenda

- 1) Update from the Bixby Public Works Department regarding recent water testing being conducted in the City of Bixby, Oklahoma.

Mayor Girard said Item 1 is up for discussion.

Item presented by: Nathan Radach, Assistant Public Works Director

Others who spoke: No one else spoke

A handout was provided to the Council and attached to minutes.

Discussion ensued about the letter that was sent to the water customers that was required by the Department of Environmental Quality(DEQ). DEQ requires the City of Bixby every 6 months to obtain 60 samples from residents to test for lead and copper from inside a person's residence. If the reading is high, the City is required to notify that citizen. A letter was sent to every resident regarding this requirement. Public Works is working diligently to bring the city up to compliance with DEQ. An overview of what DEQ requires for the testing was given.

- 2) Presentation and discussion regarding interpretation of the Unified Development Code (UDC) as it applies to the Final Plat process.

Mayor Girard said Item 2 is up for discussion.

Item presented by: Dylan Warner, Public Works Director

Others who spoke: JT Hammons, City Attorney; Justin Morgan, Tanner Consultant

A handout was provided to the Council and attached to minutes.

Dylan Warner, Public Works Director, gave an overview of the Final Plat process. Discussion ensued about the Final Plat process. An overview of the code was handed out to the Council. A handout was provided to Council for their review. Dylan Warner, Public Works Director, gave an overview of the process of getting to a Final Plat along with Justin Morgan, Tanner Consultant. Currently, the developer gets a performance bond to ensure that the infrastructure that is required by the City gets done so that the Final Plat can be issued and permits for building the houses can get released if all the infrastructure is not completed. Discussion ensued about when to release the Final Plat, should it be released before the infrastructure is completed or after. With a performance bond in place, Builders are given a punch list that needs to be finished and 15% of the permits to build are released the rest of the permits are not released until the infrastructure is in place.

- 3) Presentation and discussion regarding The Compliance Engine service provided by BRYCER for the Bixby Fire Department.

Mayor Girard said Item 3 is up for discussion.

Item presented by: Ryan King, Fire Marshall

Others who spoke: No one

A handout was provided to the Council and attached to minutes.

Ryan King, Fire Marshall, provided the Council with a brief introduction about Brycer Advisory Group. Discussion ensued about Brycer Advisory Group, which will provide an automated software system. This would help with the fire compliance regarding businesses. Several of the cities located around Bixby are a part of this advisory group. The advisory group would send letters to the businesses to notify that the City is implementing this process. This does not cost the City anything to implement.

- 4) Presentation on traffic coordination of the Memorial Corridor in the City of Bixby, Oklahoma, to be presented by Kimley-Horn.

Mayor Girard said Item 3 is up for discussion.

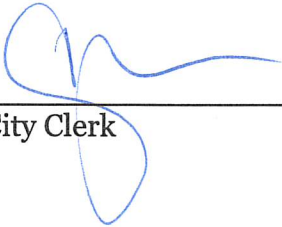
Item presented by: Joey Weidel, City Manager

Others who spoke: Luke Schmidt, Kimley-Horn and Jeremy Stahle, Kimley-Horn

Joey Weidel gave an overview of how the traffic coordination works and introduced Luke Schmidt, Kimley-Horn. Discussion ensued about how the traffic coordination works with regard to the Memorial Corridor. Luke Schmidt, Kimley-Horn, gave an overview of the traffic study of the Memorial corridor that was done for Bixby and Tulsa. There was an overview and history given of the Memorial corridor. The biggest obstacle is the bridge over the Arkansas River. The memorial corridor is currently at capacity. There are a few things that could be done. One of them is different cycles with the traffic lights.

5) Adjournment

Adjournment was called at 5:56 pm.



City Clerk





Mayor



IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Bixby Public Works Authority Did Not Meet Monitoring Requirements

Our water system recently violated drinking water requirements pertaining to the contaminant(s) of concern listed below. Although none of these violations are considered emergencies as our customers, you have a right to know what happened and what we are doing, or have done, to correct these violations. Customers are not at risk and there is no reason to suspect any potential adverse health effects. Alternative water supplies are not needed.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the following monitoring periods, we did not monitor or test for the following contaminant(s), and therefore cannot be sure of the quality of your drinking water during that time.

Type Sample(s): Lead & Copper Monitoring Period(s): July 1, 2025- December 31, 2025

What should I do?

There is nothing you need to do at this time. This violation does not require any action on your part.

What happened? What is being done?

The required Lead and Copper monitoring was not completed within the specified monitoring period. Upon notification, the Bixby Public Works Authority has taken corrective action by scheduling and completing the required sampling and submitting all necessary documentation to the Oklahoma Department of Environmental Quality (DEQ). Procedures have been reviewed and updated to ensure all future monitoring and reporting requirements are completed on time.

