



## City of Ketchum

July 6, 2021

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation to Approve Contract #20669 with Neurilink**

#### Recommendation and Summary

Staff requests Council authorize the Mayor's signature on Contract #20669 with Neurilink to provide audio visual equipment and installation in the Council meeting room at the new city hall for \$84,175.

"I move to authorize the Mayor to sign Contract #20669 for \$84,175 with Neurilink for audio visual equipment and installation at new city hall."

The reasons for the recommendation are as follows:

- The city intends to relocate to the new city hall by late September 2021.
- The meeting room must meet the functional expectations of the City Council, other city commissions and the public.
- The fee for Neurilink's services is included in the Council approved costs for direct expenses related to the project.

#### Introduction and History

At the June 7 meeting, City Council approved a not-to-exceed budget of \$485,625 for new city hall direct expenditures. Included in that budget was an estimated \$84,000 line item for audio visual equipment for the City Council meeting room.

With the continuing use of virtual meetings, it is important to have adequate technology for city meetings to ensure all members of the public can view, hear clearly, and participate. Staff has been working with Neurilink over the past several months to develop a system that will meet those requirements.

The contract includes repurposing some of the existing equipment in Council chambers and installing a dedicated source for running Zoom meetings. Also included are 6 displays, 2 cameras for live stream capabilities and rechargeable wireless microphones. Replacing the existing mics with wireless mics and docking station will allow for multiple configurations of the room for other uses and eliminate the need for batteries.

#### Sustainability Impact

There is no sustainability impact.

#### Financial Impact

This cost is associated with the not-to-exceed budget for direct project expenses, which exists in the CIP fund balance and General Fund Balance

Attachments:

Contract #20669



CONTRACT #20669

# Proposal:

## Audio Visual Solutions

Proposal No. 137856 v.6

6/28/2021

**Prepared For**

Lisa Enourato  
Public Affairs & Admin Services Manager  
City of Ketchum

**Prepared By**

GREG BRIDGES  
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# Project Overview

## SCOPE OF WORK

### 1.1. Functional Description and Narrative: Council Chambers

- Uninstall all equipment being repurposed from existing Council Chambers and re-install in new location.
- Replace projector with dual 65" commercial grade NEC display at the front of the room.
- Addition of four 55" commercial grade displays installed back-to-back on the columns in the middle of the room, mirrored to the main display. Installed on ceiling mounts.
- Add new ceiling mounted PTZ camera with USB extension back to equipment rack.
- Install 2<sup>nd</sup> PTZ camera at front of room to focus on presenter.
- Install 5 new Crestron speakers and audio amplifier. In-ceiling speakers will reproduce program and far end audio,
- The Crestron DMPS-300 will be upgraded to a new DMPS3-4K-350, along with a new 10" touch panel for controlling the system.
- Audio conferencing will be provided from the 7" touch panel for dialing, flash, etc.
- A single 7" touch screen will be wall mounted for control over the system.
- A Crestron UC Flex Zoom engine will be integrated into the system to have a dedicated source for running Zoom meetings.
- Upgraded from owner furnished Tesira FORTE AVB VI (fixed I/O DSP) to a modular card-based server chassis to handle additional microphone and audio inputs.
- Replace existing wired microphones with new Shure Microflex 12 channel wireless system, including 12 gooseneck desktop microphones with charging/docking station.

## CUSTOMER FURNISHED EQUIPMENT

- See Appendix Below

# Support Agreement

## Elite Protection

- Elite protection is our white-glove support. This annual support contract entitles you to:
- **10 HOURS** on site support
- Unlimited Tier 1 and 2 phone support
- 2-hour return call response time (during normal business hours)
- 24-hour on-site response (during normal business hours)
- 2 preventative maintenance inspections per year
- Waived hourly travel fees
- Complementary shipping associated with returned and/or repaired items
- View and manage your open tickets through your service portal

## Price Summary

City Hall Upgrades (Best)	
Product	\$ 61,197.78
Miscellaneous Materials	\$ 793.51
<b>Materials Subtotal</b>	<b>\$ 61,991.29</b>
<b>Services Subtotal</b>	<b>\$ 19,030.20</b>
Service Hours	\$ 2,660.00
<b>Support Subtotal</b>	<b>\$ 2,660.00</b>
Freight	\$ 493.51
<b>Ancillary Subtotal</b>	<b>\$ 493.51</b>
Pretax Total	\$ 84,175.00
Tax	\$ -
<b>Total</b>	<b>\$ 84,175.00</b>

## Exclusions

The following work is **not included** in our Scope of Work.

