

**ADAIR COUNTY COMMISSION MINUTES  
MONDAY, MARCH 4, 2019  
10TH DAY JANUARY ADJOURNED**

The Adair County Commission convened at 8:30 a.m. on March 4, 2019 in the Courthouse at Kirksville. All Commissioners were present. Commissioner Thompson was absent in the afternoon to attend a hearing in Jefferson City.

At 10:00 a.m., Commissioner King moved to approve the use of the Courthouse lawn and parking lot to the Kirksville Arts Association. Commissioner Thompson seconded the motion. Presiding Commissioner Shahan concurred. All voted in favor of the motion. The event is the Red Barn Arts and Crafts Festival to be held on September 21, 2019.

Commissioner King moved to approve the use of the front lawn and the restroom for the Summer on the Square concert series. Commissioner Thompson seconded the motion. Presiding Commissioner Shahan concurred. All voted in favor of the motion. The series will begin June 7, 2019 and continue through August 30, 2019.

Commissioner Shahan signed a license agreement and service contact with Vanguard Appraisals, Inc. The agreement and contract will cover a remote device to access licensed materials by staff members outside of the Assessor's office.

At 10:30 a.m., the Commission met with Jami Livingston, Director of the Adair County Library. Ms. Livingston presented the 2018 Annual report of the Adair County Library. She presented literature pertaining to the annual report as well as the March 2019 newsletter. She reported acts of vandalism inside the building and to the sculpture on the lawn in December. Repairs are underway.

The Commission thanked Ms. Livingston for the information and told her to contact them if she needed assistance.

The Adair County Commission adjourned at 4:00 p.m. on March 4, 2019.

**Unscheduled Public Walk-Ins and other Non-Agenda Items for Monday, March 4, 2019:**

Jessica Parks – Meeting with Commissioners

IN REF. ORDER NO 18 Adair County Clerk Fees for February, 2019

IN REF. ORDER NO 19 Add-Ons and Releases for February, 2019


IN REF. ORDER NO 20 Adair County Collector Fees for February, 2019

IN REF. ORDER NO 21 Adair County Circuit Clerk Fees for February, 2019

Continued on page 323

ATTEST:

  
County Clerk

  
Presiding Commissioner

# ADAIR COUNTY COMMISSION MINUTES MONDAY, MARCH 4, 2019

Continued from page 322

IN REF. ORDER NO 22 License Agreement and Service Contract with Vanguard Appraisals, Inc.

RECEIVED  
ADAIR COUNTY CLERK

Vanguard Appraisals, Inc.  
**LICENSE AGREEMENT**

This Agreement is made and entered into this 27<sup>th</sup> day of February, 2019 by and between VANGUARD APPRAISALS, INC., Iowa corporation, having offices at 1065 Sierra Ct. N.E., Suite D, Cedar Rapids, Iowa 52402 ("Vanguard") and Adair County, IA, Assessor ("Client").

WHEREAS, Vanguard owns, and licenses others to use, certain computer application software modules and related materials known as Vanguard Computer Systems CAM4Vision® software for personal property appraisals and real estate appraisals, and

WHEREAS, Client desires to purchase from Vanguard a non-exclusive license and right to use selected portions or modules of the Vanguard Computer Systems CAM4Vision® software and related materials solely for Client's own purpose of appraising real estate and/or personal property, and Vanguard is willing to grant Client such a license subject to the terms and conditions of this Agreement.

Now therefore, the parties agree as follows:

