

AGENDA

Unless specifically noticed otherwise, this meeting and all other meetings of this body are open to the public. Proper notice has been posted and given to the media in accordance with Wisconsin Statutes so that citizens may be aware of the time, place and purpose of the meeting.

MEETING NOTICE

PARKS & RECREATION COMMITTEE

Monday, November 5th, 2018

The Parks & Recreation Committee meeting will begin immediately following the adjournment of the 4:30pm Board of Public Works meeting. (Estimated time to begin between 4:50pm and 5:20pm).

Council Chamber, New London Municipal Building

1. Call meeting to order, Adopt Agenda
2. Approval of October 2nd, 2018 minutes
3. Director's Memo
4. Public comment relevant to items on the agenda
5. Review closed captioning study by Bradley, Berkland, Hagen & Herbst LLC
6. Discussion on the replacement of the Senior Center Director position
7. Discussion and possible action on the future of the food pantry program
8. Director's Report
9. Chairman's Report
10. Committee Member's Report
11. Next Month Agenda Items
12. Adjournment

Rob Way, Chairman
New London Parks & Recreation Committee

Agenda items are listed so as to accurately describe the actions or issue being considered instead of simply the document listing title or the parties to a contract. This is done as such titles or a list of parties to a contract conveys insufficient information to the public on whether a topic or project they are interested in is being considered. It is the policy of the City of New London to comply in good faith with all applicable regulations, guidelines, etc. put forth in the American with Disabilities Act (ADA). To that end, it is the City's intent to provide equal opportunity for everyone to participate in all programs and/or services offered, to attend every public meeting scheduled, and to utilize all public facilities available. Any person(s) in need of an alternative format (i.e. larger print, audio tapes, Braille, readers, interpreters, amplifiers, transcript) regarding information disseminated by the City of New London should notify the City 48 hours prior to a meeting, etc., or allow 48 hours after a request for a copy of brochures, notices, etc. for delivery of that alternative format. Contact ADA Co-Coordinator Paul Hanlon or Chad Hoerth by telephone through: (Relay Wisconsin) – or 920/982-8500 and in person/letter at 215 N. Shawano Street, New London, WI 54961.

PARKS & RECREATION COMMITTEE MINUTES

Tuesday October 2, 2018 5:30 p.m.

COMMITTEE MEMBERS PRESENT: Rob Way, Bob Besaw, Dennis Herter, John Faucher, Lori Dean, Bob Marcks

COMMITTEE MEMBERS ABSENT: Henrica Bult

COUNCIL MEMBERS PRESENT: Mayor Gary Henke, Tom O'Connell, Ron Steinhorst, Fred Zaug

OTHERS PRESENT: Chad Hoerth, Director of Public Services
Kent Hager, City Administrator
Michelle Lambrecht, Administrative Assistant

Way called the meeting to order @ 5:30 p.m. Dean moved to approve the agenda, seconded by Herter. *Motion carried by all.*

Approval of September 4, 2018 Minutes:

Dean moved, seconded by Faucher to approve the September 4, 2018 Parks & Recreation Committee meeting minutes.
Motion carried by all.

Public comment(s) relevant to items on the Agenda: None

Review and act on an Ordinance amending parking limitations to restrict camping on City owned properties: Hoerth explained a situation where the City has had some individuals jumping around to City parking lots and properties, camping overnight in their camper. He proposed an ordinance for officers to enforce and prevent camping on City properties. Chief Schlueter has reviewed and approved the draft.

Zaug moved, seconded by Herter to recommend that council amend Ordinance Section "7.07(4)(b) No Overnight Camping" of the Municipal Code. *Motion carried by all.*

Consider for recommendation and Ordinance amending parking restrictions to four (4) hours in designated City facility parking lots: Hoerth stated the City has had issues with local residents using the Pool, Library/Museum and City Hall parking lots for personal parking or for overnight parking purposes. These lots are intended for users of the facility and not for local residents to use for personal "overflow parking".

Dean moved, seconded by Besaw that council add Ordinance Section "7.07(b)(1) Four Hour Parking Limit" of the Municipal Code.
Motion carried by all.

Review Department's 2019 Capital Budget: The Department's draft 2019 capital budget was presented. Changes may still occur as Finance Director Radke puts the entire city's budget together. The Committee made no changes to the proposed capital budget at this time.

Discuss a proposal to partner with New London School District on Hatten Park Tennis Courts replacement: Hoerth explained he is working with the school district on a proposed plan for the replacement of the tennis courts in the City; beginning with the courts at Hatten Park. *No motion was made on this item.*

Director's Report: There were no questions on the monthly reports and statistics.

Years of Service Report: Kim Ebert completed 11 years of service with the City on September 10th, Mike Fredin completed 9 years of service with the City on September 21st, and Patrick Guyette completed 4 years of service with the City on September 22nd.

Chairman's Report: Way commented on a recent meeting which he attended at Mosquito Hill Nature Center in regarding future planning of the Nature Center.

Committee Member's Report: None

Next Month Agenda Items:

- a. Due to November 6th election next month's Parks & Recreation Committee meeting will immediately follow Board of Public Works meeting on Monday November 5th.

Zaug moved to adjourn; seconded by Dean at 6:30 p.m. *Motion carried by all.*

Chad R. Hoerth
Director of Public Services



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New London, WI 54961
920.982.8521
Fax: 920.982.8665

Aquatic & Fitness Center
815 W. Washington Street
New London, WI 54961
920.9828524

Senior Center & Transit
600 W. Washington Street
New London, WI 54961
Center: 920.982.8522
Transit: 920.982.8523

New London Access
215 N. Shawano Street
New London, WI 54961
920.982.8537

Building & Grounds/
Park Shop
915 W. Wolf River Ave
New London, WI 54961
920.982.8510

DEPARTMENT OF PARKS & RECREATION

CITY OF NEW LONDON

Memorandum

TO: New London Park & Recreation Committee
FROM: Chad Hoerth, Director of Public Services
RE: November 5th Park and Rec Committee Meeting
DATE: Thursday, November 1st, 2018

1. Review closed captioning study by Bradley, Berkland, Hagen & Herbst LLC- Included in your packet is the report by the law firm of Bradley, Berkland, Hagen & Herbst. If you recall this firm was recommended by the League of Wisconsin Municipalities to review our particular situation in regards to requirements for providing closed captioning services with our government access channel. It's a long document, however at minimum I would suggest reading over the executive summary at the beginning of the report and the recommendation at the end of the report. Looking over these sections you'll understand there are two "regulations" that we need to review to evaluate whether or not closed captioning is required. First off the firm looked into the laws that are regulated by the FCC. In short there are laws that require cable producers to provide close captioning for their programming; however the city would be exempt from this law based on the amount of revenue the city brings in for the cable programming.

The second regulation that may require closed captioning is from ADA Title II. This regulation states that when governments communicate with the public, they must utilize "auxiliary aids and services" to provide "effective communication that results in meaningful access to a public entity's services." According to this report, The Department of Justice ("DOJ"), in its Nondiscrimination Rules implementing Title II, ruled that "television and videotape programming produced by public entities" are covered by Title II of ADA regulations. In a nutshell the city is required to provide auxiliary aids and services to communicate effectively to those with disabilities. This is not to say that the city is required to provide "closed captioning" as the means to provide effective communication; it's just one method in doing so. However ADA laws do allow public entities exemptions from these requirements if the additional aid or service is either an administrative or financial burden. In the report the law firm identifies that for the City of New London it would more than likely be a financial burden to provide closed captioning for LIVE programming, but not a financial or administrative burden to provide closed captioning for prerecorded programming. A few other notable points identified in the report:

- If the city would claim exemption for closed captioning of live programming, then a statement needs to be identified in the city's ADA Compliance/Transition plan.

- The city is not required to purchase closed captioning equipment immediately, however the plan to provide closed captioning (or whatever other method we would provide service for those with hearing disabilities) for prerecorded equipment should be identified in the city's ADA Compliance/Transition plan.
- If the city rebroadcasts a video from someone else who has encoded closed captioning in the video, we would be required to provide that closed captioning capability in our broadcast (we currently don't have our system set up to rebroadcast closed captioning).
- The DOJ has not provided technical standards for closed captioning compliance or clear identification of "administrative undue burdens". Rather these have been judged on a case by case basis in the courts. In the report the law firm referenced several of these court cases to determine a general understanding of the above expectations.
- The FCC is anticipated in the future to have an online self-reporting form to annually report exemption from the FCC's closed captioning regulations.

As the report concluded, we are not required to immediately provide closed captioning. We would first need to evaluate what aspects (live vs. prerecorded videos) we are going to provide "auxiliary aids and services" to provide "effective communication" to those with hearing disabilities; again closed captioning is just one way to do that. Then we should identify how we are going to accomplish that in our ADA compliance/transition plan. Because our video broadcasting servers are about 10 years old we were talking about the need to upgrade them in the future anyway, I think providing closed captioning capability in these new servers would be one aspect we would just review when we upgrade these servers.

Discussion on the replacement of the Senior Center Director position- as you probably picked up in my staff notes, Kim Ebert has given her resignation effective at the end of this year. We've started the process of replacing her position. In the past the position has been (for a lack of better terms) a "joint" position with Waupaca County as the Senior Center Director was also employed by the county as the Meals on Wheels/Nutrition site coordinator. Kim has reported that in the past few years more attention has been required upon her for the county nutrition program. She has been compensated from the County for 3 hours a day and for the City for 5 hours per day, however she has reported that her county duties take at least 4 hour or more per day to complete. The County is looking at changes in the nutrition program service and at this time I can't make the recommendation to make sure that the employee hired is the same person as I feel our senior programming has taken a bit of a hit as the county nutrition program has taken a large amount of the person's focus. So at least at this time we're looking at separating the position to ensure we get the proper amount of focus to our senior programming.

