

## City Council Special Meeting Agenda

**Date:** 3/10/16  
**Time:** 3:30 p.m.  
**Location:** City Hall Council Chambers

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|--|--|--|
| <input type="checkbox"/> Mayor Nancy Tia Brown | <input type="checkbox"/> Steve Miller              | <input type="checkbox"/> Administrative Services |
| <input type="checkbox"/> Donny Anderson        | <input type="checkbox"/> Stan Wolz                 | Officer, Cindy Baker                             |
| <input type="checkbox"/> Karen Ballinger       | <input type="checkbox"/> City Administrator, Barry | <input type="checkbox"/> City Attorney, Scott    |
| <input type="checkbox"/> Jerry Fritz           | Cook   | Kolpitcke  |
| <input type="checkbox"/> Landon Greer          |  |  |

- 3:30–4:00 - Interview – Russ Francis and Sharon Smith-Veterans Memorial Committee
- 4:00–4:15 – Holm View Property
- 4:15-4:30 - Signs in City Right of Way
- 4:30–4:45 - Council Audio/Video Scope of Upgrade Project
- 4:45-4:55 – Yard Waste Pickup Change
- 4:55-5:05 – Spyglass
- 5:05-5:15 - Greybull Hill Bushes
- 5:15-5:25 – Mini Golf – Water/Electricity
- 5:25–5:45 – Service Sign - Relocation

Meeting Reminders:

- Tuesday, March 15, 2016** - Regular Council Meeting 7:00 p.m. City Council Chambers
- Thursday, March 31, 2016** – Council Budget Work Session 4:15 p.m. City Council Chambers

Time Adjourned: \_\_\_\_\_

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**MEMORANDUM**

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**TO:** CODY CITY COUNCIL  
**FROM:** TODD STOWELL, CITY PLANNER  
**SUBJECT:** MULTIPLE SIGN ENCROACHMENTS  
**DATE:** MARCH 8, 2016

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**PRIMARY QUESTIONS:**

Is Council willing to grant encroachment licenses for all or some of the thirteen identified sign structures that are located on City street right-of-way? (Photos attached)

In some instances the City could vacate the street right-of-way, thereby putting the sign on the property it advertises. Vacation may be an option for the signs on North Frontage Road. Is Council willing to vacate the North Frontage Road right-of-way? (Vacation would be subject to the property owners merging individual lots to permanently eliminate the need for the frontage road. The City would need to retain a utility easement.) Vacation of D-Y Road is probably not an option.

The vacation option does not need to be tied to the question of whether the sign(s) must be removed or not. If Council desired, some or all of the signs could be required to be removed prior to the vacation. This would be a method to permanently eliminate one or more of the billboards, as they do not meet the spacing criteria of the sign code. Does the Council want to go this route with one or more of the signs? (Sundowner/Thad's Cycle Billboard, Moose Creek Inn/Dept. of Wildlife Billboard, others?)

If vacation is desired, is Council willing to stipulate that as a condition of vacation no billboards be located on the land? (Scott, is this an option as a deed restriction?)

Is Council willing to have a policy or ordinance that sign encroachments will not be granted in the future? (Referring to freestanding signs.)

In the case of vacation of North Frontage Road, is there an expectation of payment for the land? (Payment is not specifically required under state law, and actually not allowed if the vacation occurs through the plat amendment process.)

Is Council willing to charge fair market lease value for the signs that remain on City street right-of-way? (Owners would still have the option of moving the sign to avoid the encroachment license and payment.)

If the Old Trail Town sign is to be rebuilt on city right-of-way, is Council willing to limit its size? If so, to what size?

**BACKGROUND:**

Old Trail Town Situation: The high winds on February 18<sup>th</sup> and 19<sup>th</sup> blew down a good portion of the Old Trail Town sign located on the corner of Desmaris Street and Highway 14-16-20.

The sign is an off-premise sign located on City of Cody right-of-way. Although three of the four poles remain standing, the local sign company indicates that due to the poor condition of the remaining components there are liability concerns and that the sign structure needs totally rebuilt with new supports. They would not put a sign panel on the remaining structure due to their liability concern. The City sign code prohibits signs in the city right-of-way, with the exception of official street signs and apparently signs specifically authorized by City Council. At least recently, that authorization has been in the form of an encroachment license, which covers the issues of liability insurance and payment for use of city right-of-way. If the sign is to be replaced, in any form, staff recommends the use of an encroachment license as the proper method.



In this particular instance, vacation of the right-of-way, which admittedly is currently only used for utilities, would not solve the situation either. Vacated right-of-way goes to the adjacent owner, which is not Old Trail Town, but the owner of The Cody Cattle Company property.

Staff researched council meeting minutes and found an action on the consent agenda from April 4, 2006 that granted “conditional approval” of the Old Trail Town sign to be in the City right-of-way. Unfortunately, there is no record of the “conditions” of that authorization (nothing but the mention of the conditional approval).

Because the City is the owner of the property where the sign is located, the City can specify whether or not the sign can be rebuilt, as well as its size and location. Before it was blown over, the sign panel measured 36 feet long and about 12 feet tall, which is 432 square feet. Current regulations for billboards and on-premise freestanding signs specify a 300 square foot size limit for the D-3 zone in which the property is located. If the sign is allowed to be replaced, staff requests that Council consider setting a size limit that complies with current sign standards.

The Old Trail Town manager indicates that as many as a third of their customers are persons driving by that saw the Old Trail Town buildings or sign and decided to drop in. They have a customer survey to back up the number. The sign is clearly an important method of advertising their business.

For consistency, compensation for the use of the City right-of-way should be considered. Due to the nature of a sign, the typical square-foot lease value used in such instances as “The Ivy” and “Millstone Pizza” is not a fair representation. Staff would need to consult with an appraiser to determine fair value of the “lease” for a sign, which would largely relate to its size and visibility.

Here is the list of all encroachment licenses and the yearly lease amount:

Kenneth Swope (1701 Central)	\$52.56
Sunset Properties (The Ivy)	\$1,023.00
Lance Miner (33 Road 2AB fence)	\$1.00
WNT, LLC (Millstone seating area)	\$450.00
Streamside Investments (Staircase)	\$66.00
Stampede Board (Sign, entrance gate)	\$1.00
Hospital (Signs and drainage structure)	No fee (public taxing entity)

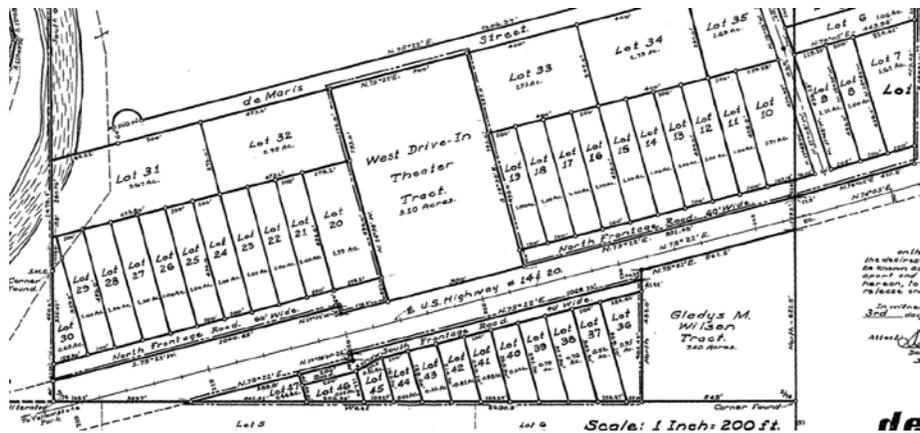
If an encroachment license is not granted, Old Trail Town could investigate the option of obtaining permission from a neighboring property owner to place a sign that property, subject to city sign code requirements and permitting.

Other Sign Encroachments:

The Old Trail Town sign situation is complicated by other similar situations. Please review the photos in the attached document, which identify other signs around the City that encroach on City right-of-way, and do not appear to have authorization for such. Obviously, the large billboards are of the greatest concern. Staff highly recommends that the City be consistent in how it treats signs that encroach on City right-of-way. That treatment should be “content neutral”. (A potential exception to the rule may be to not charge public taxing entities such as the hospital and County for encroachments abutting their land, as those entities are tax supported.)

North Frontage Road Area:

The Stampede Board sign and entrance gate are on North Frontage Road in front of Lot 20. The signs in front of the muscle car motors building (Ira Fellows) are in the North Frontage Road in front of Lots 29 and 30. The Old Trail Town Sign is apparently in the Desmaris Street right-of-way next to Lot 9—if not, it could be reconstructed there, if permitted. Although not a sign, part of the parking lot for Lot 10 is in North Frontage Road also. Lots 11-18 are in city ownership (leased for walking trail). Staff is open to the idea of vacating North Frontage Road, subject to working out necessary details.