- Any necessary ceiling modifications for the projector and screen including T-Bar refinishing
- Ceiling tile replacement and or repair
- All conduits, high voltage wiring panels, breakers, relays, boxes, receptacles, etc.
- Concrete saw cutting and/or core drilling
- Fire wall, ceiling, roof and floor penetration
- Pre/Post Tensioned Ceilings/ Floors identification
- All millwork (moldings, trim, cut outs, etc.)
- Furniture modifications (table cuts, credenza cuts, etc.)
- Painting and patching

## Client Responsibilities

- **Site Access.** Client to provide all required permits, passes or identification procedures for Neurilink personnel to gain site access.
- **Building Access.** There is ready access to the building / facility and the room(s) for equipment and materials.
- **Network.** All Network configurations including IP addresses, where needed, are to be provided, operational and functional before system commissioning. Neurilink will not be responsible for testing the LAN connections.
- **Secure Storage & Ownership.** Client shall take possession and responsibility of all equipment upon delivery and acceptance. Any loss due to theft or vandalism is the Client's responsibility and shall be replaced at the Client's expense. Neurilink is not liable for storage of the products once they have been delivered to the Client Location.
- **Drop Ship.** Should equipment be sent directly to the customer location the equipment is FOB Destination and Client is responsible for acceptance and storage of all drop shipped equipment.
- **AC Power.** All AC power, including power cabling, equipment, receptacles, floor boxes, risers, conduit between risers, raceways, etc., will be furnished, installed and made available at the required locations by others. Neurilink does not install any high-voltage wiring and; therefore, cannot install, connect, repair or add electrical outlets.
- **Ceiling Tiles.** Replacement ceiling tiles are the responsibility of the client.
- **Pre/Post-Tensioned Ceilings/Floors.** Client shall identify the presence of any pre- or post-tensioned ceilings or floors within the area of installation to Company. Client is responsible for any required x-rays of areas in which installation shall take place.
- **Floor Penetrations.** Installation of any box, poke-thru, core/wire path, or other devices requiring modification of floor surface that are required for cable path.
- **Finishes.** Any installation, repair, patch, paint, re-texturing or trimming of walls, ceilings and/or finish carpentry is to be performed by others and is the Client's responsibility.
- **Parking.** Client will provide adequate parking for Company vehicle(s) in a location conducive to access the vehicle(s) for retrieval of tools and supplies throughout the workday. If such parking is within a secured facility, client will validate the parking fees for Company vehicle(s).
- **Training.** Scheduling all necessary employees for system training.

## Assumptions

- **Owner-Furnished Equipment (OFE).** Any owner furnished equipment shall be available for testing of system audio/video connections and will integrate with the purchased equipment and system(s). Any owner-furnished equipment shall be in good working order. Cost to repair or replace defective equipment shall be in addition to the proposed cost herein. If during the installation process such hardware/wiring is found to be defective, it is understood that the completion date of the project may be affected, and a Change Order may be required to overcome the complication(s) created by such defects.
  - **Consumer Displays.** If consumer grade flat panel displays (TVs) are specified by the end user as part of the integration project and they prove to be defective or incompatible with the proposed system, a change order may be issued to correct the problem. Please note using consumer displays in a commercial environment may void or reduce manufacturer warranties.
- **Staffing.** This proposal is based on a continuous work cycle, with no delays, performed during normal working hours. Monday through Friday, excluding company holidays. Any work performed outside normal business hours may incur additional costs.
- **Firmware.** Manufacturer equipment latest firmware updates will be performed during the course of the installation. No Manufacturer firmware will be incorporated after Substantial Completion (equipment/room available for Client's functional use) has been achieved. Further firmware updates are the Client's responsibility, unless covered under a Service Agreement, or Neurilink can be contracted on a time and materials basis to perform further updates. It should be noted that a firmware update on one piece of equipment may require other items to be updated in order to maintain system integrity and optimum functionality.
- **Documentation & Drawings.** Neurilink will provide a thumb drive with operation manuals, warranty documents, system schematics and wiring diagrams in Adobe Acrobat (PDF) format upon completion of project, when requested by client.