- LICENSED MATERIALS.** "Licensed Materials" shall mean the selected portions or modules of the Vanguard Computer Systems CAM4Vision® software identified on Schedule A attached hereto and incorporated herein by reference, and any related documentation or materials, and any updates and add-ons to such software, documentation or materials, to be furnished to Client under this Agreement from time to time.
- GRANT OF LICENSE.** Vanguard grants to Client and Client accepts, on and subject to limitations, terms and conditions set forth in this Agreement, a non-exclusive, non-transferable right and license to use Licensed Materials solely for Client's personal and internal purpose of appraising real estate and/or personal property. Each module of the Licensed Materials may only be installed and used on one server at a time, and the Licensed Materials may only be accessed at any one time by the number of users for which Client has paid a license fee as set forth in Schedule A. Additional licensed users for each of the Licensed Materials and additional modules of the Vanguard Computer Systems CAM4Vision® software may be added to this License Agreement as Licensed Materials through supplements to Schedule A approved in writing by both Vanguard and Client, or pursuant to a new License Agreement executed by the parties.
- LICENSE FEES.**
  - Vanguard shall supply the modules of the Licensed Materials and/or Internet Service listed on the attached Schedule A and Vanguard will invoice Client for, and Client agrees to pay, the license fees indicated on the attached Schedule A.
  - All license fees are exclusive of shipping charges and any federal, state, provincial or local taxes, including any sales, use, VAT or other taxes imposed on this transaction, the license fees, or on Licensor's use or possession of the Licensed Materials, all of which, if any, shall be paid by Client without deduction from the license fees.
  - Fees paid or payable by Client for the purchase of the Licensed Materials are not refundable by Vanguard, and no adjustment will be made to such fees if Client discontinues use of the Licensed Materials or if Vanguard terminates this Agreement under Section 8(b) below. Vanguard reserves the right to collect 75% of the total license fees should the Client choose to cancel this Agreement prior to installation of the Licensed Materials.
- LIMITATIONS ON USE OF THE LICENSED MATERIALS.** Client shall not, directly or indirectly:
  - allow the modules contained in the Licensed Materials to be used at any point in time by more than the number of persons for whom a license fee has been paid, as specified on Schedule A, and all such use may only be by those persons using such modules for the benefit of Client in the course and scope of their employment as an employee of Client;
  - copy, modify or create derivative works of the Licensed Materials;
  - transmit, translate, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for the Licensed Materials;
  - without the prior written consent of Vanguard, which consent may be withheld by Vanguard in its sole discretion, assign this Agreement, or rent, lease, license, sublicense the Licensed Materials to any other person, or transfer,

1  
February 27, 2019

Vanguard Appraisals, Inc.

allow access to, distribute or otherwise make available License Materials to independent contractors or others who do not receive a Form W-2, Wage and Tax Statement, from Client, as used in the United States income tax system as an information return to report wages paid to employees and the taxes withheld from them, or to allow others to do so; or

- incorporate the Licensed Software, in whole or in part, into a product which Vanguard determines is designed to compete with the Licensed Materials, which will include, but not be limited to, local databases or Web-based search engines; or
- make more than one copy of the Licensed Materials for backup.

5. **CONFIDENTIALITY.**

- Client covenants and agrees as follows:
  - to receive and hold in confidence all Confidential Information revealed to Client by Vanguard pursuant to this Agreement;
  - to not disclose any Confidential Information except to regular employees of Client who will receive a Form W-2, Wage and Tax Statement, from Client, in the current tax year (hereinafter referred to as "Client's Representatives") who have a reasonable need-to-know, who know of Client's obligations hereunder, and who are under like obligations with respect to Confidential Information received hereunder by virtue of their employment relationship with Client. Client assumes full responsibility for the compliance of Client's Representatives with the restrictions of this Agreement, all of which restrictions shall apply to and bind Client's Representatives. Any other disclosure of Vanguard's Confidential Information shall require Vanguard's prior written permission and execution of a similar agreement.
  - not to use any Confidential Information for itself or for any third party or for any reason or purpose other than solely for its own purpose of appraising real estate;
  - not to use any Confidential Information in any way detrimental to Vanguard (it being acknowledged that any use of Confidential Information by Client for purposes other than to solely for its own purpose of appraising real estate will be deemed detrimental to Vanguard and that no such use shall show any disclosure that violates paragraph 5(a)(2) above; and
  - at any time, upon the written request of Vanguard, (i) immediately return to Vanguard all copies of Licensed Materials and all additional documents and things within Client's possession, custody or control containing or reflecting any Confidential Information, (ii) involuntarily delete or erase all Confidential Information from any electronic storage medium (i.e., computers, computer disks, zip drives, etc.) within Client's possession, custody or control and provide Vanguard with a written statement confirming that all Confidential Information of Vanguard has been returned or deleted, and (iii) make no further use of the Confidential Information.
- As used in this Agreement, "Confidential Information" shall mean information relating to the Licensed Materials presented or disclosed to Client by Vanguard, whether such information is presented or disclosed in writing, electronic form, orally or obtained by visual inspection. Client agrees and acknowledges that such Confidential Information is not generally known to Vanguard's competitors, which gives Vanguard a competitive advantage over others who do not possess such Confidential Information. Notwithstanding the foregoing, Confidential Information shall not include information regarding the disclosure of Confidential Information to Client prior to the execution of this Agreement, (b) was or becomes publicly known without disclosure by Client, (c) was or is acquired by Client from a third party, provided that the third party providing such information has not thereby breached any agreement with, or acted in derogation of, any confidential relationship with Vanguard, or (d) is disclosed pursuant to the lawful requirement of a government agency or is required by operation of law provided that Client gives Vanguard written notice of said disclosure request and a copy thereof so that Vanguard can file a claim, if any, to protect its Confidential Information. The burden shall be on Client to establish that information pertaining to Vanguard and/or the Licensed Materials is not Confidential Information.