## Apparent Sign Encroachments on City of Cody right-of-way:

DY Road Area (Lamar Billboard #21643 & 21644—currently advertises Irma Hotel and Mountain Valley Motorsports, Kenco/Lincare Sign, and Wild Horse Café Sign):



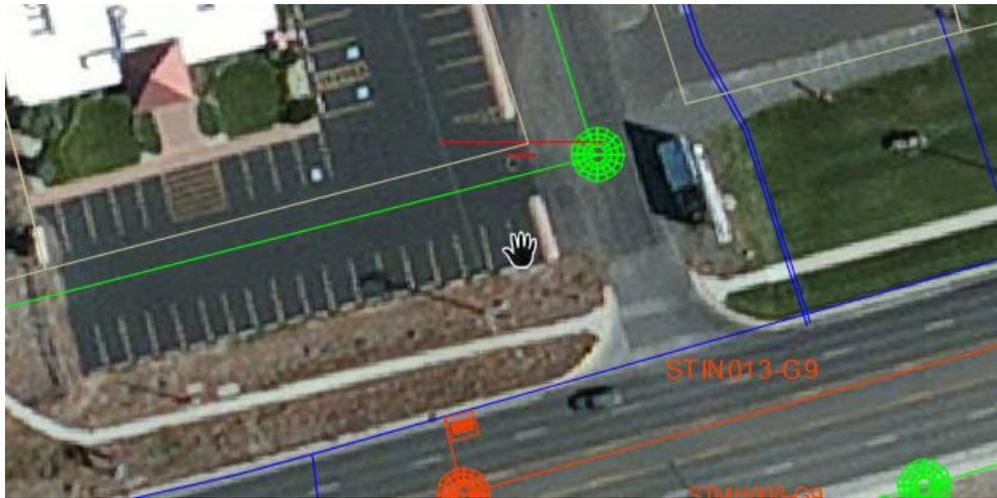
In front of 515 W. Yellowstone Avenue:

Two billboards. West billboard advertising “Thad’s Cycle Shop” and former “Sundowner” business. East Billboard advertising Moose Creek Lodge and a Game & Fish mule deer caution.

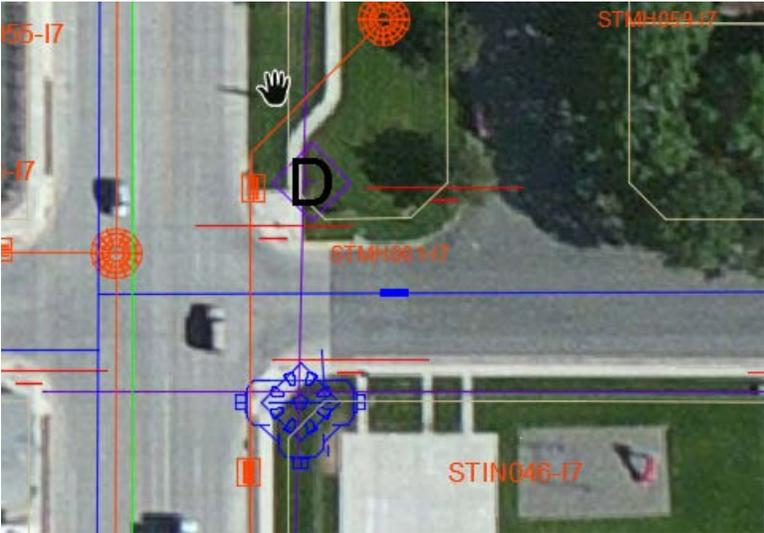


Old Trail Town Sign:

36' by 12' off-premise sign (damaged—24' by 12' section remains, but likely needs rebuilt.)



Cody Mural Directional Sign in Circle Drive Park:



Other Miscellaneous:

(Not shown—Hospital Signs authorized by encroachment permit.)



MEETING DATE: MARCH 10, 2016  
DEPARTMENT: ADMIN  
PREPARED BY: CINDY BAKER  
DEPT. DIR. APPROVAL: \_\_\_\_\_  
CITY ADM. APPROVAL: \_\_\_\_\_  
PRESENTED BY: SCOTT KITCHEN

## AGENDA ITEM SUMMARY REPORT CITY HALL PROJECTS

### ACTION

Provide staff with direction to proceed with Council Chambers audio/visual upgrades for FY15-16, budget in FY16-17 or future.

### SUMMARY

- 1) **Council Chambers Audio/Video Upgrade** – The current components utilized to broadcast and record the Council and P&Z Meetings are 6-8 years old and consist of outdated analog equipment. Due to the age of this equipment over the past 5+ years, staff has experienced a variety of issues which have resulted in citizens' complaints, as well as the inability to broadcast or record meetings. Several components have been sent in for repair multiple times over the years with no guarantee from the manufacturer that the equipment can be repaired to a working condition. This concern continues to trouble staff, as there are no backup options for these services.

In 2012, the City received funds in the amount of \$12,000 with the restrictions that it would be utilized to purchase components associated with the audio/video broadcasting and recording of meetings. Due to the integration and compatibility of the components, it necessary that all components (i.e., video mixer, audio mixer, video encoder, cameras, presentation displays) in the system are upgraded in tandem. Staff has consulted with AVI Systems, and audiovisual design company, they have provided \$72,764 as the total project cost for all equipment and labor.

### FISCAL IMPACT

Fiscal impact will depend on the Council's priority and direction and whether funds from FY15-16 are utilized or budgeted for FY16-17. See recommendations.

### ALTERNATIVES

Continue utilizing and maintaining the current system and request funds to complete this CIP project in FY16-17.

### RECOMMENDATION

#### **FY15-16 Option**

- 1) **Council Chambers Audio/Visual Upgrade FY15-16** – Funds available: \$12,000 PEG Grant; reallocate \$20,000 from the Draw Street project; \$29,000 from potential Valley View Lot Sale. The remaining \$11,746.00 could come out of the Public Improvement fund, Council Contingency or a combination.

#### **FY16-17 Option**

- 2) Allocate the \$12,000 PEG Grant, carryover the \$20,000 from the Draw Street Project, budget the remaining \$40,764 in the General Fund

### ATTACHMENTS

Detailed information of the project, including all proposed equipment items and relative video quality comparison.

**AGENDA ITEM NO.** \_\_\_\_\_

# Retail Sales Agreement



AVI Systems Inc., 1930 E Century Ave, Bismarck, ND, 58503-0640 | Phone: (701)258-6360, Fax: (701)258-2015

Proposal Number: 721263  
Prepared For: City of Cody  
Attn: Scott Kitchen

Proposal Date: December 15, 2015

## City of Cody Upgrade

Prepared By: MARK HUNT  
Phone: (406)969-3336  
Email: mark.hunt@avisystems.com

### BILL TO

Attn: Scott Kitchen  
City of Cody  
PO Box 2200  
Cody, WY, 82414-3713  
Phone: (307)527-3466  
Email: skitchen@cityofcody.com  
Customer Number: COC0014

### SITE

Attn: Scott Kitchen  
City of Cody  
PO Box 2200  
CODY, WY, 82414-3713  
Phone: (307)527-3466  
Email: skitchen@cityofcody.com

### COMMENTS

Our comprehensive Support on this system would cost about \$5,000/year and we should discuss this. The details on what you get with this support is below after the Scope of Work. This is not included with the total below.

### PRODUCTS AND SERVICES SUMMARY

Equipment	\$40,710.64
Integration	\$24,585.36
PRO Support	
Shipping & Handling	\$968.00
<b>Grand Total</b>	<b>\$66,264.00</b>

Unless otherwise specified. The prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the time stated for payment on each invoice. Discount only applies to new items included on the invoice, and only applies if the balance on the invoice is paid in full.

All returned equipment is subject to a restocking charge. The prices are valid for 30 days and may be locked in by signing this Retail Sales Agreement.

Overdue balances are subject to a finance charge of 1.5% per month, or interest at the highest rate permitted by applicable law. In the event AVI must pursue collection of unpaid invoices, Customer agrees to pay all of AVI's costs of collection, including its attorneys' fees.

**INVOICING AND PAYMENT TERMS**

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Customer and AVI have agreed on the payment method of CASH. Payment must be remitted by stated method. To the extent Customer seeks to use of any payment methods other than stated, and that payment method results in an increased transaction cost to AVI, the new payment must be approved in writing, and the Customer shall be responsible for paying the increased transaction cost to AVI associated with the change in payment method. Payments shall be made 30 days from invoice date. So long as the invoice has been sent and the Customer's payment is made within the terms work will continue.