Discussion and possible action on the future of the food pantry program-

another aspect of Kim's responsibility in the past few years has been overseeing the food pantry program. This service has become very time consuming for Kim over the past few years. We currently receive a large amount of food from the federal commodities program. Each month we send at least 2 staff from the shop to go and pick up commodities from Waupaca. This program has hoops to jump through as well as regular paperwork that needs to be filed. We've also been told that starting in December the federal government will be substantially increasing the amount of commodities. It's anticipated that we could see 100-200 cases of food for each delivery (we would have to send multiple vehicles and more staff for that amount of food). Kim also reports that it has become a bit of a burden as people either constantly come to the senior center during hours that the food pantry is not open to either request food, donate food or request other types of financial assistance. The food pantry and the county nutrition program have been consuming the bulk of Kim's hours recently.

Since Kim will be resigning, it was a good time to evaluate the position's responsibilities. It would be one thing if this was the only food pantry in town but New London also has the St. John's food pantry supplying service to the community. Kim also reported that when she attends the required commodity meetings, she is the only person from a municipality in attendance, everyone else is from a non-profit or other type of organizations. We've talked about this in depth internally and feel since there is another provider in town already, why don't we collaborate with them instead of "competing" with each other. We've had a few talks with the St. Johns staff and they are interested with the partnership, however there are a lot of details we still need to figure out yet. Moving forward the committee will need to determine if this partnership is acceptable for the community's need and if we will close down the city's food pantry.

Director's Report

1. Years of Service Report:
 - On October 5th Richard Johnson completed 32 years of service
 - On October 28th, Ginger Arndt completed 16 years of service
2. Department Usage & Financial Statistics –Reports will be emailed before the meeting.
3. Upcoming/Past Events –
 - i. I'll just report that the Hatten Park Haunted trail had had 566 people come through this year (compared to 436 in 2017 and 365 in 2016).
 - ii. Veterans Memorial Foundation- Protest of Taft Park Dumpsters- November 10th, Taft Park

4. Updates on Projects/Notable Information:

- i. Downtown River wall dock project- We have removed the new St. John's dock for the season and we're waiting on the contractor to come in and adjust the rip rap at the bottom of the wall so that the dock does not rest on this rock when the river goes down.
- ii. Pool Mechanical System Upgrades- We're still dealing with little tweaks of the new system and trying to get some bugs out of the system. I'm holding the final payment until we get everything done correctly.

Closed Captioning Study

Prepared for the City of New London, Wisconsin

Findings and Final Report

October 5, 2018



Bradley



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Executive Summary

This Closed Captioning Report (the “Report”) has been prepared exclusively for the City of New London, Wisconsin (the “City”). It may not be used or relied upon by any other municipal entity. The City engaged Bradley Berkland Hagen & Herbst (“Bradley Law”) to undertake a closed captioning study and to prepare the Report on behalf of the City. Bradley Law is a law firm based in the Twin Cities that represents local governments and access television operators. Bradley Law engaged Municipal Captioning Inc. (“Municipal Captioning”) to assist in this study and Report. Municipal Captioning is a firm that consults with local governments and access television operators on equipment and services for the delivery of access television video.

At the onset of the project, Bradley Law prepared a questionnaire for the City to complete, which addressed how the City was providing video services to its residents. It also requested information on the City’s budget for access television programming. Bradley Law and Municipal Captioning have relied upon this information provided by the City in developing the conclusions and recommendations in this Report.

Once the City responded to the questionnaire, Bradley Law conducted a review of the closed captioning laws in the Federal Communications Act of 1934, as amended (the “Communications Act”), the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) of 2010, and the corresponding rules promulgated by the Federal Communications Commission (“FCC”). Additionally, Bradley Law examined the Americans with Disabilities Act of 1990 (“ADA”) and corresponding rules promulgated by the Department of Justice (“DOJ”). Simultaneously, Municipal Captioning sought current information and pricing on available technologies and services for the provision of closed captioning video. The firms consulted with one another in making recommendations to the City for complying with the applicable regulations.

This report concludes that the City is exempt from the closed captioning requirements found in the Communications Act and the corresponding FCC regulations. However, the FCC has a new online reporting requirement that requires all video producers claiming an exemption to annually report the exemption to the FCC each July 1. The FCC has yet to develop this new online reporting mechanism. The City should check annually with the FCC to determine whether it is possible to comply with this new exemption reporting requirement. Additionally, the City has duty under the CVAA to pass-through any captions accompanying programming produced by a third party (i.e., a community producer) and cablecast by the City.

Although not expressly required to provide closed captioning under the Communications Act, this report concludes that the City is not exempt from the ADA’s closed captioning requirements. The ADA requires that the City provide “effective communications” through the use of “auxiliary aids and services” albeit only to the extent that implementing an

auxiliary aid or service would not cause an undue financial and administrative burden. One method of providing effective communications is through closed captioning. This Report describes several methods and costs associated with each method for providing closed captioning.

The City has a duty under the ADA to provide “effective communications” for its access channel, which can be accomplished through closed captioning. Municipal Captioning, in cooperation with Bradley Law, has identified four different options for captioning the City’s live government-produced programming and four different options for captioning the City’s prerecorded government-produced programming, each of which has their own strengths and weaknesses. Municipal Captioning has assembled packages ranging in cost from \$2,692 to \$7,065 and from \$842 to \$4,410 in ongoing annual cost that would allow the City to caption their programming in this manner. Because live captioning the City’s live programming would likely impose an undue financial burden, we recommend adopt an automated captioning solution to caption both the City’s live and prerecorded programming. Additionally, because it is unclear whether captioning the City’s programming in this manner would qualify as “effective communication” under the ADA, we recommend the City develop an ADA compliance plan that includes a statement from the City’s highest ranking staff member that providing live closed captioning of the City’s live programming would result in an undue financial burden. We also recommend the City begin conducting regular ADA compliance audits in order to comply with the ADA.

Section 1. Closed Captioning Laws and Regulations

There are closed captioning requirements for video programming in both the Communications Act and the ADA. Closed captioning is additionally required by Section 504 and Section 508 of the Rehabilitation Act, but these provisions, while instructive at times, are only applicable to federal agencies and programs receiving federal funding.¹ The FCC, in its interpretation of the Communications Act, and the DOJ, in its interpretation of the ADA, have each promulgated separate sets of rules dictating how and when closed captioning services must be provided. Each of these sets of rules have been promulgated for different purposes and pursuant to different statutory authority. Therefore, we examine each set of rules separately below.

A. The Communications Act, The Twenty-First Century Communications and Video Accessibility Act of 2010, and FCC Requirements for Closed Captioning

The Communications Act and FCC's closed captioning rules distinguish between video programming distributed by television and video programming distributed by the Internet. However, this distinction is insignificant. Under the FCC's rules, if video programming must be closed captioned when distributed by television, then that same video programming must also be closed captioned when distributed by the Internet. A video programming owner, such as the City, is required to use its "best efforts" to provide closed captioning of programming distributed by television.² However, as we explain below, the City falls under an exemption to the Communications Act's closed captioning requirement and is therefore not required under the Communications Act or the FCC's rules to provide closed captioning. Rather, the City will only be required to annually report its exempt status to the FCC.

1) Exemption for Television-Delivered Video Programming

The Communications Act and corresponding rules from the FCC require "video programming distributors" to provide closed captioning unless: (1) the captioning expense would exceed two percent (2%) of the video programming distributor's gross revenues, or (2) a channel produces less than \$3,000,000 in revenue.³

¹ See 29 U.S.C. §§ 701 & 794d. See *Halpern v. Wake Forest Univ. Health Scis.*, 669 F.3d 454, 461 (4th Cir. 2012) ("To the extent possible, we construe the ADA and Rehabilitation Act to impose similar requirements.").

² See *In the Matter of Closed Captioning of Video Programming*, Report and Order, Declaratory Rule, and Further Notice of Proposed Rulemaking, CG Docket No. 05-321 at ¶ 42 (Feb. 24, 2014) ("Whatever method is used to provide real-time understandability of the programming, [the FCC] will address complaints by considering . . . whether the [Video Programming Distributor] made best efforts to receive a certification from programmers that the programmer is either in compliance with the Commission's non-technical quality standards or with the Best Practices adopted herein.").

³ 47 U.S.C. § 613; 47 C.F.R. § 79.1. Additionally, educational access channels are categorically exempt from the FCC's closed captioning requirements. 47 C.F.R. § 79.1(d)(13).

To date, we are not aware of any access channel producing more than \$3,000,000.00 in annual gross revenue. Therefore, we believe that every access channel in the country falls under this exemption. Additionally, access channels produce little if any revenue at all. Therefore, any captioning expense would also likely exceed two percent of any access channel's gross revenues. As such, the access channels likely qualify for both exemptions to the FCC's rules requiring the closed captioning of video programming distributed by television.