## Amendments of Design or Contract

- Any changes made to the Scope will require a Change Order, executed by an authorized signatory of the Client.
- It is understood by the Client that any changes made may affect delivery timetables and work schedules.
- Any Equipment that has been ordered for a project that falls within the Scope and is not used as a result of any Client changes to the design or refused by the Client at the time of delivery are subject to a minimum of 20% restocking fees, plus any incurred freight charges. For the avoidance of doubt, it is understood that some equipment is custom and cannot be returned and Company reserves the right to designate Equipment as non-returnable.

# Appendix 1

<b>City Hall Upgrades – Council Chambers</b>		
Owner Furnished Equipment: PoE Capable LAN @ Rack Location	1.00	\$ -
Owner Furnished Equipment: 15A 120VAC duplex @ Display Location	3.00	\$ -
Owner Furnished Equipment: 15A 120VAC duplex @ Rack Location	1.00	\$ -
Owner Furnished Equipment: Dais	1.00	\$ -
Owner Furnished Equipment: Tesira Forte AVB VI	1.00	\$ -
Owner Furnished Equipment: Atlona HDMI Transmitter	1.00	\$ -
Owner Furnished Equipment: Shure PG24/PG58	1.00	\$ -
Owner Furnished Equipment: Flex Mic	2.00	\$ -
Owner Furnished Equipment: Mic Wallplate	1.00	\$ -
Owner Furnished Equipment: Extron P2DA2P	1.00	\$ -
Owner Furnished Equipment: PC	1.00	\$ -
Owner Furnished Equipment: Laptop	1.00	\$ -
Owner Furnished Equipment: VGA Extender	1.00	\$ -
Owner Furnished Equipment: HDMI Converter	1.00	\$ -
Owner Furnished Equipment: Epiphan pearl2 mini	1.00	\$ -
Owner Furnished Equipment: ubiquiti es-8-150w	1.00	\$ -
Owner Furnished Equipment: Projector	1.00	\$ -
Owner Furnished Equipment: Vaddio WallVIEW 100 PTZ	1.00	\$ -
Owner Furnished Equipment: DMPS-300-C	1.00	\$ -
Owner Furnished Equipment: Crown Amp	1.00	\$ -
Owner Furnished Equipment: JBL 26CT	5.00	\$ -
Owner Furnished Equipment: TSW-750-B-S	1.00	\$ -
Owner Furnished Equipment: Shure 418D/C	7.00	\$ -
NEC 65" LED Display, 3840x2160, 18/7	2.00	\$ 2,973.60
Chief Large FUSION Micro-Adjustable Tilt Wall Mount	2.00	\$ 489.06
NEC 55" LED Display, 3840x2160, 18/7	4.00	\$ 4,780.80
FUSION™ Large Flat Panel Ceiling Mount	4.00	\$ 1,064.08
Chief 12-18" Adjustable Extension Column (White)	4.00	\$ 397.18
Chief 8" Ceiling Plate with Adjustable 1.5" NPT Column (White)	4.00	\$ 508.04
Crestron 4K DigitalMedia 8G+ Receiver & Room Controller 100	2.00	\$ 1,111.50
AVer CAM520 Pro2 Video Conferencing Camera	2.00	\$ 2,496.65
Vaddio QuickCAT Universal Suspended Ceiling Camera Mount	2.00	\$ 936.75
Crestron USB Over Cat Cable Extender, Local & Remote	2.00	\$ 1,235.00
Crestron 4K DM Matrix Switcher	1.00	\$ 6,669.00
Crestron High-Efficiency Power Pack	2.00	\$ 370.50
Crestron 10.1 in. Wall Mount Touch Screen, White Smooth	1.00	\$ 1,729.00
Crestron Amplifier, 1/2/4 Channel, 70/100V, 4/8 Ohm	1.00	\$ 494.00
Saros Integrator 6.5" 2-Way In-Ceiling Speaker, White Textured, Single	5.00	\$ 487.50
Biamp Tesira DSP Server w/ up to 48 Channels of I/O, 1 AVB-1 Network Card	1.00	\$ 4,586.40
Biamp Tesira 4 Channel Mic/Line Output Card	2.00	\$ 401.86