AVI uses progress billing, and invoices for equipment and services allocated to the contract on a monthly basis. Unless otherwise specified, all items quoted (goods and services) as well as applicable out of pocket expenses (permits, licenses, shipping, etc.) are invoiced in summary (including applicable sales taxes due for each category of invoiced items).

Customer is to make payments to the following "Remit to" address:

AVI Systems  
NW8393 PO Box 1450  
Minneapolis, MN 55485-8393

If Payment Method is ACH Include: Customer must make all payments in the form of bank wire transfers or electronic funds transfers through an automated clearinghouse with electronic remittance detail, in accordance with the payment instructions AVI Systems provides on its invoice to Customer.

A monthly summary of detailed equipment received is available upon request. Equipment received may be different than equipment billed based on agreed billing method.

**TAXES AND DELIVERY**

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Unless stated otherwise in the "Products and Services Summary" above, AVI will add and include all applicable taxes, permit fees, license fees, and delivery charges to the amount of each invoice. Taxes will be calculated according to the state law(s) in which the product(s) and/or service(s) are provided. Unless Customer provides a valid tax exemption certificate for any tax exemption(s) claimed, AVI shall invoice for and collect all applicable taxes in accordance with state law(s), and Customer will be responsible for seeking a tax credit/refund from the applicable taxing authority.

**AGREEMENT TO QUOTE AND DOCUMENTS CONSTITUTING YOUR CONTRACT WITH AVI**

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Customer hereby accepts the above quote for goods and/or services from AVI. When duly executed and returned to AVI, AVI's Credit Department will check Customer's credit and approve the terms. After approval by AVI's Credit Department and signature by AVI, this Retail Sales Agreement will, together with the [AVI General Terms & Conditions](http://www.avisystems.com/AVITermsOfSale.pdf) (which can be found at [www.avisystems.com/AVITermsOfSale.pdf](http://www.avisystems.com/AVITermsOfSale.pdf)) form a binding agreement between Customer and AVI. (This Retail Sales Agreement and the AVI General Terms & Conditions of Sale (the "T&Cs") are referred to collectively as the "Agreement"). If not defined in this Agreement, all capitalized terms shall have the meaning given to them in the T&Cs. Should AVI's Credit Department determine at any point prior to AVI commencing work that Customer's credit is not adequate, or should it otherwise disapprove of the commercial terms, AVI reserves the right to terminate the Agreement without cause and without penalty to AVI.

**AGREED AND ACCEPTED BY**

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\_\_\_\_\_  
Company  
  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed Name  
  
\_\_\_\_\_  
Date

**AVI Systems, Inc.**  
\_\_\_\_\_  
Company  
  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed Name  
  
\_\_\_\_\_  
Date

## CONFIDENTIAL INFORMATION

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The company listed in the "Prepared For" line has requested this confidential price quotation, and shall be deemed "Confidential Information" as that term is defined in the T&Cs. This information and document is confidential and is intended solely for the private use of the customer identified above. Customer agrees it will not disseminate copies of this quote to any third party without the prior written consent of AVI. Sharing a copy of this quote, or any portion of the Agreement with any competitor of AVI is a violation of this confidentiality provision. If you are not the intended recipient of this quote (i.e., the customer), you are not properly in possession of this document and you should immediately destroy all copies of it.

## SERVICES TO BE PROVIDED

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### INTEGRATION SERVICES

#### *INTEGRATION SCOPE OF WORK*

##### Situation:

The City of Cody, WY would like to upgrade the audiovisual systems currently installed within the City Council Chambers. The existing ceiling-mounted pan, tilt, zoom (PTZ) cameras are low-resolution standard definition models. Camera control is accomplished using two Panasonic WV-CU161 system controllers. A standard definition NewTek TriCaster system is used for camera preview and switching.

The audio quality of the existing microphone systems is generally good. Currently, a lavalier wireless microphone is used at the podium. Users do not always wear or hold the microphone properly. An audible hum can be heard on some broadcasts. Participants at the dais occasionally moved their microphones when they don't want to be heard and fail to properly reposition them.

The existing presentation system includes a ceiling-mounted LCD projector and wall-mounted projection screen. This system does not support digital or widescreen sources. Ambient light within the room adversely affects the projected images. Currently, the only presentation sources are the laptop PC resident at the podium and a PC used for the agenda slideshow. The analog VGA signals from these sources are down-converted to standard definition composite video and fed to the camera switching system to be included in broadcasts and streaming.

##### Objective:

1. Improve the camera video quality of cable TV broadcasts, Internet streaming and archived video.
2. Improve the microphone audio quality of cable TV broadcasts, Internet streaming and archived video.
3. Improve the video quality of local video presentations.

##### Solution:

1. Camera System
  - Upgrade the two existing ceiling-mounted pan, tilt, zoom cameras to high-definition PTZ cameras capable of 1080P output and HD-SDI connectivity.
  - Upgrade the camera control and switching system to support the new high-definition cameras
  - Upgrade Graphics/Character Generation System to "ProPresenter" software. *The City of Cody will be responsible for the computer and software keys. **The cost is not included in AVI's quote This is estimated at \$2,500 - \$3,000***
2. Streaming/Broadcast
  - Upgrade the existing Granicus streaming video encoder appliance to the current version capable of accepting high resolution digital sources and streaming/recording in the H.264 format at 480p and 720p resolutions. *The City of Cody will contract directly with Granicus for this upgrade. The cost is not included in AVI's quote.*
  - Upgrade the cable television broadcast interfaces to accept digital high-definition feeds. *The City of Cody will work directly with the local cable providers for this upgrade. The cost is not included in AVI's quote.*

3. Audio System
  - Install a wired gooseneck microphone at the podium.
  - Replace the existing manual mixer with an automatic microphone mixer with digital signal processing (DSP), adding automatic microphone gain, equalization, noise reduction, and feedback elimination capability.
  - Add microphone mute buttons at the dais (with override from the production booth), encouraging council members to leave the microphones properly positioned.
4. Presentation System
  - Replace existing projection system with wall-mounted 90" LCD display.
  - Add a presentation switcher and video distribution components capable of accommodating the existing sources and future digital sources and of distributing the signals to displays and broadcast/streaming interfaces.
5. Control System
  - Add an integrated Control System with wired touchscreen, custom programmed to control the DSP mixer (including microphone mute & gain control) as well as the local presentation system.

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

- 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
- Necessary gypsum board replacement and/or repair
- Necessary ceiling tile or T-bar modifications, replacements and/or repair
- Structural support of equipment \*AVI Systems not responsible for building related vibrations
- All millwork (moldings, trim, cut outs, etc.)
- Patching and Painting
- Permits (unless specifically provided for and identified within the contract)
- Unless otherwise stated the pricing in this agreement does not include prevailing wage or union labor
- Unless specifically noted lifts and scaffolding are not included

**D. Construction Considerations:**

In order to accomplish the outlined goals of this project, the Customer will be responsible for contracting with an outside entity to make the necessary modifications to the space as directed by AVI Systems. The costs associated with these modifications are not included in this proposal.

**E. NOTICE:** This Scope of Work is delivered on the basis of the following Assumptions:

- Site preparation by the Customer and their contractors includes electrical and data placement per AVI Systems specification.
- Site preparation will be verified by AVI Systems project manager or representative before scheduling of the installation. All work areas should be clean and dust free prior to the beginning of on-site integration of electronic equipment.
- Customer communication of readiness will be considered accurate and executable by AVI Systems project manager.
- In the event of any arrival to site that AVI Systems is not able to execute work and definable progress, the Customer will be charged a **\$250.00 Mobilization Fee** to offset the lost time due to the lack of readiness. The Mobilization Fee will be presented as a Contract Change Order and will/may halt work until acceptance by the Customer and rescheduling of the integration effort is agreed upon.
- Rescheduling and redeployment of AVI Systems technicians due to unacceptable site preparation may cause scheduling delays of up to 10 business days.
- There is ready access to the building / facility and the room(s) for equipment and materials.
- There is secure storage for equipment during a multi-day integration.
- If Customer furnished equipment and existing cabling is to be used, AVI Systems assumes that these items are in good working condition at this time and will integrate into the designed solution. Any repair, replacement and/or configuration of these items that may be necessary will be made at an additional cost.
- All Network configurations including IP addresses are to be provided, operational and functional before AVI Systems integration begins. AVI Systems will not be responsible for testing the LAN connections.