6. **LIMITED WARRANTY.**

- Vanguard warrants that during the Warranty Period (as defined below) the software module(s) contained in the Licensed Materials will be free from material, reproducible programming malfunctions or defects and will operate in all material respects in conformity with the current specifications for such module(s) published by Vanguard. Vanguard does not warrant that the modules in the Licensed Materials will operate uninterrupted or error free.

2  
February 27, 2019

Vanguard Appraisals, Inc.

- As the sole obligation of Vanguard and the sole remedy of Client under the foregoing warranty, Vanguard will seek to correct, through the means Vanguard determines to be most appropriate, any malfunction or defect in such Licensed Materials as to additional charge to Client within a reasonable time after they become known, provided (1) such malfunctions or defects are reported to Vanguard by Client within twelve (12) months from the effective date of this Agreement or thereafter during any period in which Client maintains a Service Contract with Vanguard under which Client is current and not in default (the "Warranty Period"), and (2) Vanguard is able to reproduce and confirm the reported malfunction or defect.
- The foregoing limited warranty shall be null and void, and Vanguard shall have no warranty obligation with respect to any software module contained in the Licensed Materials if such module is modified or altered by any party other than Vanguard, its employees or agents, or such module is used for purposes for which it was not intended or for purposes not authorized by this Agreement, or the module was damaged due to causes external to such software (e.g., a power surge or electromagnetic field, etc.). Vanguard shall have no responsibility for any hardware failures.
- THE LICENSED MATERIALS ARE OTHERWISE PROVIDED AS IS WITHOUT WARRANTY OF ANY KIND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VANGUARD FURTHER DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FREEDOM FROM INTERFERENCE WITH ENJOYMENT OR FROM NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, AND ANY WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE LICENSED MATERIALS REMAINS WITH CLIENT.
- TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL VANGUARD OR ITS SUPPLIERS BE LIABLE TO CLIENT OR ANY OTHER PERSON OR ENTITY FOR ANY CONSEQUENTIAL, INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, THE COSTS OF SUBSTITUTE SOFTWARE OR SERVICES, LOSSES RESULTING FROM FAILURE, DAMAGE, DESTRUCTION OR OTHER LOSS OF FILES, DATA OR PROGRAMS OR THE COST OF RECOVERING SUCH INFORMATION, OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE LICENSED MATERIALS, EVEN IF VANGUARD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT. In no event shall Vanguard's liability for the performance or nonperformance of this Agreement, or otherwise, exceed the amount actually paid to Vanguard under this Agreement.
- TITLE.** Title, ownership, rights and intellectual property rights in and to the Licensed Materials shall remain in Vanguard and/or its suppliers. The Licensed Materials are protected by the copyright laws of the United States and International copyright treaties. Title, ownership rights and intellectual property rights in and to the content accessed through the Licensed Materials is the property of the applicable content owner and may be protected by applicable copyright or other law. This license gives you no rights to such content.
- TERM.**
  - The rights granted by Vanguard shall take effect on the date first written above and shall remain in force as long as Client is in compliance with the limitations, terms and conditions of this Agreement, provided Vanguard reserves the right to change this Agreement when deemed necessary in Vanguard's discretion due to changes in technical specifications.
  - Vanguard further reserves the right to terminate this Agreement and any Service Contract by written notice to Client if Client fails to comply with any of the limitations, terms or conditions set forth in this Agreement and such failure continues for a period of ten (10) days after Client receives written notice of such failure from Vanguard.
  - Upon termination of this Agreement in accordance with Section 8(b), Client shall cease to use, and promptly relinquish and return to Vanguard the Licensed Materials, and Vanguard shall have the right to uninstall Licensed Materials from the Client's system. Sections 4, 5, 6, 7 and 10 shall survive any termination of this Agreement.
- REPRESENTATIONS AND WARRANTIES OF CLIENT.** Client represents and warrants to Vanguard as follows:
  - Client has taken all necessary action to make this Agreement legally binding on Client, that the individual signing this Agreement on behalf of Client has been fully authorized and empowered to execute this Agreement on behalf of Client, and this Agreement constitutes a legal, valid and binding obligation of Client in accordance with its terms, (b) no consent,


3  
February 27, 2019

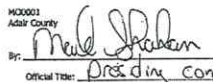
Vanguard Appraisals, Inc.

approval or authorization by any other party or governmental authority is required in connection with the execution, delivery, validity or enforceability of this Agreement; and (c) Client has funding sufficient for Client to fulfill its obligations under this Agreement.