Biamp Tesira 4 Channel Mic/Line Input Card w/ Acoustic Echo Cancellation	5.00	\$ 2,315.04
Biamp Tesira 2 Line VoIP Telephone Interface Card	1.00	\$ 398.11
Biamp Tesira 64x64 Dante Module (Card Kit)	1.00	\$ 922.27
Crestron Flex UC Video Conference Kit w/ ZR Software	1.00	\$ 3,828.50
Crestron 4K DigitalMedia 8G+ Receiver & Room Controller 100	2.00	\$ 1,111.50
Crestron 1:4 4K HDMI® to DM 8G+® & HDBaseT® Splitter	1.00	\$ 1,667.25
Shure 8 Channel Access Point Transceiver	1.00	\$ 2,902.25
Shure 4 Channel Access Point Transceiver - Z10 1920 - 1930 MHz	1.00	\$ 2,244.00
Shure 8 Channel Networked Charging Station	3.00	\$ 4,538.63
Shure Wireless Desktop Base Transmitter	12.00	\$ 5,928.00
Shure Gooseneck Mic	12.00	\$ 3,112.20
Shure Wall/USB Charger for MXW mics, +6' USB-A cable	12.00	\$ 207.48
Cat 6 Wire, White, Shielded, Plenum, White, 23-4	500.00	\$ 433.32
23 AWG 4 Pair Bare Copper, Non-Shielded Plenum Rated Category 6	500.00	\$ 195.83
Extron Shielded Cat6-RJ45 Plug Extron XTP DTP 24 (10 pk)	2.00	\$ 83.33
16/2 Wire, White, Plenum, Unshielded	500.00	\$ 139.16
Composite 22 AWG 1 pr shield & 18 AWG 2 cond- Plenum	200.00	\$ 103.33
Windy City Wire 22/2 Control Wire- Black	1,000.00	\$ 136.66
Hardware Charge for Medium Rack (17-27 RU)	1.00	\$ 200.00



## TERMS & CONDITIONS

THESE TERMS AND CONDITIONS ("AGREEMENT") CONTAINS THE TERMS THAT ALLOW "CLIENT" TO USE THE SERVICES AND/OR EQUIPMENT TO BE PROVIDED BY NEURILINK, LLC., with principal place of business at 12586 W Bridger Street, Suite 100, Boise, ID ("COMPANY"). Client agrees that these terms represent, and Client is entering into a legally binding agreement. Client represents to Company that it is lawfully able to enter into contracts.

### GENERAL TERMS AND CONDITIONS

#### 1. Definitions.

- a. "Client Locations" mean all Client locations receiving Equipment or Services under the terms and conditions of this Agreement, including any new Client Locations that receive Services or Equipment during the Term.
- b. "Documentation" means user guides, plans, manuals or any other materials prepared by Company, whether in printed or electronic format, which instruct or otherwise support Client on the use of the Equipment or Services.
- c. "Equipment" means any physical asset or piece of hardware that has material existence, provided by the Company to Client for use in Client Locations.
- d. "Services" mean all subscriptions, software, labor, applications, information, and processes.
- e. "Authorized Signatory" means an employee of the Client that has the authority to approve and execute Agreements on behalf of the Client's legal business entity.
- f. "Scope" means the documentation that itemizes specific project(s) goals that includes at a minimum the Equipment and/or Services to be provided and the features and functionality of the Equipment and/or Services.
- g. "Proposal" is a document that defines the Services and Equipment to be provided to a client, the fees required to complete the Scope.
- h. "After Hours" are defined as Saturday and Sunday, and those hours before 8:00 am and after 5:00 pm Monday through Friday, including Federally recognized holidays.
- i. "Change Order" is defined as a revision(s) to an unfinished project Proposal(s) or Scope(s). Change Orders may or may not change the total project fees. Change Orders will include at a minimum a description of the change, a fee or fee structure, a signature block to be completed by an Authorized Signatory and a date of the execution of the Change Order.
- j. "Warranty Period" is the period of time that warrant no-charge return visits, service calls, repair, replacement or substitution of Services or Equipment.
- k. "Project Completion Form" is a form requiring execution from an Authorized Signatory that affirms completion of a Proposal.

2. **Workmanship.** All work performed by Company shall be in accordance with best practices. Company shall take all necessary precautions to ensure the safety, security, integrity and quality of all work performed, including but not limited to engineering, design and project management.

3. **Term.** This Agreement shall commence on the Effective Date of the Proposal(s) as executed by an Authorized Signatory and shall terminate ninety (90) days after the last date, indicated

on the Project Completion Form, that all obligations of the parties have been satisfied, up to and including, full payment for Services and Equipment as described in the Proposal(s), and Change Orders, if applicable. Final acceptance of Proposal(s) and Scope(s) completion will be executed via the Project Completion Form.