- Cable or Satellite drops must be in place with converter boxes operational before the completion of integration. Any delay resulting in extra work caused by late arrival of these items will result in a change order for time and materials.
- Document review / feedback on drawings / correspondence will be completed by the Customer within two business days (unless otherwise noted).
- The documented Change Control process will be used to the maximum extent possible – the Customer will have an assigned person with the authority to communicate/approve project Field Directed Change Orders and Contract Change Orders (see Appendix).
- In developing a comprehensive proposal for equipment and integration services AVI Systems' Sales Representatives and Engineering teams must make some assumptions regarding the physical construction of your facility, the availability of technical infrastructure and site conditions for installation. If any of the conditions we have indicated in the site survey form are incorrect or have changed for your particular project or project site, please let your Sales representative know as soon as possible. Conditions of the site found during integration effort which are different from those documented may have an effect on the price of the system solution, integration or services. To ensure that you have an accurate proposal based on your facility and specific to the conditions of your project, please review all project documentation carefully.

#### F. Integration Project Management Processes

AVI Systems will follow a foundational project management process which may include the following actions/deliverables (based on the size/complexity/duration of the integration project):

- Site Survey – performed prior to Retail Sales Agreement and attached
- Project Welcome Notice – emailed upon receipt of Purchase Order
- Project Kick-Off meeting with Customer Representative(s) – either by phone or in-person
- Project Status reviews – informal or formal – either by phone or in-person (based on the size/complexity/duration of the project)
- Project Change Control – comprised of Field Directed Change Order and/or Contract Change Order submittals (see Appendix)
- Notice of Substantial Completion (see Appendix) – at Customer walk-through – prior to Service transition

#### G. Knowledge Transfer (Training)

This is geared specifically towards the end-user / operator. The purpose of this knowledge transfer is to provide operators with the necessary knowledge to confidently and comfortably operate all aspects of the integrated system. Areas covered include the following:

- Equipment and system overview
- Equipment operation and function
- Equipment start up, stop, and shut down
- Equipment automatic and manual operation
- Discussion and documentation relating to control system operation
- Discussion and documentation relating to system processor and its control applications
- Powering up, powering down AV system via control system
- Manual operation of display systems, audio system and all other related components
- Use/operation of patch panels, when and where to be used
- Who to call when help is required

#### H. AVI Systems, Inc. Integration Services Responsibilities

AVI Systems, Inc. will provide services/work for the project as described above in the Scope of Work or per the attached separate Scope of Work document detailing the scope of work to be performed.

- Provide equipment, materials and service items per the contract products and services detail.
- Provide systems equipment integration and supervisory responsibility of the equipment integration.
- Provide systems configuration, checkout and testing.
- Provide project timeline schedules.
- Provide necessary information, as requested, to the owner or other parties involved with this project to insure that proper AC electrical power and cableways and/or conduits are provided to properly integrate the equipment within the facilities.

- Provide manufacturer supplied equipment documentation.
- Provide final documentation and “as built” system drawings (CAD) - if purchased.
- Provide system training following integration to the designated project leader or team.

#### I. Customer Integration Services Responsibilities

- Provide for the construction or modification of the facilities for soundproofing, lighting, electrical, HVAC, structural support of equipment, and decorating as appropriate. Includes installation of ceiling mounted projection screen.
- Provide for the ordering, provisioning, installation, wiring and verification of any Data Network (LAN, WAN, T1, ISDN, etc.) and Telephone Line (Analog or Digital) equipment and services prior to on-site integration.
- Provide all necessary cableways and/or conduits required to facilitate AV systems wiring.
- Provide all necessary conduit, wiring and devices for technical power to the AV systems equipment.
- Provide reasonable accesses of AVI Systems, Inc. personnel to the facilities during periods of integration, testing and training, including off hours and weekends.
- Provide a secure area to house all integration materials and equipment.
- Provide a project leader who will be available for consultation and meetings.
- Provide timely review and approval of all documentation (Technical Reports, Drawings, Contracts, etc.).

## SYSTEM SUPPORT

### *SYSTEM SUPPORT SERVICES TO BE PROVIDED (if customer chooses the System Support option)*

#### System Recertification

- Provides services to perform two on-site scheduled recertification sessions per year using AVI Systems, Inc.’s "System Recertification Checklist and Record". Tentative month of 1st Recert visit: [Month] Tentative month of 2nd Recert visit: [Month]

#### Training

- Provides unlimited on-site operator training to assure any new and/or existing system users understand the system functionality.

#### Asset Tracking

- Provides informational management of the system’s individual electronic components
- Provides reporting of description, model, serial numbers, in-service dates, and physical location

#### Systems Support

- Provides Priority Support by phone (within 2 business hour response time on 5x9 basis Mon - Fri)
- Provides Priority Support onsite (within 72 business hour response time on a 5x9 basis, Mon – Fri / 8am – 5pm local time) to perform troubleshooting to localize and diagnose faults when phone support is exhausted.
- Provides repair or replacement of faulty equipment - excluding Obsolete Equipment (defined below)
- Provides materials and repair parts - excluding Consumables (defined below)
- Provides Software Updates
- Provides Loaner Equipment including table top projectors and flat screen monitors under 50”
- Provides for recycling of equipment covered in a system or consumables with no additional fees
- Includes coverage for shipping to/from manufacturer for equipment sent to for warranty diagnosis, repair or exchange

### **SYSTEM SUPPORT DEFINITIONS**

System – Defined as the items listed in the Products and Services Detail section of this Agreement or listed on an attached Equipment List with the exception of Consumables and Obsolete Equipment.

Priority Support – Means all work under AVI support agreements with Customers is scheduled ahead of any other on-demand work and will be provided within 2 hour or 72 hour response times as indicated within the Agreement.

Recertification – Means AVI personnel performing the necessary cleaning, adjustments, functional tests, and replacement of parts to keep the equipment in good and efficient operating condition. Any repairs or operating instructions will be done at this time.

Remote Diagnostics – Means a service whereby remote calls made to communications and terminal equipment via Customer provided analog line or IP connection to determine network and/or board-level failures and remedies. Only available where equipment is capable and configured by AVI to provide same.

Consumables – Means parts such as recording media, batteries, projection lamps and diskettes. Consumables are parts that are not included under this Agreement.

Obsolete Equipment – Defined as items (though possibly still in use) that are outdated with no manufacturer support or parts availability, or products with formal end of life as defined by their manufacturer. Obsolete Equipment are parts that are not included under this Agreement.

Loaner Equipment – Defined as table top LCD projectors and flat screen monitors under 50”. Table top projectors are not integrated into a system. Flat screen monitors will be installed onto a wall if reasonably possible.

Software Updates – Defined as revisions of existing software which provide maintenance to correct software errors and are provided at no charge by the manufacturer. Software and features which require additional licensing are not included under this Agreement.

### **SYSTEM SUPPORT TERMS**

Coverage Dates – Unless otherwise stated, the service coverage date will be effective as of substantial completion or System Support Agreement invoice date; whichever is applicable. Coverage will extend for the duration specified by the corresponding line item description found in the Product and Services Detail section of this Agreement. AVI reserves the right to withhold services until the invoice is paid in full.

Exclusions – For situations where AVI is providing service or support under this Agreement, no cost service, maintenance or repair shall not apply to the Equipment if any person other than an AVI technician or other person authorized by AVI, without AVI prior written consent, improperly wires, integrates, repairs, modifies or adjusts the Equipment or performs any maintenance service on it during the term of this Agreement. Furthermore, any Equipment service, maintenance or repair shall not apply if AVI determines, in its sole discretion, that the problems with the Equipment were caused by (a) Customer's negligence; or (b) theft, abuse, fire, flood, wind, lighting, unreasonable power line surges or brownouts, or acts of God or public enemy; or (c) use of any equipment for other than the ordinary use for which such equipment was designed or the purpose for which such equipment was intended, or (d) operation of equipment within an unsuitable operating environment, or (e) failure to provide a suitable operating environment as prescribed by equipment manufacturer specifications, including, without limitation, with respect to electrical power, air conditioning and humidity control.

Systems Support Terms are in addition to AVI Systems General Terms and Conditions of Sale.