2) [Requirements for Internet-Delivered Video Programming](#)

Beginning in 2012, the FCC began adopting rules governing closed captioning requirements for the owners, providers, and distributors of video programming delivered using Internet Protocol ("IP") technology.⁴ These rules were mandated by Congress in the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA"),⁵ because existing closed captioning rules did not apply to IP-delivered video programming that was not part of a broadcaster or multichannel video programming distributor service (*e.g.*, over-the-air video programming and video programming packaged and delivered over cable systems). Specifically, the FCC was directed "to require closed captioning of IP-delivered video programming that is published or exhibited on television with captions after the effective date of the new regulations."⁶

The general rule promulgated by the FCC with respect to the closed captioning of IP-delivered programming is that all nonexempt full-length or clips of video programming delivered using Internet protocol must be provided with closed captions if the programming is "published or exhibited on television in the United States with captions" on or after certain phase-in dates.⁷ This includes programming that is produced either by a government entity or a non-government entity. Although a government entity does not have a legal duty to provide closed captioning of programming that is not produced by the government entity, the government entity does have a duty to "render or pass through" any closed captioning provided by the programming's producer.⁸ That is, the City cannot inhibit the closed captioning of programming. For example, if City A retransmits programming from nearby City B, and that programming is closed captioned, City A would have a duty to pass through the captions

⁴ In the Matter of Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket No. 11-154, FCC 12-9, *Report and Order* (Rel. Jan. 13, 2012) ("Report & Order"); *Order on Reconsideration and Further Notice of Proposed Rulemaking*, MB Docket No. 11-154, FCC 13-84 (Rel. June 14, 2013); *Second Order on Reconsideration and Second Further Notice of Proposed Rulemaking*, MB Docket No. 11-154, FCC 14-97 (Rel. July 14, 2014).

⁵ Pub. L. No. 111-260, 124 Stat. 2751 (2010) and Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010).

⁶ 47 U.S.C. § 613(c)(2)(A).

⁷ See 47 C.F.R. § 79.4(b)(1) and (b)(2) (emphasis added).

⁸ In the Matter of Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket No. 11-154, FCC 12-9, *Report and Order* (Rel. Jan. 13, 2012).

provided by City B. Conversely, if City B's programming was not closed captioned, City A would not have a duty to provide that captioning.

As previously discussed, it is our understanding that none of the City's programming is currently closed captioned because such captioning is not required under the FCC's longstanding television closed captioning rules discussed above. Therefore, the FCC's IP video closed captioning rules do not, at this time, compel the City to caption the nonexempt full length or clips of video programming it provides over the Internet using IP. This conclusion is supported by the *Report & Order*, which states “[p]rogramming that is exempt from the television closed captioning requirements and that never appears on television with captions is not subject to the IP closed captioning requirements, which by definition do not apply to programming that appears on television only without captions.”⁹

If, however, particular nonexempt full-length video programs or clips are closed captioned in the future (either voluntarily or by interpretation or application of applicable law), and transmitted over a cable system with those captions, then the IP versions of those programs must also be captioned in a manner that complies with FCC rules.

3) [New Annual Online Reporting Requirement Every July 1, 2017](#)

The FCC released a Second Report and Order on February 19, 2016. In it, the FCC implemented a new rule, applicable to the City, requiring all video programmers to self-report compliance or exemptions to the FCC's closed captioning rules pursuant to an online filing system.¹⁰ While the rule went into effect on July 1, 2016, the FCC, as of the date of this Report, has not made its online filing system publicly available. Based upon information that we have heard, the FCC may not have the online filing system in place until after July 1, 2019. We further understand there are municipal trade organizations working with the FCC on this issue and that there may be additional guidance for municipalities in the future. Nevertheless, the City has the obligation to comply with this new reporting requirement once the online filing system is created. The City is not exempt from this requirement. We recommend checking with the FCC annually to ascertain if the online system is available.

B. ADA and DOJ Requirements for Closed Captioning

Even if exempt under the Communications Act and corresponding FCC rules, the City still must comply with other federal laws to make its programming accessible to individuals with disabilities. From the FCC's 1997 Report and Order:

“[E]ntities that qualify for an exemption under Section 713 [47 U.S.C. § 613] may be obligated under other federal statutes, *such as the ADA*, to make their services

⁹ Report & Order at ¶ 68.

¹⁰ In the Matter of Closed Captioning of Video Programming Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking, CG Docket No. 05-231, *Second Report and Order*, ¶¶ 32-40 (Rel. Feb. 19, 2016). See 47 C.F.R. § 79.1(m).

and programs, including video programming services, accessible to an individual with disability upon request. We do not intend our rules to preclude or supersede the operation of any other federal laws that may require an entity exempt from Section 713 to make its video programming services accessible to people with disabilities.”¹¹

Title II of the ADA prohibits discrimination against persons with disabilities in all programs, services, and activities of state and local government.¹² When governments seek to communicate with the public, they must utilize “auxiliary aids and services” to provide “effective communication that results in meaningful access to a public entity’s services.”¹³

1) Applicability of ADA to Public, Educational and Governmental Access Channels

The Department of Justice (“DOJ”), in its Nondiscrimination Rules implementing Title II, ruled that “television and videotape programming *produced by public entities*” is covered by Title II of the ADA.¹⁴ The DOJ defined “public entity” as explicitly inclusive of state and local governments and their subdivisions and instrumentalities.¹⁵ In some instances, local governments contract with a non-profit corporation to operate a public access channel(s). We believe that non-profit entities or other contracted entities operating a public access channel or leased access channel would not likely fall under the term “public entity.”¹⁶ Therefore, Title II would not apply to the non-profit. However, this is not to say that the non-profit would not be

¹¹ Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility, MM Docket No. 95-176, *Report and Order*, 13 FCC Rcd 3272, 3342 n.534 (1997) (emphasis added).

¹² Nondiscrimination on the Basis of Disability in State and Local Government Services, CRT Docket No. 105, *AG Order No. 3180–2010* (Sept. 15, 2015) (supplementing 28 C.F.R. Part 35) (hereinafter referred to as the “Nondiscrimination Rules”), available at http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.pdf: The scope of Title II’s coverage of public entities is comparable to the coverage of Federal Executive agencies under the 1978 amendment to section 504, which extended section 504’s application to all programs and activities “conducted by” Federal Executive agencies, in that title II applies to anything a public entity does. Title II coverage, however, is not limited to “Executive” agencies, but includes activities of the legislative and judicial branches of State and local governments. All governmental activities of public entities are covered, even if they are carried out by contractors.

¹³ *Bahl v. County of Ramsey*, 695 F.3d 778, 783 (8th Cir. 2012) (citing *Loye v. County of Dakota*, 625 F.3d 494 (8th Cir. 2010)).

¹⁴ Nondiscrimination Rules, Subpart E—Communications, Section 35.160 General, *available at* http://www.ada.gov/2010_regs.htm (emphasis added).

¹⁵ 28 C.F.R. § 35.104 (2015) (“Public entity means—(1) Any State or local government; (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government.”).

¹⁶ *See Wilcher v. City of Akron*, 498 F.3d 516, 519 (6th Cir. 2007) (Public Access Channel is not a state actor); *Loce v. Time Warner Entm’t Advance/Newhouse P’ship*, 191 F.3d 256, 266 (2d Cir. 1999) (Cable operator did not act as a state actor when it enacted regulations to eliminate indecent broadcasting on a leased access channel); *Shmi v. Houston Media Source, Inc.*, 2010 WL 294439, at *7 (S.D. Tex. 2010) (Non-Profit corporation operating a Public Access Channel under a contract with a City not a state actor).

subject to the ADA. Rather, the non-profit would likely be subject to Title III of the ADA, which has very similar effective communications requirements.¹⁷

There are three different types of access channels: (1) public; (2) educational; and (3) governmental. These channels are sometimes collectively referred to as PEG Channels. On occasion, a leased access channel may be made available to local government for access programming. Governmental and educational channels contain programming that is almost exclusively produced by a public entity and is therefore subject to Title II of the ADA. Public access channels, however, are different. Public access programs are typically produced by citizens that are not municipal employees and are typically cablecast on a first come, first served or similar basis. Public access channels are not edited or censored by a public entity. To the extent that a public access channel programming is produced by a citizen, we believe it is not subject to Title II. In this context, the public entity is a mere conduit of programming produced by a citizen for playback over a cable operator's system, and the programming is not a program, service, or activity of a public entity. However, some jurisdictions mix government-produced video with public-produced video for playback on a public access channel, leased access channel, or on a hybrid PEG channel. In those situations, any government-produced video remains subject to Title II.

2) "Effective Communications"

The DOJ has recognized that "access to audio portions of such programming *may* be provided by closed captioning" as one auxiliary aid or service to provide effective communication. However, closed captioning was not ruled as the only way or even the best way to provide effective communication of access programming.¹⁸ Instead, whether an auxiliary aid or service provides effective communication under the ADA is highly fact-dependent and is determined on a case-by-case basis. For example, a human reader assigned to a blind inmate constituted effective communication under the DOJ's ADA rules.¹⁹ Conversely, a service transmitting spoken audio to a hearing impaired student that provided less than 38% efficiency did not constitute effective communication under the DOJ's ADA rules.²⁰ To date, the DOJ has declined to implement any technical standards for closed captioning (i.e., 95% transcription accuracy for live programming is compliant with the ADA). In other words, there is no closed captioning solution that would automatically be ADA compliant.

¹⁷ See Title III of the ADA at 42 U.S.C. §§ 12181-12189.

¹⁸ See also The Americans with Disabilities Act: Title II Technical Assistance Manual § II-7.1000 ("Audio portions of television and videotape programming produced by public entities are subject to the requirement to provide equally effective communication for individuals with hearing impairments. Closed captioning of such programs is sufficient to meet this requirement.").

¹⁹ *Mason v. Correctional Medical Services, Inc.*, 559 F.3d 880 (8th Cir. 2009).

²⁰ *Argenyi v. Creighton University*, 703 F.3d 441 (8th Cir. 2013).

3) Exceptions to the DOJ's Requirements

Despite the DOJ's reluctance to promulgate technical standards for closed captioning, the broad mandate of Title II accommodations is limited by a reasonableness standard, exempting public entities from providing certain auxiliary aids or services if doing so "would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens."²¹ However, to claim such an exemption, a public entity must prove that an auxiliary aid or service causes the public entity an undue financial or administrative burden or fundamentally alters an access channel.²² The head of the public entity (or a designee) must consider "all resources available" and provide a written statement of reasons for concluding that a fundamental alteration or an undue burden will result from providing auxiliary aids or services.²³ Similar to determining whether an auxiliary aid or service provides effective communication, whether implementation of any particular auxiliary aid or service causes an undue financial and administrative burden is determined on a case-by-case basis.