We anticipate resolving the problem by this date: June 30, 2026

For more information, please contact:

**Public Works Department-Bixby Public Works Authority
Phone Number: 918-366-0495
113 W Dawes, Bixby Ok 74008**

**Please share this information with all the other people who drink this water,
especially those who may not have received this notice directly**

BRYCER Advisory Group

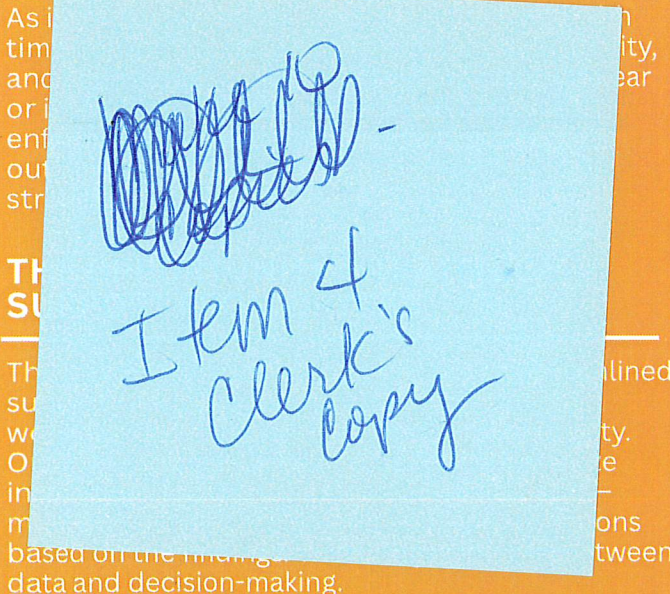
Report Review Service | The Compliance Engine



OVERVIEW

Your department is a strong candidate for our comprehensive Report Review Service, provided by the BRYCER Advisory Group. This program is designed to reduce administrative burden, improve data quality, and accelerate enforcement timelines. With the support of a Fire Compliance Review Specialist, your team gains a trusted partner who not only reviews reports – but also provides clear, strategic recommendations to guide your next steps.

THE PROBLEM: INCREASING REPORT VOLUME, LIMITED BANDWIDTH



OUR SOLUTION: EXPERT REVIEW, INDUSTRY PERSPECTIVE

The Report Review Analysis Service brings together:

Certified Fire Marshals & Inspectors

Offering deep code knowledge and jurisdictional insight

Direct Line of Communication

Our reviewers maintain open communication with your department. If a report contains uncertain findings or gray areas, they will contact your team directly to confirm next steps.

NICET-Certified System Specialists

Bringing technical expertise across fire alarm, sprinkler, kitchen hood, elevator, and other systems

This balanced, expert-backed approach ensures AHJs receive not just accurate data – but guidance on how to act on it.

KEY ADVANTAGES

- Reduce your team's review time
- Accelerate contractor corrections
- Ensure reports are correctly submitted
- Build inventory and property profiles automatically
- Receive actionable recommendations tailored to your enforcement needs

All while maintaining full AHJ authority and oversight.

RESULT: BETTER DATA. FASTER ENFORCEMENT. STRONGER COMPLIANCE

Partnering with BRYCER enhances your ability to enforce confidently and act quickly – without increasing your internal staff. Our Fire Compliance Review Specialists ensure only validated, action-ready deficiencies reach your desk. The result is higher compliance, reduced backlog, and safer communities.

READY TO STREAMLINE YOUR REVIEW PROCESS?

Contact us to learn how the Report Review Service can support your jurisdiction.

thecomplianceengine.com

BRYCER, L.P.
BRYCER ADVISORY GROUP, L.P.
2300 Cabot Dr
Suite 250
Lisle, IL 60532

03/05/2026

Bixby Fire Department
6397 E 151st Street S
Bixby, OK 74008

Re: “The Compliance Engine”

Dear Bixby Fire Department:

We look forward to providing you with “The Compliance Engine” (the “Solution”) and the advisory services described below related to the Solution (the “Advisory Services”). This proposal letter provides the basic terms by which Brycer, L.P. (“Brycer”) and Brycer Advisory Group, L.P. (“BAGLP”) will provide you, Bixby Fire Department (“Client”), with the Solution and the Advisory Services. The use of the Solution, the Advisory Services and all matters among Brycer, BAGLP 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 and BAGLP will provide the Advisory Services for three years, commencing _____ (the “Initial Term”). Thereafter, the Term shall automatically renew for successive three-year periods unless terminated by, as the case may be, Brycer or BAGLP, or Client in writing at least 180 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 and BAGLP shall stop providing the Advisory Services; 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 180 days’ written notice to each of Brycer and BAGLP.