4. **Termination.** This Agreement may be terminated upon 30-day written notice with the mutual written consent of both parties, or if there has been a material breach of the terms of this Agreement. If a breach occurs then the breaching party will comply with the terms provided in Section 22, Default; Remedy.
5. **Effect of Termination.** In the event of a termination of the Agreement both parties agree that there will be no further force or effect, however, any termination regardless of timing, will not relieve the Client for any fees for Equipment or Services already provided, any past due invoices, or other agreed upon fees.

All provisions of this Agreement which may reasonably be interpreted or construed as surviving the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement. For avoidance of doubt, the Warranty Period will survive the termination of this agreement in accordance with Section 8.

6. **Delays.** Company will use reasonable efforts to deliver all Services and Equipment as defined by the Scope(s) and Proposal(s) to Client. In the event of a delay, Company will advise Client as soon as possible of a new date for performance or installation. If the timetable for installation or performance of any Services or Equipment is delayed, then the timetable for installation or performance of the Services or Equipment will be extended for the period of time that the Services, Equipment or installation of Services or Equipment has been delayed as a result of such events: delay by Client in the performance of Client's responsibilities; an event of force majeure as described in Section 24; or in cases of a Change Order.
7. **Workmanship Warranty.** For the ninety (90) day period following the first day a Client Location has executed the Project Completion Form, providing final acceptance via the Project Completion Form, hereunder (the "Warranty Period"), Company warrants to Client that the equipment located at such Client Location will be free from material defects in materials and/or workmanship. During the Warranty Period, Company shall maintain and service all Equipment hereunder at no additional charge to Client (including any shipping charges related thereto), provided that such maintenance and service shall not include labor and component repairs required as a direct or indirect result of the improper or out of the ordinary use of the Equipment. During the Warranty Period, defective Equipment will be either repaired or replaced at Company's sole discretion. Any replacement Equipment, parts or products are warranted for the remainder of the original Warranty Period associated with the replaced or repaired Equipment. Client must promptly notify Company if there is a defect in material or workmanship. Company must receive notice of all defects before expiration of the Warranty Period. After the Warranty Period, for each piece of Equipment sold hereunder, Client shall be responsible for any costs associated with repair (including any component replacement and shipping charges).

8. **Equipment Warranty.** All manufacturers' warranties will commence upon the same date as executed on the Project Completion form and are subject to their respective terms and conditions.
9. **Acceptance.** Client acknowledges and agrees that Client is responsible for ensuring that all Equipment and Services performed or received are accurate and meet Client's requirements. Unless the parties agree to alternative acceptance criteria in writing, Client will be deemed to have fully accepted all Equipment & Services upon completion of the defined Scope and execution by an Authorized Signatory via a Project Completion Form.
10. **Payment Terms.** For all Services and Equipment provided hereunder, Client shall pay Company as set forth in Proposal(s), defined by the Scope(s), and delivered to Client and executed by an Authorized Signatory. Client shall pay for expenses related to shipping, Services, and Equipment to the Client Locations. All invoices will be due net 30 unless otherwise noted.
- a. Prior to the date that Client first receives Services or Equipment, Client shall pay to Company a deposit equal to the fifty percent (50%) of the agreed upon project Scope set forth in Proposal(s) that is executed by an Authorized Signatory, prior to the start of any project, if the Proposal is in excess of \$9,999. When Substantial Completion (equipment/room is available for Client's functional use) has been achieved the Client shall be invoiced for the remaining balance which may incorporate Change Orders, cost overruns or related expenses.
  - b. If any bank or financial institution refuses to honor any payment to the Company, Client shall pay all costs of collection, before and after judgment, including, but not limited to, court costs, and reasonable attorney fees (including those incurred in defense of any claim brought by Client or incident to settlement or any action or proceeding involving Client brought pursuant to the United States Bankruptcy Code).
  - c. In order to establish an account with Company, Client authorizes Company to inquire into Client's creditworthiness by checking with credit reporting agencies. If Client is delinquent in any payment to Company, Client also authorizes Company to report any late payment or nonpayment to credit reporting agencies. Client must notify Company immediately of any change in Client's name, billing or business address, e-mail address, telephone number or credit card information.
11. **Taxes.** Client is solely responsible for payment of any taxes (including sales, use, and property taxes) resulting from the provision of the Services or Equipment, other than taxes based on the gross or net income of Company. Client shall indemnify, defend, and hold Company, its officers, directors, and employees harmless from and against any and all claims and liabilities arising from or related to Client's failure to report or pay such taxes.
12. **Service Visits.** If Client requests a service visit or an on-site service unrelated to the current, existing or unfinished Proposal(s) or Scope(s) (either prior, during or subsequently) at a Client Location, Client agrees to pay the costs (including then-current labor rates) of any such visit, unless a Neurilink maintenance agreement is in place with sufficient credit available to cover such visit.
13. **Confidentiality.** The Company and Client acknowledge that the existence and the terms of this Agreement and any oral or written information exchanged between the parties in connection