(a) Resources Considered in an Undue Financial Burden Analysis

The first step of this analysis is to identify the "resources available" to provide an auxiliary aid or service.²⁴ The "resources available" to a public entity for purposes of providing auxiliary aids or services are limited to those "resources available for use in the funding and operation of the service, program, or activity."²⁵ While there is no judicial precedent on this subject as it relates to access television, we believe that the resources available are limited to the budget of the department or agency responsible for producing and distributing access programming.

(b) Identifying an Undue Financial or Administrative Burden

The second step of this analysis is to determine whether any particular closed captioning solution would cause an undue financial and administrative burden in light of the resources identified in the previous step.²⁶ While some courts require public entities to prove that an auxiliary aid or service must cause both an undue financial burden *and* an undue administrative burden, Wisconsin law requires that only one or the other be proven.²⁷ In

²¹ 28 C.F.R. § 35.164 (2015).

²² *Id.*

²³ *Id.*

²⁴ 28 C.F.R. § 35.150.

²⁵ *Id.* See 28 C.F.R. § Pt. 35, App. A ("In determining whether financial and administrative burdens are undue, all public entity resources available for use in the funding and operation of the service, program, or activity should be considered." (emphasis added)). See also *Pascuiti v. New York Yankees*, 87 F.Supp.2d 221 (S.D.N.Y. 1999).

²⁶ See, e.g., *Reyazuddin v. Montgomery County, Maryland*, 789 F.3d 407 (4th Cir. 2015).

²⁷ See *Updike v. Multnomah County*, 870 F.3d 939 (9th Cir. 2017) ("Yet the mere payment for an ASL interpreter and the payment for a TTY or similar device cannot be considered an undue burden."); *Bahl v. County of Ramsey*, 695 F.3d 778 (8th Cir. 2012).

determining what constitutes a fundamental alteration or undue burden, a public entity need not “lower or effect substantial modifications of [existing] standards to accommodate a handicapped person.”²⁸ However, regardless of whether a public entity determines that accommodating an ADA request for auxiliary aids or services would fundamentally change or unduly burden a particular program, service, or activity, the entity must still “take any other action” to meet the needs of the disabled “to the maximum extent possible.”²⁹ For example, if a deaf City resident requests a sign language translator be present in the resident’s home during certain government meetings, the City may determine this would cause an undue financial or administrative burden. However, the City would still be required to accommodate the resident to the extent the City is able. For instance, the City may satisfy its duty to “take any other action” by providing closed captioning if doing so would not cause the City an undue financial or administrative burden.

To date, the DOJ has not implemented any technical standards that would allow for streamlined identification of *per se* undue burdens. In other words, there is no law or rule that identifies when a cost in providing closed captioning results in an undue financial burden. Similar to determining whether an auxiliary aid or service provides effective communication, determining whether an auxiliary aid or service creates an undue financial or administrative burden can only be done on a case-by-case basis.³⁰

We have conducted a nationwide search of cases that have addressed when the cost of providing an auxiliary aid or service would constitute an undue financial burden. The following is a brief summary:

- *Roberts v. KinderCare Learning Centers, Inc.*, 86 F.3d 844, 846 (8th Cir. 1996) (requiring a learning center to provide one-on-one care would impose an undue financial burden by requiring the learning center to employ a full-time caregiver for the disabled child).
- *Timothy H. v. Cedar Rapids Cmty. Sch. Dist.*, 178 F.3d 968 (8th Cir. 1999). (Plaintiff sought to compel defendant school district to implement a special bus route so that plaintiff would be able to attend a different school within the district. After a finding of no fundamental difference between the two schools and a \$24,000 per year cost to the district in implementing the special bus route, the Court held that implementation of the special bus route would cause an undue burden).
- *Koester v. Young Men's Christian Ass'n of Greater St. Louis*, No. 4:14CV1772 RLW (E.D. Mo. May. 4, 2018) (Plaintiff’s alleged the YMCA’s policy of obtaining information about disabled campers prior to camp was discriminatory. Court held Plaintiffs’ proposed modification to sit down and have an interactive process with no requirement or objective information regarding disabled campers’ specific disabilities and

²⁸ Nondiscrimination Rules (citing *Southeastern Community College v. Davis*, 442 U.S. 397, 413).

²⁹ 28 C.F.R. § 35.164.

³⁰ See *Hindel v. Husted*, 875 F.3d 344 (6th Cir. 2017).

accommodation needs would increase risks to YMCA campers and would impose undue financial and administrative burdens on the YMCA.).

- *United States v. Board of Trustees for University of Alabama*, 908 F.2d 740 (11th Cir. 1990) (considering the size of the University of Alabama's transportation budget, the University failed to show that an additional expenditure of \$15,000 to modify its bus system to reasonably accommodate individuals with disabilities would impose an undue financial hardship in light of its "annual transportation budget of \$1.2 million").
- *Onishea v. Hopper*, 171 F.3d 1289 (11th Cir. 1999) (request that would require Department of Corrections to hire more officers at a cost of \$1.7 Million was an undue hardship where Department had \$163 Million budget).
- *Enyart v. Nat'l Conference of Bar Examiners, Inc.*, 823 F.Supp.2d 995, 1014 (N.D. Cal. 2011) (where cost of accommodating exam applicant would be roughly \$5,000 but could be spread among or passed on to other parties, accommodation was not an undue burden).
- *Rawdin v. Am. Bd. of Pediatrics*, 985 F.Supp.2d 636, 656 (E.D. Pa. 2013) (cost of developing new board exam to accommodate plaintiff's disability would impose undue burden where trial evidence showed each question took two years to develop and cost \$3,500, with entire exam costing \$1.2 million), *aff'd*, 582 F. App'x 114 (3d Cir. 2014).
- *Anderson v. Franklin Inst.*, 185 F.Supp.3d 628 (E.D. Pa. 2016) (allowing a personal care attendant free admission to museum with paying disabled person did not create undue financial burden. "No reasonable fact-finder could conclude that an occasional \$1 loss to a \$135 million organization constitutes an unreasonable cost or an undue financial burden.").
- *Jordan v. Greater Dayton Premier Mgmt.*, 9 F.Supp.3d 847 (S.D. Ohio 2014) (a requested service that costs \$1600 per year against an annual budget of \$1.6 million did not constitute an undue financial burden).

Similarly, we also conducted a nationwide search of cases that have addressed when providing an auxiliary aid or service would constitute an undue administrative burden. We found the following:

- *Couture v. Board of Educ. of Albuquerque Pub. Sch.*, 535 F.3d 1243 (10th Cir. 2008) (Plaintiff claimed use of timeout room for child with disabilities violated ADA and requested a "hearing" of some form prior to use of timeout room. Court held request was found to be an undue administrative burden.).
- *Jordan v. Greater Dayton Premier Mgmt.*, 9 F. Supp. 3d 847 (S.D. Ohio 2014) (providing audiotapes of correspondence between a tenant and landlord did not constitute an undue administrative burden).

- *DeBord v. Bd. of Educ. of Ferguson-Florissant Sch. Dist.*, 126 F.3d 1102 (8th Cir. 1997) (requesting a school district to administer prescription medications beyond a prescribed dosage is an undue administrative burden).
- *Hayden v. Redwoods Cmty. Coll. Dist.*, No. C-05-01785NJV, 2007 WL 61886 (N.D. Cal. Jan. 8, 2007) (allowing a deaf student to choose their interpreter is not an undue administrative burden).
- *Enyart v. Nat'l Conference of Bar Examiners, Inc.*, 823 F. Supp. 2d 995 (N.D. Cal. 2011) (accommodating a single bar examinee is not an undue administrative burden).
- *Alvarez ex rel. Alvarez v. Fountainhead, Inc.*, 55 F. Supp. 2d 1048 (N.D. Cal. 1999) (requiring all teachers for an individual student to attend a one-hour training session on the use of an asthma inhaler is not an undue administrative burden).
- *Behavioral Health Servs., Inc. v. City of Gardena*, No. CV 01-07183 (RZ), 2003 WL 21750852 (C.D. Cal. Feb. 26, 2003) (issuing a conditional use permit to a drug and alcohol rehabilitation facility is not an undue administrative burden).

As it relates to access television programming, whether provided on a cable channel or streamed on the Internet, meeting the needs of hearing impaired viewers through traditional closed captioning technology might be asserted as an undue burden based on cost alone.³¹ Whether or not closed captioning would be an undue burden or fundamentally change the nature of PEG service, PEG operators nevertheless need to assess alternative auxiliary aids and services that would enable disabled viewers to effectively “receive the benefits” of PEG programming, “to the maximum extent possible.”³² The DOJ has directed public entities to “give primary consideration to the requests of the individual with disabilities,”³³ but giving “primary consideration” to an individual request does not mean a public entity must supply exactly the aid that is requested.³⁴ The DOJ only requires that a public entity give due consideration as to whether a requested auxiliary aid or service would cause a fundamental alteration or an undue burden. However, a public entity’s service, program, or activity must be “readily accessible to and usable by individuals with disabilities . . . when viewed in its entirety.”³⁵ For example, the DOJ provides that sinks in places of public accommodation should be placed no higher than thirty-four (34) inches from the floor to be “readily accessible.”³⁶ However, in the context of access channel programming, the DOJ has offered no guidance as to

³¹ For example, the Ann Arbor Cable Communications Commission reported that closed captioning of City Council meetings alone would cost over \$20,000. See Ann Arbor Cable Commission Meeting Minutes, Aug. 25, 2009.