## **PRODUCTS AND SERVICES DETAIL**

### **PRODUCTS:**

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>MSRP</u>	<u>Price</u>	<u>Extended</u>
<b>Audio</b>						
TESIRAFORTE TI	BIAMP SYSTEMS	TesiraFORTÉ DSP fixed I/O server with 12 analog inputs, 8 analog outputs, 8 channels configurable US	1	\$3,598.00	\$2,091.86	\$2,091.86
TESIRA EX-LOGIC	BIAMP SYSTEMS	Tesira PoE logic expander with 16 logic GPIO (4 GPIO are configurable for potentiometer interface)	2	\$628.00	\$365.12	\$730.24
MX418/C	SHURE	MICROPHONE	1	\$237.00	\$156.16	\$156.16
<b>Sub-Total: Audio</b>						<b>\$2,978.26</b>

**Camera-Switching**

AW-HE40SWPJ	PANASONIC	INT. PT CAM HD-SDI OUT WHITE	2	\$4,150.00	\$3,690.24	\$7,380.48
AWRP50NJ	PANASONIC	Compact PT Controller	1	\$2,275.00	\$2,056.80	\$2,056.80
AGHMX100PJ	PANASONIC	HD/SD Digital A/V Mixer	1	\$5,995.00	\$4,375.00	\$4,375.00
AVI-TBD	VIEWSONIC	22" LED LCD Monitor - 2 ms - Adjustable Display Angle - 1920 x 1080 - 250 Nit - 1,000:1 - Full HD -	1	\$172.00	\$153.31	\$153.31
BMD-BDLKULSR4K/2	BLACK MAGIC DE	UltraStudio 4K 2	1	\$995.00	\$995.00	\$995.00

**Sub-Total: Camera-Switching****\$14,960.59****Control System**

CP3N	CRESTRON	3-Series Control System®	1	\$2,600.00	\$1,511.63	\$1,511.63
TSW-1050-B-S	CRESTRON	10.1" Touch Screen, Black Smooth	1	\$2,400.00	\$1,395.35	\$1,395.35
TSW-1050-TTK-B-S	CRESTRON	Tabletop Kit for TSW-1050 & TSW-1052, Black Smooth	1	\$250.00	\$145.35	\$145.35
CEN-SW-POE-5	CRESTRON	5-Port PoE Switch	2	\$400.00	\$232.56	\$465.12
AVI-TBD		TBD Illuminated Pushbutton	10	\$0.00	\$29.76	\$297.60

**Sub-Total: Control System****\$3,815.05****Misc Cables etc.**

DM-CBL-8G-P-SP500	CRESTRON	DigitalMedia 8G™ Cable, plenum, 500 ft spool	1	\$600.00	\$357.14	\$357.14
24-4P-L6-EN-BLK	LIBERTY AV	CAT6 550 23/4P UTP CMR BLACK	1	\$316.00	\$178.57	\$178.57
20-CMR-VIDEO-BLK	LIBERTY AV	SDI COAX RG59 HD CMR BLACK	1	\$496.00	\$280.95	\$280.95
CM-RG59M-BNC-10	LIBERTY AV	CM-RG59M-BNC 10-PACK	1	\$38.88	\$20.13	\$20.13
DL-AOCHP-010M	LIBERTY AV	HDMI PLENUM POF AOC 10M	1	\$299.00	\$174.68	\$174.68
E2-HDSEM-M-02	LIBERTY AV	HDMI CBL HS W/NET CL2/FT4 2M	4	\$16.99	\$9.92	\$39.68
26-616-01	EXTRON	HDMI F TO DVI-D M ADAPTER	1	\$40.00	\$23.81	\$23.81

**Sub-Total: Misc Cables etc.****\$1,074.96****Presentation System**

E905	NEC DISPLAY SO	E905 - 90" LED LCD Public Display Monitor, 1920 x 1080 (FHD), 350 cd/m2 panel, Full bidirectional L	1	\$10,339.00	\$8,210.58	\$8,210.58
XSM1U	CHIEF	Micro-Adjust Fixed Wall Mount, X-Large	1	\$266.00	\$190.00	\$190.00
E425	NEC DISPLAY SO	E425- 42" LED LCD Public Display Monitor w/built in ATSC/NTSC tuner, 1920x1080 (FHD) native resoluti	1	\$714.00	\$633.14	\$633.14
TS325TU	CHIEF	MEDIUM, 25" EXTENSION, SWING ARMS	1	\$427.00	\$305.00	\$305.00
DM-MD8X8	CRESTRON	8x8 DigitalMedia™ Switcher	1	\$4,300.00	\$2,500.00	\$2,500.00
DMC-4K-C	CRESTRON	HDBaseT® Certified 4K DigitalMedia 8G+® Input Card for DM® Switchers	1	\$1,300.00	\$755.81	\$755.81
DMC-4K-HD	CRESTRON	4K HDMI® Input Card for DM® Switchers	1	\$800.00	\$465.12	\$465.12
DMC-4K-HDO	CRESTRON	2-Channel 4K Scaling HDMI® Output Card for DM® Switchers	1	\$1,800.00	\$1,046.51	\$1,046.51
DMC-4K-CO-HD	CRESTRON	2-Channel HDBaseT® Certified 4K DigitalMedia 8G+® Output Card for DM® Switchers	1	\$1,300.00	\$755.81	\$755.81
DM-PSU-8	CRESTRON	8-Port PoDM Power Supply for DM 8G+® I/O Cards	1	\$1,200.00	\$697.67	\$697.67
DM-TX-201-C	CRESTRON	DigitalMedia 8G+® Transmitter 201	1	\$1,300.00	\$755.81	\$755.81
HD-SCALER-HD-E	CRESTRON	High-Definition Video Scaler, HDMI® In, HDMI Out	1	\$500.00	\$290.70	\$290.70

DM-RMC-4K-100-C	CRESTRON	4K DigitalMedia 8G+® Receiver & Room Controller 100	1	\$900.00	\$523.26	\$523.26
BMD-CONVMASA	BLACK MAGIC DE	Mini Converter - SDI to Analog (PS Included)	1	\$195.00	\$192.73	\$192.73
60-439-20	EXTRON	MDA 3AV	1	\$298.00	\$173.26	\$173.26

**Sub-Total: Presentation System** **\$17,495.40**

**Rack**

CFR-14-18	MIDDLE ATLANTI	14SP,CABINET FRAME RK,18D	1	\$377.00	\$213.18	\$213.18
5-RS18	MIDDLE ATLANTI	18"BOTTOM RUNNER SET	1	\$41.00	\$23.19	\$23.19
PD-915R	MIDDLE ATLANTI	9OUT,15A,RCKMNT POWER CEN	1	\$143.00	\$80.86	\$80.86
EVT1	MIDDLE ATLANTI	1SP FLANGED ECONO VENT	5	\$14.26	\$8.06	\$40.30
UFA-8	MIDDLE ATLANTI	1SP UNIV FA SHELF,8"DEEP	1	\$51.00	\$28.85	\$28.85

**Sub-Total: Rack** **\$386.38**

**Engineering/Installation/Programming etc.**

Project Management	\$900.00
Programming	\$900.00
Cable Placement	\$1,411.84
On Site Integration	\$9,524.84
Integration Materials	\$2,205.88
Testing & Acceptance	\$705.92
Training	\$480.88
Travel	\$957.48
Travel Expense	\$2,955.00
Engineering & Drawings	\$4,543.52

**Sub-Total: Engineering/Installation/Programming etc.** **\$24,585.36**

**Total:** **\$65,296.00**

## AVI Systems General Terms and Conditions of Sale

The following General Terms & Conditions of Sale (the "T&Cs") in combination with either (a) a signed Retail Sales Agreement or (b) Quote under which AVI Systems, Inc ("AVI") agrees to supply goods or services constitute a binding contract (the "Agreement") between AVI and the entity identified on page one of the Retail Sales Agreement or Quote (the "Customer"). In the absence of a separately negotiated "Master Services Agreement" between AVI and Customer signed in "wet ink" by the Chief Executive Officer or Chief Financial Officer of AVI, these T&C's shall apply. Any terms and conditions set forth in any correspondence, purchase order or Internet based form from Customer to AVI which purport to constitute terms and conditions which are in addition to those set forth in this Agreement or which attempt to establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by AVI unless the same has been manually countersigned in wet ink by an Officer of AVI.

**1. Changes In The Scope of Work** – Where a Scope of Work is included with this Agreement, costs resulting from changes in the scope of this project by the Customer, including any additional requirements or restrictions placed on AVI by the Customer or its representatives, will be added to the contract price. When AVI becomes aware of the nature and impact of the change, a contract Change Order will be submitted for review and approval by the Customer before work continues. AVI has the right to suspend the work on the project pending Customer's written approval of the Change Order.

**2. Ownership and Use of Documents and Electronic Data** – Where applicable, drawings, specifications, other documents, and electronic data furnished by AVI for the associated project under this Agreement are instruments of the services provided. These items are "Confidential Information" as defined in this Agreement and AVI shall retain all common law, statutory and other reserved rights, including any copyright in these instruments. These instruments of service are furnished for use solely with respect to the associated project under this Agreement. The Customer shall be permitted to retain copies of any drawings, specifications, other documents, and electronic data furnished by AVI for information and reference in connection with the associated project and for no other purpose.