with the preparation and performance of this Agreement are regarded as confidential information. Each party shall maintain confidentiality of all such confidential information and without obtaining the written consent of the other party shall not disclose any relevant confidential information to any third parties except for information that (a) is in the public domain (other than through the receiving party's unauthorized disclosure); or (b) is under the obligation to be disclosed pursuant to the applicable law(s) or regulations or orders of the court or other government authorities.

All obligations related to this section shall survive the termination of this Agreement for a period of five (5) years.

14. **Use of Marks.** The Client shall grant the Company permission to use the Client's name and logo on promotional materials which may include but are not limited to brochures, website, and presentations. The Client grants the Company permission to use a description of services rendered in the connection with proposal and bid documentation.
15. **Assignment.** Neither party may assign either this Agreement or any of its rights, interest, or obligations hereunder without the prior written permission of the other parties. Written notice of such assignment will be in writing and delivered no later than thirty (30) days prior to effective date of such assignment.
16. **Indemnification by Company.** Company shall indemnify, defend, and hold Client and its officers, directors, and employees harmless from and against any and all third party claims, actions, suits, damages, proceedings, costs and expenses (including reasonable attorneys' fees and costs) incurred or suffered by Client and arising out of or relating to (i) any material breach by Company of Company's representations and warranties, agreements and covenants contained in this Agreement solely as they relate to Company provided Services or Equipment or (ii) infringement of any United States issued patent, registered copyright, or registered trademark. Notwithstanding the foregoing, Company shall have no obligation to indemnify Client with respect to any claims or damages arising out of or resulting from (i) any use of the Services or Equipment by Client or any third party in violation of the terms of this Agreement; (ii) Client's gross negligence or willful misconduct; (iii) any modifications to the Equipment by any person or entity other than Company or Company's authorized representative; (iv) any unauthorized use by Client or any third party; (v) any use in combination with other hardware, to the extent any alleged infringement is caused by such combination.
17. **Indemnification by Client.** Client shall indemnify, defend, and hold Company and its officers, directors, and employees harmless from and against any and all third party claims, actions, suits, damages, proceedings, costs and expenses (including reasonable attorneys' fees and costs) incurred or suffered by Company and arising out of or relating to any breach or violation by Client of Client's representations, warranties, agreements or covenants contained herein.
18. **Indemnification Procedures.** The party claiming indemnification pursuant to this section (the "Indemnified Party") shall promptly notify the other party (the "Indemnifying Party") of any such claim of which it becomes aware and shall: (i) at the Indemnifying Party's expense, provide reasonable cooperation to the Indemnifying Party in connection with the defense or settlement of any such claim, (ii) at the Indemnified Party's expense, be entitled to participate in the

defense of any such claim, and (iii) not settle or compromise any claim, action or allegation without the prior written consent of the Indemnifying Party. The Indemnified Party agrees that the Indemnifying Party shall have sole and exclusive control over the defense and settlement of any such third-party claim. However, the Indemnifying Party shall not acquiesce to any judgment or enter into any settlement that admits liability on the part of the Indemnified Party without the prior written consent of the Indemnified Party.