³² 28 C.F.R. § 35.164.

³³ 28 C.F.R. § 35.160(b)(2).

³⁴ *Loye v. County of Dakota*, 647 F. Supp. 2d 1081, 1087 (D. Minn. 2009) (citing *Petersen v. Hastings Public Schools*, 31 F.3d 705, 708-09 (8th Cir.1994)).

³⁵ 28 C.F.R. § 35.150(a).

³⁶ *Id.*

how an access channel can be made “readily accessible” other than that closed captioning may be used to provide “effective communication.”³⁷

4) Compliance with the ADA and DOJ’s Rules

Based upon the discussion above, we have examined several options and have made recommendations for the City to consider for complying with the requirements of the ADA to provide effective communications to disabled persons. Following this section, we have identified several different methods to provide closed captioning to provide effective communications to disabled persons in this context. We have considered how it can meet the needs of the disabled to the maximum extent possible as well as the financial and administrative burden each option would have on the City, considering the applicable resources available.

C. Conclusion

The City is not required to provide closed captioning under the Communications Act or any corresponding FCC rules. The City is not required *per se* to provide closed captioning of its City-produced programming under the ADA. However, in order to ensure ADA compliance, the City must determine how it will provide effective communications with disabled persons. The City is not required to provide closed captioning if doing so would cause an undue financial burden or an undue administration burden, but the City must be prepared to accommodate requests from disabled viewers “to the maximum extent possible.” The remainder of this Report will examine for providing closed captioning that would allow the City to comply with the ADA.

³⁷ *Id.*; 28 C.F.R. § 35.160. See also <https://www.ada.gov/pcatoolkit/chap3toolkit.htm>.

Section 2. Closed Captioning Equipment, Services, and Packages

This Section of the Report provides an overview of required equipment and services that would enable closed captioning of the City’s City-produced live and prerecorded programming. Municipal Captioning has conducted a nine (9) month nationwide survey to identify such closed captioning equipment and services. Rates and fees shown below reflect discounted rates and fees negotiated by Municipal Captioning and are subject to change.

A. Closed Captioning of Live Programming

Live programming is any video programming that is originally cablecast or web streamed live. Although this programming may be replayed as prerecorded programming at a later date, it is still considered live programming because it was originally cablecast or web streamed live. Providing real-time closed captioning of live programming requires two components: (1) a hardware encoder and (2) a captioning service. A captioning service is used to generate captions from a video file’s audio. These captions are then transferred to a hardware encoder, which is used to embed the captions in the video file before cablecasting or web streaming.

1) Hardware Encoders

Municipal Captioning has identified four hardware encoders that would allow the City to embed captions in the City’s live video programming: (1) Link SCE-492, (2) EEG EN-537, (3) TVU TX3200, and (4) EEG HD492. These hardware encoders were chosen primarily based on whether the manufacturer also offers automated captioning services, providing opportunities for bundle discounts and simpler integration between hardware and software, or whether the encoder is compatible with human transcription captioning services. An overview of each encoder is shown below.

Link SCE-492

MSRP	\$4,950
Warranty Length	10 years
Support Length	10 years
Annual Fee	\$0

Of the four hardware encoders identified by Municipal Captioning, the Link SCE-492 has the longest warranty and support terms, leading to the lowest cost of ownership. The SCE-492’s MSRP includes the hardware encoder, a ten (10) year warranty, and ten (10) years of support. The SCE-492 does not have an annual fee. The SCE-492 requires an additional modem to be compatible with human transcription captioning services but is otherwise compatible with the following automated captioning services: Link’s ACE-2000 and ACE 2200, TVU’s Transcriber, and ENCO’s enCaption 4.

EEG EN537

MSRP	\$4,195
Warranty Length	2 years
Support Length	1 year
Annual Fee	\$420

EEG’s EN537 has the lowest initial cost but does not have the capability to output open captions for display on a local monitor and is not compatible with EEG’s iCap platform for human transcription. The EN537’s MSRP includes the hardware encoder, a two (2) year warranty, one (1) year of support, and the first year’s annual fee. The annual fee shown above does not become due until the second year of ownership. The EN537 is compatible with the following automated captioning services: EEG’s Lexi Automatic Captioning, TVU’s Transcriber, and ENCO’s enCaption 4. The EN537 is not compatible with any human transcription captioning services.

TVU TX3200

MSRP	\$5,000
Warranty Length	1 year
Support Length	1 year
Annual Fee	\$750

The TX3200 is compatible only with TVU’s Transcriber automated captioning service. The TX3200’s MSRP includes the hardware encoder, a one (1) year warranty, one (1) year of support, and the first year’s annual fee. The annual fee shown above does not become due until the second year of ownership.

EEG HD492

MSRP	\$9,090
Warranty Length	2 years
Support Length	1 year
Annual Fee	\$909

The HD492 is the most capable hardware encoder identified by Municipal Captioning. The HD492 is compatible with both automated and human transcription captioning services without any need for additional hardware. The HD492’s MSRP includes the hardware encoder, a two (2) year warranty, one (1) year of support, and the first year’s annual fee. The annual fee shown above does not become due until the second year of ownership. The HD492 is compatible with the following automated captioning services: EEG’s Lexi Automatic Captioning, EEG’s Scribe Pro Stitch, TVU’s Transcriber, and ENCO’s enCaption 4. The HD492 is also compatible with EEG’s iCap platform, enabling use of human transcription captioning services.

2) Captioning Services for Live Programming

There are three primary types of captioning services: (1) traditional professional human transcription services (“human transcription captioning services”), (2) automated solutions that utilize machine learning and natural language processing to generate captions (“automated captioning services”), and (3) hybrid solutions that combine human and automated closed captioning solutions (“hybrid captioning services”). While some of these services have a per hour of programming cost, others allow a customer to purchase an unlimited number of hours or a block of hours. Additionally, each captioning service imposes different administrative burdens. Human transcription captioning services and hybrid captioning services impose either a “High” or “Medium” administrative burden. Captioning services having a “High” administrative burden require the most staff time to schedule and coordinate the service. Captioning services having a “Medium” administrative burden require less staff time and coordinating because the service provider assists with these activities. Automated captioning services impose either a “Low” or “Medium-Low” administrative burden. Automated captioning services having a “Medium-Low” administrative burden require scheduling of when the service will be used. Automated captioning services having a “Low” administrative burden do not require any such scheduling.

(a) Human Transcription Captioning Services

Human transcription captioning services for live programming generate captions by employing human transcriptionists to transcribe audio from a video feed in real-time. While human transcription is often the most accurate captioning service, human transcription typically imposes a higher administrative burden when compared to automated captioning services. This is because human transcription captioning services require advance scheduling and additional setup time. Services that require a customer (i.e., the City) to complete these activities are classified as having a “High” administrative burden. Services that will undertake these activities on behalf of a customer are classified as having a “Medium” administrative burden. Please see **Appendix 1** for more details on the administrative burdens imposed by human transcription captioning services for live programming.

Municipal Captioning has identified two (2) human transcription captioning services that range in cost from \$110 per hour to \$130 per hour. The below table shows pricing of the services identified by Municipal Captioning.

Provider	Rate Type	Hourly Rate
AMAC	Standard Rate	\$125 per hour
Captionmax	Single-City Rate	\$130 per hour
Captionmax	Multi-City Rate	\$120 per hour
Captionmax	Group Purchase Rate	\$110 per hour

(b) Automated Captioning Services

Automated captioning services for live programming use software to automatically generate captions based on a video file’s audio. Automated captioning services are largely software-based and can be deployed either remotely (i.e., cloud-based) or locally. These services use a variety of techniques, such as natural speech processing, machine learning, and artificial intelligence techniques, to achieve these results. While automated captioning solutions often cost far less than human transcription captioning services, automated captioning services will, at times, generate less accurate captions and may fail to distinguish between multiple speakers.

Automated captioning services typically impose either a “Medium-Low” or “Low” administrative burden. Services that have a per hour of programming cost require scheduling and are classified as having a “Medium-Low” administrative burden. Conversely, services that have only a single cost for captioning an unlimited number of hours of programming or that require a customer to purchase a block of hours do not require scheduling and are classified as having a “Low” administrative burden. Please see **Appendix 1** for more details on the administrative burdens imposed by automated captioning services for live programming.

In addition to having a per hour of programming cost, automated captioning services frequently have a software licensing fee as well. Automated captioning service providers will typically provide options to either lease or out-right purchase an automated captioning service software. Municipal Captioning has identified six (6) automated captioning services that vary in in pricing model. The below table shows pricing breakdown of these services. Where applicable, monthly service costs are estimated assuming a purchase of sixty (60) captioning hours per month.

Automated Captioning Service	Monthly Service Cost	Software Licensing Fee (Purchase)	Software Licensing Fee (Lease)
EEG Lexi Automatic Captioning	\$829 per month	-	-
EEG Scribe Pro Stitch	-	-	\$5,750 one-time fee \$1,668 per year
Link ACE-2000	-	\$44,380 one-time fee	\$5,000 per year
Link ACE-2200	-	\$65,300 one-time fee	\$7,000 per year
ENCO enCaption 4	\$995 per month	\$995 one-time fee	-
TVU Transcriber	\$1500 per month	-	-

It should be noted that EEG has a number of different pricing options available for its Lexi Automatic Captioning Service. These options can be found in **Appendix 2**.

Additionally, Link's ACE-2200 captioning server can be used to provide closed captioning of both live and prerecorded programming (i.e., there would be one cost to caption both live and prerecorded programming). Further information on Link's ACE-2000 and ACE-2200 captioning servers can be found in **Appendix 3**.