**3. Proprietary Protection of Programs** – Where applicable this Agreement does not cause any transfer of title, or intellectual rights, in control systems programs, or any materials produced in connection therewith, including any source code. Any applications or programs supplied by AVI are provided, and are authorized for installation, execution, and use only in machine-readable object code form. This Agreement is expressly limited to the use of the programs by the Customer for the equipment in connection with the associated project. Customer agrees that it will not seek to reverse-engineer any program to obtain source codes, and that it will not disclose the programs source codes or configuration files to any third party, without the written consent of AVI. The programs, source codes and configuration files, together with AVI' know-how and integration and configuration techniques, furnished hereunder are proprietary to AVI, and were developed at its private expense. If Customer is a branch of the United States government, for purposes of this Agreement any software furnished by AVI hereunder shall be deemed "restricted computer software", and any data, including installation and systems configuration information, shall be deemed "limited rights data", as those terms are defined in FAR 52.227-14 of the Code of Federal Regulations.

**4. Shipping and Handling and Taxes** – The prices shown are F.O.B. manufacturer's plant or AVI's office depending on where items are located when direction is issued to ship to the point of integration. The Customer, in accordance with AVI's current shipping and billing practices, will pay all destination charges. In addition to the prices on this Agreement, the Customer agrees to pay amounts equal to any sales tax invoiced by AVI, or (where applicable) any use or personal property taxes resulting from this Agreement or any activities hereunder. Customer will defend, indemnify and hold harmless AVI against any claims by any tax authority for all unpaid taxes or for any sales tax exemption claimed by Customer.

**5. Title** – Where applicable, title to the Equipment passes to the Customer on the earlier of: (a) the date of shipment from AVI to Customer, or (b) the date on which AVI transmits its invoice to Customer.

**6. Security Interest** – In addition to any mechanics' lien rights, the Customer, for value received, hereby grants to AVI a security interest under the Minnesota commercial code together with the a security interest under the law(s) of the state(s) in which work is performed or equipment is delivered. This security interest shall extend to all Equipment, plus any additions and replacements of such Equipment, and all accessories, parts and connecting Equipment now or hereafter affixed thereto. This security interest will be satisfied by payment in full unless otherwise provided for in an installment payment agreement. The security interest shall be security for all sums owed by Customer under this Agreement. A copy of this Agreement may be filed as a financing statement with the appropriate authority at any time after signature of the Customer. Such filing does not constitute acceptance of this Agreement by AVI

**7. Risk of Loss or Damage** – Notwithstanding Customer's payment of the purchase price for Equipment, all risk of loss or damage shall transfer from AVI to Customer upon transfer of Title to Customer. Customer shall be responsible for securing insurance on Equipment from this point forward.

**8. Receiving/Integration** – Unless the Agreement expressly includes integration services by AVI, the Customer agrees to furnish all services required for receiving, unpacking and placing Equipment in the desired location along with integration. Packaging materials shall be the property of the Customer.

**9. Equipment Warranties** – To the extent AVI receives any warranties from a manufacturer on Equipment; it will pass them through to Customer to the full extent permitted by the terms of each warranty. Factory warranties vary by manufacturer, and no additional warranties are expressed or implied.

**10. General Warranties** – Each Party represents and warrants to the other that: (i) it has full right, power and authority to enter into and fully perform its obligations under this Agreement, including without limitation the right to bind any party it purports to bind to this Agreement; (ii) the execution, delivery and performance of this Agreement by that Party does not conflict with any other agreement to which it is a Party or by which it is bound, and (iii) it will comply with all applicable laws in its discharge of its obligations under this Agreement. AVI warrants, for a period of 90 days from Substantial Completion, the systems integration to be free from defects in workmanship. CUSTOMER WARRANTS THAT IT HAS NOT RELIED ON ANY

INFORMATION OR REPRESENTATION PROVIDED BY OR ON BEHALF OF AVI WHICH IS NOT EXPRESSLY INCLUDED IN THESE GENERAL TERMS AND CONDITIONS OR THE RETAIL SALES AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN. AVI DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE EQUIPMENT, MATERIALS AND SERVICES PROVIDED BY AVI, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT AND TITLE.

**11. Indemnification** – Customer shall defend, indemnify and hold harmless AVI against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), that arise in whole or in part from: (a) any negligent act or omission of Customer, its agents, or subcontractors, (b) Customer's failure to fully conform to all laws, ordinances, rules and regulations which affect the Agreement, or (c) Customer's breach of this Agreement. If Customer fails to promptly indemnify and defend such claims and/or pay AVI's expenses, as provided above, AVI shall have the right to defend itself, and in that case, Customer shall reimburse AVI for all of its reasonable attorneys' fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of AVI's written requests. AVI shall indemnify and hold harmless Customer against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), to the extent that the same is finally determined to be the result of (a) any grossly negligence or willful misconduct of AVI, its agents, or subcontractors, (b) AVI's failure to fully conform to any material law, ordinance, rule or regulation which affects the Agreement, or (c) AVI's uncured material breach of this Agreement.

**12. Remedies** – Upon default as provided herein, AVI shall have all the rights and remedies of a secured party under the Minnesota commercial code and under any other applicable laws. Any requirements of reasonable notice by AVI to Customer, or to any guarantors or sureties of Customer shall be met if such notice is mailed, postage prepaid, to the address of the party to be notified shown on the first page of this Agreement (or to such other mailing address as that party later furnishes in writing to AVI) at least ten calendar days before the time of the event or contemplated action by AVI set forth in said notice. The rights and remedies herein conferred upon AVI, shall be cumulative and not alternative and shall be in addition to and not in substitution of or in derogation of rights and remedies conferred by the Minnesota commercial code and other applicable laws.

**13. Limitation of Remedies for Equipment** – AVI's entire liability and the Customer's sole and exclusive remedy in all situations involving performance or nonperformance of Equipment furnished under this Agreement, shall be the adjustment or repair of the Equipment or replacement of its parts by AVI, or, at AVI option, replacement of the Equipment.

**14. Limitation on Liability** – EXCEPT IN CIRCUMSTANCES INVOLVING ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL LIABILITY OF A AVI UNDER THIS AGREEMENT FOR ANY CAUSE SHALL NOT EXCEED (EITHER FOR ANY SINGLE LOSS OR ALL LOSSES IN THE AGGREGATE) THE NET AMOUNT ACTUALLY PAID BY CUSTOMER TO AVI UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE ON WHICH AVI'S LIABILITY FOR THE FIRST SUCH LOSS FIRST AROSE.

**15. No Consequential Damages** – AVI SHALL NOT HAVE ANY LIABILITY TO CUSTOMER OR TO ANY OTHER PERSON OR ORGANIZATION FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY DESCRIPTION (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS), WHETHER BASED ON CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, REGARDLESS OF WHETHER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND IRRESPECTIVE OF THE NUMBER OR NATURE OF CLAIMS.

**16. Acceleration of Obligations and Default** – Payment in full for all "Equipment," which is defined as all goods identified in the section of the Agreement with the same title, as well for any and all other amounts due to AVI shall be due within the terms of the Agreement. Upon the occurrence of any event of default by Customer, AVI may, at its option, with or without notice, declare the whole unpaid balance of any obligation secured by this Agreement immediately due and payable and may declare Customer to be in default under this Agreement.

**17. Choice of Law, Venue and Attorney's Fees** – This Agreement shall be governed by the laws of the State of Minnesota in the United States of America without reference to or use of any conflicts of laws provisions therein. For the purpose of resolving conflicts related to or arising out of this Agreement, the Parties expressly agree that venue shall be in the State of Minnesota in the United States of America only, and, in addition, the Parties hereby consent to the exclusive jurisdiction of the federal and state courts located in Hennepin County, Minnesota in the United States of America and waive any right to assert in any such proceeding that Customer is not subject to the jurisdiction of such court or that the venue of such proceeding is improper or an inconvenient forum. The Parties specifically disclaim application (i) of the United Nations Convention on the International Sale of Goods, 1980, and (ii) of Article 2 of the Uniform Commercial Code as codified. In the event AVI must take action to enforce its rights under the Agreement, the court shall award AVI the attorney's fees it incurred to enforce its rights under this Agreement.