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 and BAGLP Responsibilities:** During the Term, Brycer and BAGLP, as the case may be, shall be responsible for the following in connection with Client’s use of the Solution and the Advisory Services:

- **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.
- **Advisory Services.** BAGLP will review the information entered into the Solution by third party inspectors (including compliance and deficient test results) to confirm their accuracy and completeness. On a case by case basis, BAGLP may provide recommendations, suggestions, comments and observations on the test results to the Client. BAGLP shall provide the Advisory Services using the Solution.

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 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.** 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 each of Brycer and BAGLP with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within **[Bixby Fire Department]** for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion. Client shall promptly provide BAGLP with all appropriate information for BAGLP to perform the Advisory Services.
- **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.
- **Third-Party Reports.** Client will require all compliant and deficient test results to be submitted.

- **Compliance.** Client shall be responsible for remaining informed and updated, and causing its third party inspectors to be informed and updated, on all applicable rules, regulations, ordinances and other legal or regulatory requirements related to the underlying testing for which the Solution is being used by third party inspection companies. Client shall inform each of Brycer and BAGLP of any changes, updates or revisions to such rules, regulations, ordinances or requirements that may impact the functionality, compliance, or appropriate use of the Solution or the Advisory Services provided by BAGLP hereunder.
- **Collaboration.** Client shall make reasonable efforts to collaborate with each of Brycer and BAGLP to ensure that the Solution is used, and the Advisory Services are provided, in accordance with all relevant requirements.

5. **Ownership of Data.** Client owns all the non-public data provided by Client and received from third party contractors for Client. Brycer and BAGLP 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, L.P.

By: _____

Its: _____

Brycer Advisory Group, L.P.

By: _____

Its: _____

Acknowledged and Agreed to this

[Date] _____

Bixby Fire Department

By: _____

Its: _____

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 among Brycer, L.P. ("Brycer") and Brycer Advisory Group, L.P. ("BAGLP"), on the one hand, and Client, on the other hand (the "Agreement"). As used in these Terms and Conditions, "Brycer" means either or both of Brycer or BAGLP, as the case may be depending on the provider of the applicable services described and referred to below.

1. **Restrictions on Use.** Client shall not copy, distribute, create derivative works of or modify the Solution or the work product resulting from the Advisory Services (the "Work Product") in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution and the Work Product for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution or the Work Product; (c) it shall not sell, resell, rent or lease the Solution or the Work Product; (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, the Advisory Services, the Work Product 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 or the Advisory Services and any screen shots of the Solution or the Work Product; and (h) it shall not disclose the features of the Solution or the Work Product to anyone other than the Authorized Users. Client is responsible for all actions taken by the Authorized Users in connection with the Solution and the Advisory Services.
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 the Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Brycer shall have the right to use the Derivative Works, the Work Product, the Documentation and any data used in connection with the foregoing to provide the services under the Agreement and to analyze, improve, expand and enhance the functionality and performance of the Solution, the Advisory Services and related offerings. 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 party hereto is an independent contractor. No party may assume, either directly or indirectly, any liability of or for another party. No party has the authority to bind or obligate another party and no 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, the contents of any Work Product, 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 or similar Work Product to other parties.
5. **Use of Logos.** During the term of the Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client and for the purpose of preparing and making available the Work Product to Client.
6. **Confidential Information.** Each party acknowledges and agrees that in providing the Solution and the Advisory Services, each party, 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, the Work Product, 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 disclosing party, disclose any Confidential Information or any part thereof to any third party. Notwithstanding the foregoing, the parties acknowledge that each party shall be permitted to comply with any and 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 (including the Work Product) for purposes of complying with federal and state disclosure laws, Brycer shall provide such information within five business days following such request, to the extent legally permissible. 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 the Agreement, each party will return to the disclosing party all Confidential Information of the disclosing party; provided, however that Brycer may retain a copy of such Confidential Information of Client to comply with applicable law or a bona fide record retention policy. 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, except for the purposes set forth in the Agreement.
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 the Agreement and provide the Solution to Client pursuant to the Agreement.
8. **Disclaimer.** All information, as well as all conclusions as to the condition of any testing site, entered into Brycer's database or submitted in connection with the Advisory Services 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, INCLUDING IN CONNECTION WITH THE PREPARATION AND PROVISION OF THE ADVISORY SERVICES, WHICH ARE MADE IN RELIANCE UPON SUCH INFORMATION. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION, THE ADVISORY SERVICES OR THE WORK PRODUCT OR ANY OTHER INFORMATION OR THE CONTENTS THEREIN 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, ON A SEVERAL AND NOT JOINT BASIS, CLIENT FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7.