(c) Hybrid Captioning Services

Hybrid captioning services combine human transcription captioning services and automated captioning services. When live cablecasting or web streaming, hybrid captioning services utilize an automated captioning service. However, prior to replaying any programming, a hybrid captioning service uses a human transcription captioning service to correct any errors in a caption file generated by the automated captioning service. In this way, a hybrid captioning service is able to ultimately generate captions that are as accurate as captions generated by standalone human transcription services but sometimes at a much lower cost, albeit only for replays of live programming.

Similar to human transcription services, hybrid captioning services that require a customer (i.e., the City) to undertake coordinating and setup activities are classified as having a "High" administrative burden. Services that will undertake these activities on behalf of a customer are classified as having a "Medium" administrative burden. Please see **Appendix 1** for more details on the administrative burdens imposed by hybrid captioning services for live programming.

Municipal Captioning has identified one provider of hybrid captioning solutions, Swagit. Swagit's hybrid captioning solution is compatible with EEG's HD492 hardware encoder but additionally requires Swagit's CaptionPrime server (\$14,950) to enable human transcription prior to replaying live programming. Swagit's standard human transcription service rate is \$105 per hour, and its discounted group rate is \$95 per hour.

B. Closed Captioning of Prerecorded Programming

Prerecorded programming is any video programming that is produced and then cablecast or web streamed at a later date (i.e., any programming that is not cablecast or web streamed live). Providing closed captioning of prerecorded programming requires only a captioning service to transcribe audio from a video file and generate a caption file. Unlike captioning live programming, captioning prerecorded programming does not require a hardware encoder. This transcription can be completed either by a human transcription captioning service or an automated captioning service. Similar to captioning live programming, automated captioning services can be deployed either remotely (i.e., cloud-based) or locally. Municipal Captioning has identified a number of automated and human transcription captioning services designed to caption prerecorded programming. Although these captioning services function similarly to services used for live programming, their cost is often much less due to underlying technical differences between captioning live programming and prerecorded programming.

Regardless of the captioning service used, the process for captioning prerecorded programming generally follows the following four steps: (1) transmit a video file to a captioning service, (2) the captioning service will transcribe audio from the video file and generate a caption file, (3) the caption file is corrected as needed, and (4) the caption file will be embedded in the video file. Regardless of the type of captioning service used to caption prerecorded programming, the administrative burden imposed by a captioning service depends on which of the above steps are completed by a service provider. Captioning services that complete all four steps impose a “Low” administrative burden, and captioning services that complete two or three steps impose a “Medium-Low” administrative burden. It should be noted that the “Medium-Low” designation does not include any additional administrative burden related to correcting captions.

1) [Human Transcription Captioning Services](#)

Human transcription captioning services for prerecorded programming operate similar to human transcription captioning services for live programming and impose the same administrative burdens. Municipal Captioning has identified one (1) human transcription captioning service for prerecorded programming. 3Play Media’s closed captioning service is entirely human-based and is available either at a standard rate of \$2.50 per minute or a group rate of \$1.75 per minute.

2) [Automated Captioning Services](#)

Automated captioning services for prerecorded programming are entirely software-based and can be deployed either remotely (i.e., cloud-based) or locally. Like automated captioning services for live programming, these services use a variety of techniques, such as natural speech processing, machine learning, and artificial intelligence techniques, to caption video programming. Municipal Captioning has identified four (4) automated captioning services for prerecorded programming. The below table shows pricing breakdown of these services. Where applicable, monthly service costs are estimated assuming a purchase of sixty (60) captioning hours per month.

Automated Captioning Service	Monthly Service Cost	Software Licensing Fee (Purchase)	Software Licensing Fee (Lease)
EEG Scribe Pro Stitch	\$360 (\$6 per hour)	\$5,613 one-time fee	\$883 per year
EEG Scribe Edit Basic	\$360 (\$6 per hour)	\$1,850 one-time fee	\$595 per year
Link ACE-2100	-	\$28,500 one-time fee	\$2,000 per year
Link ACE-2200	-	\$67,875 one-time fee	\$7,000 per year

As previously noted, Link's ACE-2200 can be used to caption both live and prerecorded programming (i.e., there would be one cost to caption both live and prerecorded programming). However, the Link ACE-2100 is only capable of captioning prerecorded programming. Please see **Appendix 3** for more information on Link's ACE-2200.

3) Hybrid Captioning Services

As previously discussed, hybrid captioning services are unique in that these services combine human transcription captioning services and automated captioning services. As it relates to prerecorded programming, hybrid captioning services are able to provide closed captioning of both live and prerecorded programming using a single service by enabling processing of prerecorded programming while the system is not in use for captioning live programming. Municipal Captioning has identified one provider of hybrid captioning solutions, Swagit. Swagit's hybrid captioning solution is compatible with EEG's HD492 hardware encoder but additional requires Swagit's CaptionPrime server (\$14,950) to enable human transcription prior to replaying live programming. Swagit's standard human transcription service rate is \$105 per hour, and its discounted group rate is \$95 per hour.

Section 3. Analysis and Recommendation

This final section provides an overview of the City of New London's access channel operations, closed captioning needs under the ADA, and recommendations for providing closed captioning that would allow the City's access channel programming to be compliant with the ADA. All of the following recommendations are specific to the City of New London.

A. Overview of the City of New London's Access Channel Operations

The City of New London, Wisconsin receives a single access channel from the Charter cable franchise. This access channel is presently designated as a mixed use access channel. The City's mixed use access channel features both governmental and public access programming. The City's access channel is managed and programmed by the City's Cable Television department.

The City has indicated that it produces and cablecasts roughly twelve (12) hours of live government meetings per year and roughly thirty (30) hours of prerecorded government programming per year (e.g., sporting events, concerts, graduations, etc.). Additionally, the City has indicated that it annually cablecasts roughly 750 hours of public access programming (i.e., programming not produced by the City). The City's programming is made available on-demand on the City's YouTube page, and the City is currently exploring live web streaming but does not otherwise live web stream any programming at this time.

The City has indicated that it is not in need of translation services and has not conducted an ADA compliance audit within the past five years. However, the City has indicated that it currently provides hearing assist headphones at its City Council meetings but does not otherwise address closed captioning or sign language at this time.

The City has an annual budget of roughly \$7,000,000. However, because the ADA is limited in scope to the "resources available for use in the funding and operation of the service, program, or activity," only the City's budget allocated for access channel management and programming is subject to the ADA. As indicated by the City in its response to Bradley Law's closed captioning questionnaire, the City's budget for Cable Television is \$79,225.

B. The City's Legal Duty to Provide "Effective Communication"

Under the ADA, the City is required to provide "effective communication," which can be achieved through closed captioning, of any programming produced by the City. The City currently produces both live and prerecorded programming. These different types of programming are not only captioned using different processes but may also create different legal duties under the ADA. Often, captioning prerecorded programming is less costly than captioning live programming. Because the ADA is concerned with whether an auxiliary aid or service causes an undue financial or administrative burden, this difference in cost may create a

scenario where the City decides to closed caption its prerecorded programming but not its live programming.

Additionally, as previously discussed, the DOJ does not provide any technical standards for an access channel to comply with the ADA and has instead implemented a subjective balancing test that requires the City to: (1) identify auxiliary aids or services that provide effective communication of the City's government-produced programming and (2) determine whether adopting these aids or services would cause the City an undue financial or administrative burden. In identifying closed captioning options that would allow the City to provide "effective communication" and thereby comply with the ADA, there are a myriad of available options. Accordingly, this Report cannot and does not examine all options in existence for closed captioning the City's government-produced programming. Instead, this Report seeks to identify those options that we believe are narrowly tailored to the City's needs and will not cause the City an undue financial or administrative burden.

To that end, the City is not required by the ADA to *immediately* purchase any of the below recommended packages for closed captioning. Further, the City is not bound to purchasing only the recommended packages listed above. The City may choose to purchase other closed captioning solutions not presented in this Report. However, if the City does so, neither Bradley Law nor Municipal Captioning can represent that the solution provides "effective communication," allowing the City to comply with the ADA. Regardless, if the City does not choose to immediately purchase a closed captioning solution for its government-produced programming, the City should nevertheless develop a written ADA compliance plan clearly showing how the City will purchase or upgrade its ability to provide closed captioning, and the City should conduct a regular ADA compliance audit to determine whether it is providing "effective communication."

Finally, the City is only required to provide "effective communication" of programming produced by the City. Under the ADA, the City does not have a legal duty to provide "effective communication" of any public access programming because this programming is not produced by the City. Nevertheless, we recommend the City execute agreements addressing ADA compliance and liability between itself and any third party that produces programming cablecast by the City.

C. Live Programming Closed Captioning Recommendations

The City has indicated that it produces roughly twelve (12) hours of live programming per year. Municipal Captioning has developed four (4) different packages that each utilize a different type of captioning service to achieve a spectrum of initial and ongoing package costs. Adopting any of the below packages would allow the City to provide "effective communication" of its live programming and thereby comply with the ADA. All pricing shown in the above table reflects discounted group rates negotiated by Municipal Captioning and are subject to change.