**18. General** – Headings are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. The Parties acknowledge and agree that the Agreement has been negotiated by the Parties and that each had the opportunity to consult with its respective counsel, and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either Party based on draftsmanship of the Agreement. This Agreement is not assignable by Customer without the prior written consent of AVI. Any attempt by Customer to assign any of the rights, duties, or obligations of this Agreement without such consent is void. AVI reserves the right to assign this Agreement to other parties in order to fulfill all warranties and obligations expressed herein, or upon the sale of all or substantially all of AVI's assets or business. This Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of the Customer and of AVI, and variance from the terms and conditions of the Agreement in any order or other written notification from the Customer will be of no effect. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. AVI is not responsible for any delay in, or failure to, fulfill its obligations under this Agreement due to causes such as natural disaster, war, emergency conditions, labor strike, acts of terrorism, the substantial inoperability of the Internet, the inability to obtain supplies, or any other reason or any other cause or condition beyond AVI's reasonable control. Except as otherwise stated in the Agreement, AVI is not obliged to provide any services hereunder for Equipment located outside the United States or Puerto Rico. Scheduled completion dates are subject to change based on material shortages caused by shortages in cable and materials that are industry wide.

**19. Confidentiality.** The term "Confidential Information" shall mean the inventions, trade secrets, computer software in both object and source code, algorithms, documentation, know how, technology, ideas, and all other business, customer, technical, and financial information owned by AVI or the Customer, which is designated as confidential, or communicated in such a manner or under such circumstances as would reasonably enable a person or organization to ascertain its confidential nature. All the Confidential Information of a party to this Agreement shall be maintained in confidence by the other party, and neither party shall, during the term of this Agreement or for a period of three (3) years subsequent to the termination of this Agreement, divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the Confidential Information of the other party without receiving the prior written consent of the other party. AVI and the Customer shall take such actions as may be reasonably necessary to ensure that its employees and agents are bound by the provisions of this Section, which actions shall, as may be reasonably requested by either party, include the execution of written confidentiality agreements with the employees and agents of the other party. The provisions of this Section shall not have application to any information that (i) becomes lawfully available to the public; (ii) is received without restriction from another person or organization lawfully in possession of such information; (iii) was rightfully in the possession of a party without restriction prior to its disclosure; or (iv) is independently developed by a party or its employees or agents without access to the other party's similar information.

**20. Nonsolicitation -** To the extent permitted by applicable law, during the term of this Agreement and for a period of one (1) year after the termination this Agreement, each Party agrees that it shall not knowingly solicit or attempt to solicit any of the other Party's executive employees or employees who are key to such Party's performance of its obligations under this Agreement ("Covered Employees"). Notwithstanding the foregoing, nothing herein shall prevent either Party from hiring as an employee any person who responds to an advertisement for employment placed in the ordinary course of business by that Party and/or who initiates contact with that party without any direct solicitation of that person by that Party or its agents.

**21. Price Quotations and Time to Install** – AVI often installs systems at the end of a construction project. The price quoted contemplates that AVI shall have access to the location for the time shown for AVI to complete its work after the work of all other contractors is substantially complete which means, generally, all other trades are no longer generating dust in the location, and final carpeting/flooring is installed (the "Prepared Area") Failure to give AVI access to the Prepared Area for the amount of time shown for the installation may result in increased installation costs, typically in a manner proportionate to the reduction of time given to AVI to complete its work compared to the original schedule.

**22. Price Quotations** – Unless otherwise specified, all prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the terms of each invoice. Payment in other forms, including credit card, p-card, or other non-cash payments shall be subject to a convenience above the cash price. Please speak to your AVI representative if you have any questions in this regard.

# Memorandum

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**To:** Steve Payne, Public Works Director  
**CC:**  
**From:** Keith Viles, Water Systems/Sanitation Superintendent  
**Date:** 3/2/2016  
**Re:** Proposal for change in Yard Waste Collection

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Please accept this as my request to change the Yard Waste Collection schedule to Thursday only as compared to our current collection days on Tuesday, Thursday and Friday. After reviewing the totals for grass collection in 2015 as well as discussing the proposed change with the members of the Sanitation Division, making the change would result in more efficient collection of yard waste and resulting in a more efficient operation overall.

With our current collection schedule, we have one truck that collects yard waste on Tuesday and two trucks on both Thursday and Friday. Of the 96.19 tons of grass that was collected in 2015, 60.63 tons were collected on Thursday. There was a total of 8.59 tons collected on Tuesday with the remaining 26.97 tons picked up on Friday. Based on these numbers, we collected over 63% of the yard waste on Thursday in 2015.

This proposed change would primarily affect two drivers; if the change is approved one driver would collect all the yard waste containers on Thursday. The trash routes that these two drivers currently collect on Thursday would be combined and collected by the other driver. On occasion this arrangement might make for a longer day; however any time over the normal eight hour shift would be flexed out on Friday. This has been discussed with one of the drivers involved and he is in agreement with the proposed change. The other driver is on extended leave and therefore we have not gotten his input.

Beginning in May of 2016 we plan to deliver the yard waste to Shoshone River Farms located on the Powell Highway. The majority of the season we would have one load per day with the yard waste truck with the possibility of some days in June and July requiring two trips per day as these months were the heaviest in 2015. Under our current schedule, each driver makes 2 to 3 trips per day to the landfill with both grass and trash. If the proposed changes are accepted, the number of trips to the landfill would be reduced by two at the least on Thursday.

Approval of this change would result in fewer trips to the landfill resulting in reduced fuel consumption and maintenance costs for the two trucks involved while improving the efficiency of the division.

**CONFIDENTIAL**

## SpyGlass Snapshot Audit Agreement

This agreement, effective as of the later of the dates of signature below ("Effective Date"), is between **City of Cody** ("Company"), and **The SpyGlass Group, LLC**, an Ohio limited liability company ("Auditor").

**1. Primary Audit Services.** Company is engaging Auditor as an independent contractor to analyze its primary telecommunications service accounts (local voice, long distance voice, data, Internet, and wireless) to seek cost recovery, service elimination and cost reduction recommendations. Auditor will deliver the recommendations to Company, implement recommendations that Company elects for Auditor to implement, and deliver a complete telecommunications inventory to Company.

While Auditor is performing its analysis, Company will not make changes or perform internal cost reduction analysis with respect to provider accounts which Company has included within the scope of Auditor's review.

**2. Fees.** Company will pay Auditor the applicable fee set forth below **ONLY** for Auditor recommendations implemented within twelve (12) months of Auditor delivering the recommendation to Company:

- 50% of any "Cost Recovery", as defined below
- 12 times any "Service Elimination Savings", as defined below
- 12 times any "Cost Reduction Savings", as defined below

"Cost Recovery" is any refund, credit or compensation received by Company relating to past services or charges.

"Service Elimination Savings" is any monthly cost reduction received by Company relating to cancellation of any service, including monthly usage cost reduction (calculated as the average of the last 2 months of usage costs associated with the cancelled service).

"Cost Reduction Savings" is any monthly cost reduction received by Company relating to the modification, consolidation or negotiation of any service, account or contract, including post discount usage rate improvement (calculated as the (a) decrease in post discount per unit pricing realized by Company for any service, times (b) the average of Company's last two (2) months usage levels measured in such units for the modified service).

**3. Invoicing and Payment.** Fees for Cost Recovery are due as a one-time payment within 30 days of verification that Company has been issued the refund, credit or compensation resulting in such fees. Fees for Service Elimination Savings and Cost Reduction Savings are due as a one-time payment within 30 days of verification that the cancellation or other activity resulting in the Service Elimination Savings or Cost Reduction Savings has been completed. Auditor may issue separate invoices as different fees are earned.

**4. Confidential Information.** Auditor shall keep confidential and shall not divulge to any other person or entity who is not a director, officer or employee of Company, during the term of this Agreement or thereafter, any of the business secrets or other confidential information regarding Company which information has been received or become known to Auditor in the course of its consulting services hereunder and which has not otherwise become public knowledge; provided, however, that nothing in this Agreement shall preclude Auditor from disclosing information (a) to parties retained to perform services for Company, or (b) as may be required by law. Company shall keep confidential and shall not divulge to any other person or entity who is not a director, officer or employee of Auditor, during the term of this Agreement or thereafter, any of the business secrets or other confidential information regarding Auditor which has not otherwise become public knowledge, including, without limitation, Auditor's consulting services pricing structure, method of performing such consulting services and any of the details of this Agreement; provided, however, that nothing in this Agreement shall preclude Company from disclosing information as may be required by law.