9. **LIMITATION ON DAMAGES.** BRYCER, ON A SEVERAL AND NOT JOINT BASIS, 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. BRYCER'S SHALL BE NOT LIABLE FOR ANY NON-COMPLIANCE, PENALTIES OR OPERATIONAL DISRUPTIONS RESULTING FROM CLIENT'S FAILURE TO (A) STAY INFORMED AND IN COMPLIANCE WITH, (B) PROVIDE BRYCER TIMELY UPDATES OF APPLICABLE RULES REGULATIONS OR ORDINANCES, OR (C) ACT IN ACCORDANCE WITH THE APPLICABLE RULES, REGULATIONS OR ORDINANCES, OR IN ACCORDANCE WITH THE CONCLUSIONS SET FORTH IN ANY TEST OR WORK PRODUCT, WHICH MAY AFFECT THE SOLUTION OR THE ADVISORY SERVICES (INCLUDING THE WORK PRODUCT) PROVIDED HEREUNDER.
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 and the Work Product 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 (including without limitation, BAGLP for the provision of the Advisory Services hereunder); (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, severally and not jointly (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 the 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 the Agreement, gross negligence or intentional misconduct. Client acknowledges that Brycer does not create any of the data and information included in the Solution or described in the Work Product, is not responsible for any such data or information, and makes and may assess or make any suggestions or recommendations in the Work Product solely in reliance on 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 (individually or collectively) by a third party in connection with Client's or an Authorized User's use of the Solution or the contents of the Work Product, 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.
12. **Breach.** Brycer shall have the right to terminate or suspend the Agreement, and all of Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's breach of any provision of the 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.** No 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 THE 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, including these Terms and Conditions which are hereby incorporated by reference, 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 all 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.
22. Separation of Services. Client acknowledges and agrees that each of Brycer and BAGLP are separate and distinct entities, each providing its respective services under the Agreement independently of the other. Each of Brycer and BAGLP shall be solely responsible for the performance, quality and delivery of the services it provides, as well as for any obligations, liabilities or claims arising out of or relating to its respective services. Neither Brycer nor BAGLP shall be liable for the services performed or obligations undertaken by the other, and no joint liability shall arise as a result of their respective roles under 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 number is 630-413-9511.

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

12-1-7: - ENFORCEMENT:

- A. Recording Plat: No plat of any subdivision shall be entitled to be recorded in the county clerk's office or to otherwise to have any validity until it shall have been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid, and the city council may institute legal proceedings to have the plat stricken from the records.
- B. Sale Of Land In Subdivision: No owner or agent of the owner of any land located within any actual or proposed subdivision shall offer, transfer, sell or agree to sell any land by reference to, exhibit of, or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein; unless such agreement to sell is expressly made contingent upon the proper filing of the plat in question in advance of closing. Any sale or transfer contrary to the provisions of this subsection is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the provisions of this title.
- C. Construction Of Improvements:
1. Upon approval of the preliminary plat by the city council, the subdivider of any land located within the city can proceed with the submission of all documents and fees for compliance with the PFPI, stormwater design criteria, earth change and all other pertinent ordinances necessary for obtaining construction permits. Upon staff approval, and council's approval on earth change permits, a permit shall be issued allowing the subdivider to proceed with any construction work on such proposed subdivision.
 - a. Permits can be issued based upon individual scopes of work for each improvement (i.e., complete sanitary sewers, water distribution system, storm sewers, earthwork and detention facility); however, the final plat cannot be filed of record until the final plat has been submitted and approved by the city council; and
 - (1) All improvements are complete and accepted or approved by the city council; and/
or
 - (2) Security has been provided and approved by the city staff for all of the improvements.
 - b. If the subdivider wishes to file the final plat prior to the completion and acceptance or approval of all construction improvements, the final plat must have been approved by the city council; and the security for all improvements must be submitted and approved by the city staff.
 2. The building official shall not issue building permits for any structure on a lot in a

subdivision for which a final plat has not been approved and recorded in the manner prescribed herein, and for which all proposed public improvements have not been accepted by the city council.

3. The city staff shall not sell or authorize to be installed any taps to public water or sewer systems on any lot of a subdivision for which a plat has not been approved and recorded in the manner prescribed herein, and for which all improvements have not been constructed; provided, that all public improvements must be constructed, dedicated and accepted by the city prior to the sale or authorization.
- D. Public Services: The city will withhold all public services of whatsoever nature other than police and fire protection, but including the maintenance of streets and the furnishing of water or sewer facilities from all subdivisions which have not been approved, and from all areas dedicated to the public which have not been accepted in the manner prescribed herein. It is further the policy of the city to require the owner to comply with the general principles of design and requirements for subdivisions as set forth herein.
- E. Revision Of Plat After Approval: No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the city council, and endorsed in writing on the plat, unless said plat is first resubmitted to the planning commission and to the city council and receives approval for the changes.

(Ord. 854, 9-9-2002)