Live Government-Produced Programming Captioning Packages

Package	Hardware Encoder	Captioning Service	Administrative Burden	Financial Burden (Initial/Annual)
Live 1	EEG HD492	CaptionMax (Human Transcription)	Medium	\$10,410/\$2,229
Live 2	EEG HD492	Swagit (Hybrid)	Low	\$25,180/\$2,049
Live 3	EEG EN537	Lexi (Automated)	Medium-Low	\$6,583/\$2,808
Live 4 ³⁸	Link SCE-492	ACE-2200 (Automated)	Medium-Low	\$67,875/\$7,000

Package Live 1

Hardware Encoder	EEG HD492
Captioning Service Type	Human Transcription Captioning Service
Captioning Service	CaptionMax
Administrative Burden	Medium (coordinating completed by service provider, captions not corrected by service provider)
Financial Burden (Initial Cost)	\$10,410
Financial Burden (Ongoing Annual Cost)	\$2,229

Package Live 1 is a traditional, professional human captioning solution that utilizes EEG’s HD492 hardware encoder and CaptionMax’s live captioning service. This service does not include CaptionMax’s correction of any captions, but captions are delivered in such a way that the City is able to make any necessary corrections prior to replaying any programming. The administrative burden to implement this package would be “Medium” primarily due to City staff time needed to coordinate with CaptionMax³⁹ and to make any necessary caption corrections.

Package Live 1’s initial cost includes the cost of the hardware encoder (\$9,090) and an estimate of the yearly cost to caption the City’s live programming at a rate of \$110 per hour (\$1,320).⁴⁰ Based on the City’s estimate that it produces and cablecasts roughly 12 hours of live

³⁸ Package 4 would allow the City to caption both its live and prerecorded programming at the single cost shown. If the City were to adopt Package 4 to caption the City’s live programming, there would be no additional cost to caption the City’s prerecorded programming.

³⁹ CaptionMax employs staff dedicated to facilitating such coordination.

⁴⁰ It should be noted that because human caption services use contracted captioners, events that are rescheduled or canceled on short notice often incur additional costs.

first-run programming per year, Package Live 1’s initial cost would be \$10,410. Package Live 1’s ongoing cost includes the annual hardware support cost of \$909 per year and an estimate of the yearly cost to caption the City’s live programming at a rate of \$110 per hour (\$1,320). In total, we estimate Package Live 1’s ongoing annual cost to be \$2,229 per year.

Package Live 2

Hardware Encoder	EEG HD492
Captioning Service Type	Hybrid Captioning Service
Captioning Service	Swagit
Administrative Burden	Low (minimal staff time required)
Financial Burden (Initial Cost)	\$25,180
Financial Burden (Ongoing Annual Cost)	\$2,049

Package Live 2 is a hybrid captioning solution that utilizes EEG’s HD492 hardware encoder and Swagit’s hybrid captioning service. The administrative burden to implement this package would be “Low” because automated captioning services require minimal City staff time and Swagit’s hybrid captioning service includes human caption correction, so City staff would not be asked to complete this activity.

Package Live 2’s initial cost includes the cost of the hardware encoder (\$9,090), an additional Swagit server (\$14,950), and an estimate of the yearly cost to caption the City’s live programming at a rate of \$95 per hour (\$1,140). In total, we estimate the City’s initial cost to adopt Package Live 2 to caption the City’s live programming would be \$25,180. Package Live 2’s ongoing cost includes the annual hardware support cost of \$909 per year and an estimate of the yearly cost to caption the City’s live programming at a rate of \$95 per hour (\$1,140). In total, we estimate Package Live 2’s ongoing annual cost to be \$2,049 per year.

Package Live 3

Hardware Encoder	EEG EN537
Captioning Service Type	Automated Captioning Service
Captioning Service	Lexi Automatic Captioning
Administrative Burden	Medium-Low (service scheduling required, captions not corrected by service provider)
Financial Burden (Initial Cost)	\$6,583
Financial Burden (Ongoing Annual Cost)	\$2,808

Package Live 3 is an automated captioning solution that utilizes EEG’s EN537 hardware encoder and EEG’s Lexi Automatic Captioning service. The administrative burden to implement this package would be “Medium-Low” because although automated captioning services require minimal City staff time and resources, this captioning service does not include caption

correction, meaning that any necessary corrections would need to be identified and made by City staff.

Package Live 3’s initial cost includes the cost of the hardware encoder (\$4,195) and an estimate of the yearly cost to caption the City’s live programming (\$2,388). EEG offers a number of pricing options for its Lexi Automatic Captioning service, and, based on the City’s need to caption 12 live hours of programming per year, we have determined that it would be most efficient for the City to purchase EEG’s 60 hour per year plan. In total, we estimate Package Live 3’s initial cost would be \$6,583. Package Live 3’s ongoing cost includes the annual hardware support cost of \$420 per year and an estimate of the yearly cost to caption the City’s live programming at \$2,388. In total, we estimate Package Live 3’s ongoing annual cost to be \$2,808 per year. Package Live 3 has much lower initial and ongoing costs when compared to Packages Live 1 and Live 2 because Package Live 3 only incorporates automated captioning.

Package Live 4

Hardware Encoder	Link SCE-492
Captioning Service Type	Automated Captioning Service
Captioning Service	ACE-2200
Administrative Burden	Medium-Low (service scheduling required, captions not corrected by service provider)
Financial Burden (Initial Cost)	\$67,875
Financial Burden (Ongoing Annual Cost)	\$7,000

Package Live 4 is an automated captioning solution that utilizes a Link SCE-492 hardware encoder and a Link ACE-2200 captioning server that includes Link’s automated captioning service. Package Live 4 is unique in that it may be used for captioning both live and prerecorded programming. This solution would also allow the City to either schedule when the server would run (i.e., input the City’s programming schedule) or allow the server to run continuously. The administrative burden to implement Package Live 4 is “Low” if the City allows the server to run continuously or “Medium-Low” if the City tasks its staff with scheduling when the server will run.

Package Live 4’s initial cost includes the hardware encoder and captioning server. In total, we estimate Package Live 4’s initial cost to be \$67,875. Package Live 4’s ongoing cost includes an annual software support contract for the captioning server. In total, we estimate Package Live 4’s ongoing cost to be \$7,000 per year.

Recommendation

In light of the City’s available resources (\$79,225), we do not recommend the City adopt any of the above packages for its live programming. Adopting any of the above packages would appear to impose an undue financial burden on the City. Adopting even the lowest cost

package, Package Live 3, would cost the City’s Cable Television department 8.31% of its annual budget. Instead, we recommend the City caption all of its live programming as prerecorded programming (i.e., the City’s live programming will only be captioned prior to replay).

Although this method may not constitute providing “effective communication” under the ADA, it is nevertheless permitted under the ADA as the City would still be providing accessibility “to the maximum extent possible.” In addition, if a video programming producer determines that providing “effective communication” of its programming would impose an undue financial burden, it must develop an ADA compliance plan. Here, we have determined that captioning the City’s live programming would likely impose an undue financial burden, so we instead recommend the City develop an ADA compliance plan that includes a statement from the City’s highest ranking staff member that providing live closed captioning of the City’s live programming would result in an undue financial burden. This compliance plan should also discuss how and when the City will provide closed captioning of its live programming. We also recommend the City begin conducting regular ADA compliance audits in order to comply with the ADA. We also recommend the City begin conducting regular ADA compliance audits to determine whether the City is providing “effective communication” of its access channel programming and to evaluate its ADA compliance plan.

D. Prerecorded Programming Closed Captioning Recommendations

The City has indicated that it produces roughly thirty (30) hours of prerecorded programming per year in addition to its live programming. In total, the City produces roughly forty two (42) hours of first-run programming per year. As noted above, we recommend the City caption its live programming as prerecorded programming to provide accessibility “to the maximum extent possible.” Adopting any of the below packages would allow the City to satisfy its legal duty under the ADA. As with our recommendations for captioning the City’s live programming, these options vary greatly in the type of closed captioning technology utilized and, accordingly, their cost. All pricing shown in the above table reflects discounted group rates negotiated by Municipal Captioning and are subject to change.

Prerecorded Government-Produced Programming Captioning Packages

Package	Captioning Service	Administrative Burden	Financial Burden (Initial/Annual)
Prerecorded 1	3Play Media (Human Transcription)	Medium-Low	\$4,410/\$4,410
Prerecorded 2	Scribe Pro Stitch (Automated)	Medium-Low	\$7,065/\$1,115
Prerecorded 3	ACE-2100 (Automated)	Medium-Low	\$28,500/\$2,000

Prerecorded 4	Scribe Basic	Medium	\$2,692/\$842
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Package Prerecorded 1

Captioning Service Type	Human Transcription Captioning Service
Captioning Service	3Play Media
Administrative Burden	Medium-Low (captions not embedded by service provider)
Financial Burden (Initial Cost)	\$4,410
Financial Burden (Ongoing Annual Cost)	\$4,410

Package Prerecorded 1 is a traditional, professional captioning solution that utilizes human transcription to achieve the greatest possible accuracy. The administrative burden to implement this package would be “Medium-Low” because this captioning service requires the City to embed caption files generated by the service into the City’s video files. However, for an additional \$10 per video, 3Play Media will embed captions files for the City.

Package Prerecorded 1’s initial and ongoing costs consist solely of hourly service fees (42 hours at \$105 per hour). We estimate Package Prerecorded 1’s initial and ongoing annual cost to be \$4,410.

Package Prerecorded 2

Captioning Service Type	Automated Captioning Service
Captioning Service	EEG Scribe Pro Stitch
Administrative Burden	Medium-Low (captions not embedded by service provider)
Financial Burden (Initial Cost)	\$7,065
Financial Burden (Ongoing Annual Cost)	\$1,115

Package Prerecorded 2 is an automated captioning solution from EEG that the City would be able to install on a City-owned computer. The administrative burden to implement this package would be “Medium-Low” because this captioning service requires the City to embed caption files generated by the service into the City’s video files. That being said, Scribe Pro Stitch not only generates caption files but also provides tools that would enable the City to easily embed these caption files.