**5. Miscellaneous.** This agreement is governed by the laws of the State of Wyoming, without regard to principles of conflicts of law, and may be executed by facsimile and simultaneously in multiple counterparts. Company agrees that Auditor does not warranty the overall performance, Company satisfaction, or data accuracy of any telecommunications related carrier, provider, software manufacturer or vendor at any time whatsoever during or after the term of this agreement. The City of Cody does not waive its governmental immunity, and does not waive any of the defenses, limitations, or immunity provided to the City of Cody under Wyoming law. The City of Cody expressly reserves the right to assert immunity as a defense to any action arising out of this Agreement. **AUDITOR SHALL NOT BE LIABLE TO THE COMPANY FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR BUSINESS INTERRUPTION, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE IN ADVANCE. THE PRIOR SENTENCE SHALL NOT IN ANY WAY LIMIT AUDITOR'S LIABILITY FOR DIRECT DAMAGES RELATED TO AUDITOR'S NEGLIGENT RECOMMENDATIONS OR NEGLIGENT WORK IN PERFORMING THIS ENGAGEMENT.**

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the Effective Date.

**COMPANY**

City of Cody

Signature: \_\_\_\_\_

**AUDITOR**

The SpyGlass Group, LLC

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Print Name: Edward M. DeAngelo

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



## Cody Parks, Recreation and Public Facilities

1402 Heart Mountain Street

PO Box 2200

Cody WY 82414

Phone (307) 587-0400

Fax (307) 587-2565

[www.cityofcody-wy.com](http://www.cityofcody-wy.com)

For Your Information

Action Necessary

Response Requested

### MEMO—16-017

Date: March 8, 2016

To: Barry Cook, City Administrator  
CC: Doyle Stout, Recreation supervisor

From: Rick Manchester, Director  
Parks, Recreation, and Public Facilities

Subject: Utilities at Mini Golf

1. Treated Water –The mini golf course is serviced by raw water to irrigate the grass inside the course. Doyle has been working with Councilman Anderson in pricing the installation and use of treated water service. The water will be used on future course development and open the option of having obstacles with water features such as a water wheel. Steve Payne provide a quote for water installation.

The estimated cost for the associated pipe and fittings along with a 3/4" meter pit is \$2007.10. In addition, there would be a tap and hook on fee of \$1600.00 provided there are no discounts on the tap fee. Total estimate is **\$3,607.10**.

2. Electricity—we have requested a quote from Acker Electric to run electricity to the south section. As of today, I have not received an estimate from Ray Lozier, Donny, or Doyle. The additional use of the electricity is to get power to the south end of the features. Without an estimate to go on, I guess it will be \$1,000-\$4,000 to complete the electrical.
3. Other Ideas--There are other options to consider such as running pipe and electrical conduit under tennis court area before improvements are made. We could also operate status quo with existing raw water and use extension cords for leaf blowers.
4. Cost and budget—there is enough money available in the mini golf budget including \$4,000 for season opening. (Available **\$21,356**) It is typical that we start with \$4,000 for carpet, concrete, score cards, balls, and putters.



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### MEMO—016-016

Date: March 8, 2016

To: Rick Manchester, Director  
Parks, Recreation, and Public Facilities

From: Eric Asay, Supervisor  
Parks and Pathways

Subject: Service Club Sign Location

#### **Director Recommendation**

##### **Option 1-- Find spot in Circle Drive Park**

##### **Options:**

1. Move service club sign to Circle Drive Park.
2. Move the sign to Chamber of Commerce.
3. Move sign to another location depending on features.

##### **Option 1-- Move Service Club Sign to Circle Drive Park.**

1. Circle Drive Park is across the road from the sign's original location.
2. Circle Drive Park already has a large number of signs inside it. The majority of these signs are WYDOT signs.
3. The intersection at the top of the Belfry Hill is one of the higher traffic areas in town.

##### **Option 2-- Move sign to Chamber of Commerce.**

1. People coming to visit Cody intentionally go to the Chamber of Commerce in order to see what types of clubs and organizations are in the area.
2. There was expansion done to the Chamber parking lot last fall and now would be the appropriate time to add the signs to that location rather than going in at a later date.

3. Placing the sign at this “central” location would lessen the need for future additional signage at other locations.

**Option 3-- Move sign to another location depending on location options.**

1. The east entrance (Powell Highway) does not have any signs, as of now.
2. There are no signs on the west entrance.
3. The only existing sign currently in place is on the entrance from the Greybull Highway.



#1

Power →

Circle Drive Park

Eastside School ↓

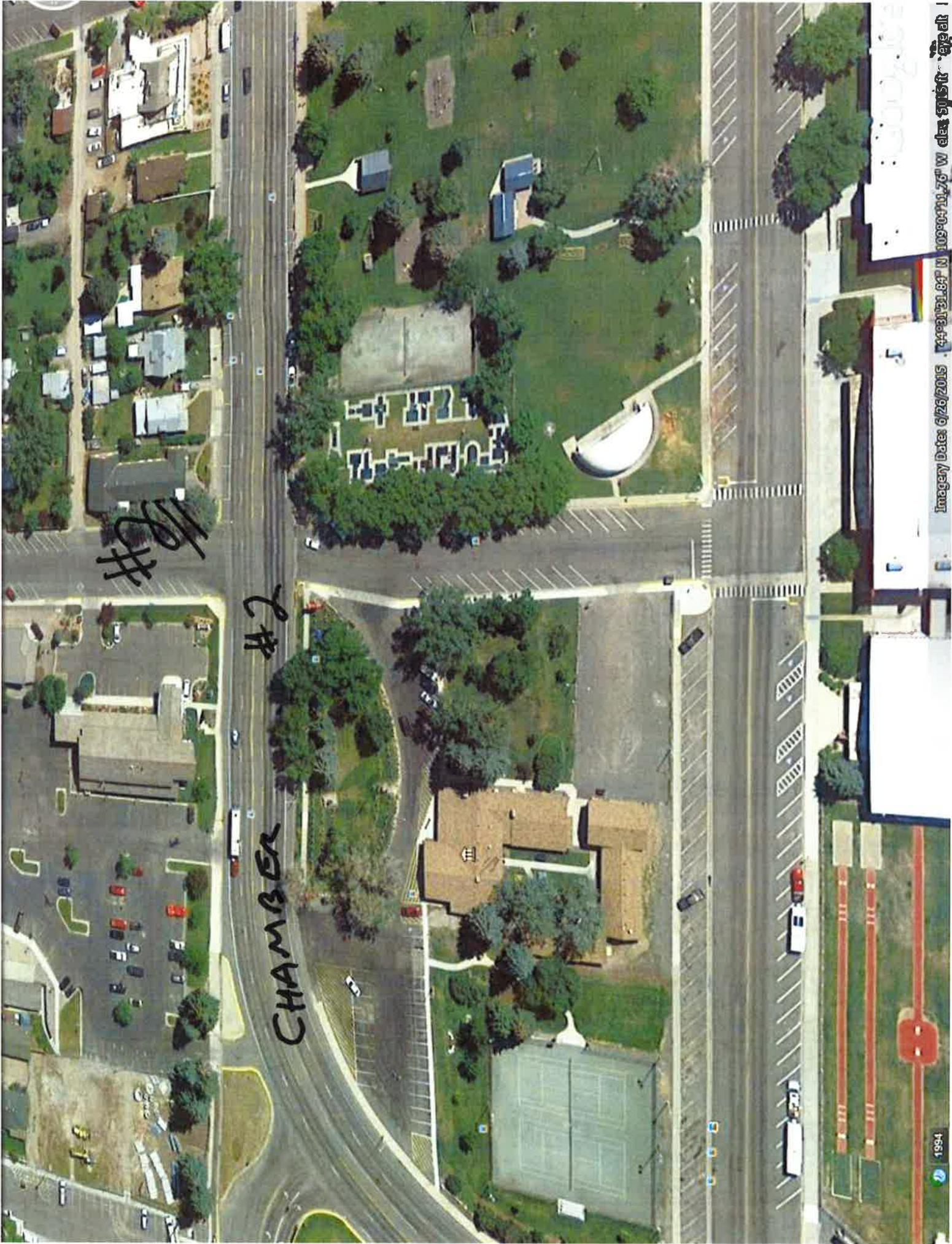
A-BELRY

SR Cent.

Google

Imagery Date: 6/26/2015 44°31'56.71" N 109°03'18.20" W elev 4990 ft eye alt

1994



#18#

CHAMBER #2

1994

Imagery Date: 6/26/2015 44°31'31.64" N 109°04'19.26" W elev: 5135 ft eye alt: 1



Cody, Wyoming

Street View - Sep 2015





1994

Imagery Date: 6/26/2015    64°48'31.84" N    109°04'41.76" W    elev: 5015ft    eye alt: 5746ft

Google earth