19. **Waiver; Severability.** The failure of either of party to enforce any provision of this Agreement or to exercise any right or remedy hereunder shall not be considered to be a waiver of any such right or remedy or of any subsequent breach of this Agreement. No provision of this Agreement may be waived except by written agreement of each party. If any provision of this Agreement violates any law or becomes unenforceable, then such provision shall be deemed modified or excluded to the extent necessary so that it is no longer in violation of law or unenforceable. The remaining provisions of this Agreement shall remain binding on the parties.
20. **Disclaimer of Warranties.** THE LIMITED WARRANTIES EXPRESSLY SET FORTH IN SECTION 7 & 8 ARE THE ONLY WARRANTIES MADE BY COMPANY. COMPANY EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. CLIENT ACKNOWLEDGES THAT COMPANY HAS NOT MADE, AND CLIENT IS NOT RELYING ON, ANY EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS TO CLIENT REGARDING THE VALUE OF THIS AGREEMENT OR THE SERVICES AND PRODUCTS TO CLIENT OR CLIENT'S ABILITY TO USE SUCH SERVICES OR PRODUCTS PROVIDED HEREUNDER TO ITS ADVANTAGE, PROFITABILITY OR BENEFIT. DUE TO THE COMPLEX NATURE OF HARDWARE AND SOFTWARE IN GENERAL, COMPANY DOES NOT WARRANT THAT THE SOFTWARE, SERVICES OR THE DOCUMENTATION ARE COMPLETELY ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION, ARE COMPATIBLE WITH ALL EQUIPMENT AND SOFTWARE CONFIGURATIONS, OR WILL OTHERWISE MEET CLIENT'S NEEDS.
21. **Limitation of Liability.** IN NO EVENT SHALL COMPANY (OR COMPANY'S SUPPLIERS OR LICENSORS) BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFIT, BUSINESS INTERRUPTION OR OTHER PECUNIARY LOSS AND WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT INCLUDING THE PROVISION, USE OR INABILITY TO USE THE EQUIPMENT, SERVICES, OR SOFTWARE EVEN IF CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THE EXCLUSIVE REMEDIES STATED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE. IN NO EVENT SHALL COMPANY'S AGGREGATE LIABILITY TO CLIENT ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CLIENT TO COMPANY UNDER THIS AGREEMENT.
22. **Default; Remedy.** If either party materially breaches this Agreement for any reason, then the non-breaching party shall notify the breaching party of such breach in writing. The breaching party will have thirty (30) days from receipt of such notice to remedy the breach. If, after the thirty (30) day remedy period, the breach has not been cured, the non-breaching party, in its sole discretion and in addition to its other remedies, may terminate this Agreement. If Client is

the breaching party, Company may withhold Services or Equipment in whole or in part upon the occurrence of the breach. The breaching party shall reimburse the non-breaching party for all out-of-pocket costs and expenses incurred in connection with non-breaching party's exercise of its rights under this Agreement, including without limitation, its costs of collection and reasonable attorneys' fees and costs. Client acknowledges and agrees that if at any time Client is late in the payment of any amount due to Company, (a) Company may withhold Services or Equipment to the Client until such time as Client pays all amounts due and owing to Company, (b) the full and regular fees associated with the Services or Equipment shall continue to accrue notwithstanding the fact that the Services and Equipment are being withheld, and (c) Company will not be obligated to provide retroactive Services once Client pays the balance of payments due and owing to Company.

23. **Notice.** Any notices permitted or required pursuant to this Agreement shall be deemed effective if made in writing and sent via recognized postal service or digital delivery system such as email, to the Client's Authorized Signatory and to the Company at the following address:
- a. Neurilink, LLC  
Attn: Bill Smith  
12586 W. Bridger Street  
Suite 100  
Boise, ID 83713
24. **Force Majeure.** Except for payments due from Client to Company hereunder, neither party shall be liable for delays in performance due to causes beyond its reasonable control, including but not limited to, acts of God, acts of public enemy, acts of government or courts of law or equity, civil war, insurrection or riots, fires, floods, explosions, earthquakes or other casualties, strikes or other labor troubles. A party so delayed shall promptly inform the other party in writing of such event and of the date by which its performance may reasonably be expected to resume.
25. **Survival.** All provisions of this Agreement which may reasonably be interpreted or construed as surviving the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.
26. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho without giving effect to the conflict of laws principles thereof.

<b>Project Budget</b>	\$84,175.00
<b>Date Issued</b>	6/28/2021 This proposal expires 30 days after the date issued.
<b>Project Commencement</b>	Project will begin once this document is signed and returned to your account executive.
<b>Project Location</b>	Ketchum City Hall Address - TBD Ketchum, ID

Client:  
City of Ketchum  
480 East Ave.  
  
Ketchum, ID 83340

Company:  
Neurilink, LLC  
12586 W. Bridger St.  
Ste 100  
Boise, Idaho 83713

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_