Package Prerecorded 2’s initial cost includes a one-time software license fee (\$5,950), an annual software support fee (\$863), and an estimate of the yearly cost to caption the City’s prerecorded programming (42 hours at \$6 per hour). In total, Package Prerecorded 2’s initial cost would be \$7,065. Package Prerecorded 2’s ongoing cost includes an annual software support fee (\$863) and an estimate of the yearly cost to caption the City’s prerecorded

programming (42 hours at \$6 per hour). In total, we estimate Package Prerecorded 2's ongoing annual cost to be \$1,115 per year.

Package Prerecorded 3

Captioning Service Type	Automated Captioning Service
Captioning Service	ACE-2100
Administrative Burden	Medium-Low (captions not embedded by service provider)
Financial Burden (Initial Cost)	\$28,500
Financial Burden (Ongoing Annual Cost)	\$2,000

Package Prerecorded 3 is an automated captioning solution that utilizes Link’s ACE-2100. Unlike Package Prerecorded 2, Package Prerecorded 3 includes a physical server dedicated to generating and embedding captions and does not require installing software on an existing City-owned computer. The administrative burden to implement Package Prerecorded 3 would be “Medium-Low” because. However, unlike Package Prerecorded 2, Package Prerecorded 3 does not require the City to embed caption files generated by the service.

Package Prerecorded 3’s initial cost consists of the server (\$28,500), and Package Prerecorded 3’s ongoing cost consists of an annual support contract (\$2,000) that includes technical support and software updates. There is no additional per hour cost to caption content. Although Package Prerecorded 2 and Package Prerecorded 3 are both automated captioning solutions, Package Prerecorded 3 has a much higher cost than Package Prerecorded 2. This is because Package Prerecorded 3 provides an unlimited number of captioning hours whereas Package Prerecorded 2 has a per captioning hour cost.

Package Prerecorded 4

Captioning Service Type	Automated Captioning Service
Captioning Service	EEG Scribe Edit Basic
Administrative Burden	Medium (captions not embedded by service provider)
Financial Burden (Initial Cost)	\$2,692
Financial Burden (Ongoing Annual Cost)	\$842

Package Prerecorded 4 is an automated captioning solution from EEG that the City would be able to install on City-owned computer. Although similar to Prerecorded Package 2, Prerecorded Package 4 contains a different captioning service that would require City staff to use an additional software tool to embed captions generated by the service (i.e., Scribe Edit Basic does not have the ability to embed captions). As a result, the administrative burden to implement Prerecorded Package 2 is “Medium,” slightly higher than Prerecorded Package 2.

Package Prerecorded 4’s initial cost includes a one-time software license fee (\$1,850), an annual software support fee (\$595), and an estimate of the yearly cost to caption the City’s prerecorded programming (42 hours at \$6 per hour). In total, Package Prerecorded 4’s initial cost would be \$2,692. Package Prerecorded 4’s ongoing cost includes an annual software support fee (\$595) and an estimate of the yearly cost to caption the City’s prerecorded

programming (42 hours at \$6 per hour). In total, we estimate Package Prerecorded 4's ongoing annual cost to be \$842 per year.

Recommendation

In light of the City's current and future needs and resources, we recommend the City adopt Package prerecorded 4 to caption the City's live and prerecorded programming. Adoption of this package would allow the City to provide "effective communication" of its prerecorded programming and provide accessibility "to the maximum extent possible" of its live programming. Adopting Package Prerecorded 4 would not appear to cause the City an undue financial or administrative burden under the ADA. Package Prerecorded 4's initial cost represents 3.68% of the Cable Television department's annual budget, and Package Prerecorded 4's ongoing cost represents 1.35% of the department's annual budget.

That being said, as previously discussed, the ADA does not require the City to *immediately* purchase any closed captioning solution. Instead, the City may include in its ADA compliance plan timelines within which it will purchase a closed captioning solution. For instance, it would be permissible under the ADA for the City to plan to purchase any necessary hardware within the next eighteen (18) months and begin captioning only a portion of the City's first-run programming due to resource constraints so long as the plan included an endpoint wherein the City is captioning the entirety of its programming.

E. Conclusion

The City has a duty under the ADA to provide "effective communications" for its access channel, which can be accomplished through closed captioning. Municipal Captioning, in cooperation with Bradley Law, has identified four different options for captioning the City's live government-produced programming and four different options for captioning the City's prerecorded government-produced programming, each of which has their own strengths and weaknesses. Because live captioning the City's live programming would like impose an undue financial burden, we recommend adopting Package Prerecorded 4 to caption both the City's live and prerecorded programming. Additionally, because this may not qualify as "effective communication" under the ADA, we recommend the City develop an ADA compliance plan that includes a statement from the City's highest ranking staff member that providing live closed captioning of the City's live programming would result in an undue financial burden. We also recommend the City begin conducting regular ADA compliance audits in order to comply with the ADA.

Appendix 1. Administrative Burdens of Captioning Services for Live Programming

The below table shows the estimated administrative burdens imposed by each captioning service identified by Municipal Captioning for live programming. Initial burdens are related to administrative resources expended testing, configuring, and training, and document a captioning service. Ongoing burdens are related to administrative resources expended scheduling and rescheduling a service. Captioning services having a “High” administrative burden require the most staff time scheduling and coordinating. Captioning services having a “Medium” administrative burden require the less staff time and coordinating because the service provider performs assists with these activities. Captioning services having a “Medium-Low” administrative burden are limited to automated captioning services and require scheduling of when the service will be used. Captioning services having a “Low” administrative burden are limited to automated captioning services and do not require any scheduling.

Captioning Service	Initial Administrative Burden	Ongoing Administrative Burden	Total Administrative Burden
Human Transcription without Coordination	Low	High	High
Human Transcription with Coordination	Low	Medium	Medium
Scheduled Automated Captioning Service	Low	Medium-Low	Medium-Low
Unscheduled Automated Captioning Service	Low	Low	Low

Appendix 2. EEG Lexi Automatic Captioning Pricing



Lexi Automated Captioning Monthly Pricing

5 Hour Plan

\$199.00 monthly - First 5 hours of Lexi per month are included. Additional hours in a given month are billed at \$39.80 per hour.

10 Hour Plan

\$299.00 monthly - First 10 hours of Lexi per month are included. Additional hours in a given month are billed at \$29.90 per hour.

20 Hour Plan

\$399.00 monthly - First 20 hours of Lexi per month are included. Additional hours in a given month are billed at \$19.95 per hour.

30 Hour Plan

\$525.00 monthly - First 30 hours of Lexi per month are included. Additional hours in a given month are billed at \$17.50 per hour.

60 Hour Plan

\$829.00 monthly - First 60 hours of Lexi per month are included. Additional hours in a given month are billed at \$13.82 per hour.

125 Hour Plan

\$1200.00 monthly - First 125 hours of Lexi per month are included. Additional hours in a given month are billed at \$9.60 per hour.

250 Hour Plan

\$2200.00 monthly - First 250 hours of Lexi per month are included. Additional hours in a given month are billed at \$8.80 per hour.

If after choosing a plan, you decide that a different plan would better suit your needs, you may notify us of the desired change to be put into effect starting with the month following the notification. Please ensure that you have received confirmation of the change from us prior to the start of the new plan.

Appendix 3. Detailed Description of Link ACE-2000 and ACE-2200



ACE Series Price List

2360 N. High Street Suite 10 Jackson, MO 63755

Phone (573) 334-4433 FAX (573) 204-4554

www.linkelectronics.com sales@linkelectronics.com

Effective Date: 7/17/2018

Automated Captioning Products

Model	Description	Price US\$
ACE-2000	Automated Captioning Engine (online system live media)	\$44,380.00
ACE-2000/492	ACE-2000 with SCE-492 Closed Caption Encoder Bundle	\$46,635.00
ACE-2000/494	ACE-2000 with AIP-494 Closed Caption Encoder Bundle	\$47,160.00
ACE-2100	Automated Captioning Engine (offline system server)	\$28,500.00
ACE-2200	ACE-2000 with ACE-2100 in one unit (on & offline systems)	\$65,300.00
ACE-2200/492	ACE-2200 with SCE-492 Closed Caption Encoder Bundle	\$67,875.00
ACE-2200/494	ACE-2200 with AIP-494 Closed Caption Encoder Bundle	\$68,875.00

Service Agreement

Link Electronics shall maintain and service the following list of equipment and keep the Equipment in good working order. Link Electronics shall provide service during regular business hours with the schedule to be based on the specific needs of the customer as determined by Link Electronics. In addition, Link Electronics shall provide unscheduled remedial maintenance ("on-call service") as and when needed. Both scheduled and unscheduled service maintenance shall include the following as deemed necessary by Link Electronics. Hardware maintenance will be performed at the Link Electronics factory. Software and operating system maintenance will be performed online.

Cost of service Agreement after the first year (first year of service included in purchase price):

ACE-2000 server	\$5,000 Per year
ACE-2000 online speech recognition software	
ACE-2200 online and offline speech recognition software (includes hardware maintenance)	\$7,000 Per Year
ACE-2100 offline post production software	\$2,000 Per year
ACE-2100 server	

Services included in contract price:

- Software version updates
- Firmware updates
- Hardware maintenance and updates; ACE-2000 Series of products and Link Encoder
- Updates to Language Model
- Speaker ID additions or changes and additions as needed
- Telephone technical Support 24/7 X 365 days per year

Services not included in Service Agreement (unless amended in service contract):

- Other safety tests or installations, whether or not recommended or directed by governmental authorities or by insurance companies.
- Any replacements with parts of a different design.
- Repairs caused by negligence or misuse of the equipment or any other factor except ordinary wear and tear.

The Customer will be required to pay for all shipping charges, in the event that the system needs to be shipped to/from the factory for maintenance or repairs.