10. **MISCELLANEOUS.** (a) This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof; (b) this Agreement may be amended only by a writing signed by both parties; (c) this Agreement shall be governed by the laws of the State of Iowa, without regard to conflicts of law provisions; (d) any litigation arising out of this Agreement shall only be commenced in, and Client consents to the exclusive jurisdiction of the state and federal courts sitting in Linn County, Iowa; (e) if any provision in this Agreement should be held illegal or unenforceable by a court having jurisdiction, such provision shall be modified to the extent necessary to render it enforceable without losing its intent or severed from this Agreement if no such modification is possible, and other provisions of this Agreement shall remain in full force and effect; (f) a waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof; (g) the provisions of this Agreement that require or contemplate performance after the expiration or termination of this Agreement shall be enforceable notwithstanding said expiration or termination; (h) neither party shall be in default or be liable for any delay, failure in performance (excepting the obligation to pay), or interruption of service resulting directly or indirectly from any cause beyond its reasonable control; (i) Vanguard shall be entitled (without the necessity of posting any bond or establishing the adequacy of deposits as a remedy) to specific performance and injunctive relief to correct or enjoin any breach or threatened breach of Sections 4 and 5, in addition to all other remedies which might be available at law or in equity; and (j) if any dispute arises under this Agreement, the prevailing party shall be reimbursed by the other party for any and all legal fees and costs associated therewith.

IN WITNESS WHEREOF, the Parties hereto have caused this LICENSE AGREEMENT to be executed by their duly authorized representatives in duplicate as of the date and year first above written.

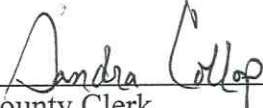
VANGUARD APPRAISALS, INC.  
By:   
Robert W. Hill, Senior Vice President/CFO

MO0001  
Adair County  
By:   
Official Title: Presiding Commissioner  
Date: 3-4-19

Adair County (Additional signature if required by jurisdiction)  
By: \_\_\_\_\_  
Official Title: \_\_\_\_\_  
Date: \_\_\_\_\_

4  
February 27, 2019

Continued on page 324

ATTEST:   
County Clerk

  
Presiding Commissioner



# ADAIR COUNTY COMMISSION MINUTES

## MONDAY, MARCH 4, 2019

Continued from page 323

Vanguard Appraisals, Inc.

**SCHEDULE "A"**  
Adair County HC0001

LICENSED MATERIALS:	FEE:
Remote Edit (incl Master +1 remote) License No. - RNET268 w/RRE4639	\$ 2,700.00
<b>Total</b>	<b>\$2,700.00</b>

5  
February 27, 2019

Vanguard Appraisals, Inc.

**SERVICE CONTRACT**  
Remote Edit (incl Master +1 remote)

This Service Contract is made and entered into by and between Vanguard Appraisals, Inc., an Iowa corporation ("Vanguard") and the Adair County, MO, Assessor ("Client").

WHEREAS, Vanguard owns certain computer application software modules and related materials known as Vanguard Computer Systems software and the Client is presently using or desires to use said system under license from Vanguard and in connection with such use Vanguard agrees to provide the Client with the following services as specified:

- TERM:** This contract is for a one year period upon software installation or commencing on 06/27/2018 whichever comes first. Vanguard reserves the right to collect 75% of the service fees should the client choose to terminate the service contract prior to installation of the licensed materials. This contract shall automatically renew on the contract date at Vanguard's then current service contract rate unless the Client notifies Vanguard of their desire to cancel within thirty (30) days prior to renewal, otherwise the continuation date shall be on the date of notification to Vanguard. Vanguard must be notified in writing of any cancellation of service.
- INSTALLATION AND TRAINING:** Vanguard shall install and test the software on the Client's equipment. Up to 3.5 hours of hands-on, on-site training, working with the Client's personnel will be provided by Vanguard under this Contract. All time for installation, training and Vanguard's staff travel time will be charged and will be deducted from the service contract time balance. See Item 5 for additional installation.
- ENHANCEMENTS, UPDATES AND VERSION CONTROL:** As Vanguard continues to improve on the basic program, and work on suggestions for features and improvements from users, Client will automatically receive during the term of this service contract, provided Client is current and not in default of any payments due Vanguard, all updates, revisions, i.e. cost table revisions, correct function enhancements, etc. as and when released by Vanguard for the modules of the Vanguard Computer Systems software for which Client has a license and maintains this Service Contract. However, this service contract does not include future programs such as, but not limited to, the professional version, income module, data conversion due to software rewrite because of operating system changes, data conversion from other vendor's software, etc. Upon receipt of the newest version of the modules, the Client will only be entitled to receive telephone consultation on prior versions of the modules for no more than one hundred ninety (190) days without additional charge, unless there was prior written consent between the Client and Vanguard. Telephone consultation after one hundred ninety (190) days with respect to prior versions of the modules will be available at our then current normal service fee rate (call for current rate).
- CONSULTATION:** All service contract holders have unlimited telephone consultation privileges during normal business hours which relate to operation of Vanguard Computer Systems software (VCS). All non-VCS telephone consultation (such as hardware operation or malfunction, the party software operation or integration, etc.) will be charged at the then current normal telephone service fee rate (call for current rate). Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate).
- ADDITIONAL SERVICES:** Additional training and on-site consultation, such as manual level studies, look-up table maintenance, jurisdictional adjustments to data, etc. shall be available at Vanguard's then current normal service fee rate. All travel time will be charged at the per diem rate. A minimum charge of one day per instance will be billed. Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate).
- ADDITIONAL INSTALLATIONS:** If additional copies of the program were installed on additional computers in the client's office, the terms of this Contract shall apply to additional installations in the same manner as the original installation.
- LIMITED WARRANTY:** Vanguard shall perform its services hereunder in a workmanlike manner. Vanguard does not warrant that the services will be error free. EXCEPT AS EXPRESSLY SET FORTH IN THIS SERVICE CONTRACT, VANGUARD EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES CONCERNING THE SERVICES TO BE RENDERED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. In no event shall Vanguard be liable to Client or any other person for any indirect, consequential, special, exemplary, or incidental damages of whatever kind and however caused, even if Vanguard knew or should have known of the possibility of such damages. In no event shall Vanguard's cumulative liability for any claim arising in connection with this Service Contract exceed the total fees and charges paid to Vanguard under this Service Contract during the last 12 months. No action, whether based in contract, quasi liability, or tort, including any action based on negligence, arising out of the performance of services under this Contract, may be brought by Client more than 1 year after such cause of action accrues.
- SERVICE CONTRACT FEES:** The total service contract fee for the term is as follows:  
License - RNET268 w/RRE4639  
Remote Edit (incl Master +1 remote) \$ 1,050.00  
All payments to Vanguard under this Service Contract shall be payable in U.S. dollars and shall be net of any and all taxes, withholdings, credits, or deductions of any nature.
- MISCELLANEOUS:** This Contract (a) constitutes the entire agreement between the parties concerning the subject matter hereof; (b) may be amended only by a writing signed by both parties; (c) shall be governed by the laws of the State of Iowa, without regard to conflict of law provisions. Any litigation arising out of this Contract shall only be commenced in, and Client consents to the exclusive jurisdiction of the state and federal courts sitting in Linn County, Iowa. If any provision in this Contract should be held invalid or unenforceable by a court having jurisdiction, such provision shall be modified to the extent necessary to render it enforceable without being its terms or severed from this Contract if no such modification is possible, and other provisions of this Contract shall remain in full force and effect. A waiver by either party of any term or condition of this Contract or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof. Neither party shall be in default or be liable for any delay, failure in performance (excepting the obligation to pay), or interruption of service resulting directly or indirectly from any cause beyond its reasonable control.

1  
February 27, 2019

Vanguard Appraisals, Inc.

**SERVICE CONTRACT**  
Signature Page

VANGUARD APPRAISALS, INC.  
By: *[Signature]*  
Date: February 27, 2019

MO0001  
Adair County  
By: *[Signature]*  
Official Title: Presiding Commissioner  
Date: 2-27-19

Adair County (Additional signature if required by jurisdiction)

By: \_\_\_\_\_  
Official Title: \_\_\_\_\_  
Date: \_\_\_\_\_

RNET268 w/RRE4639 Remote Edit (incl Master +1 remote) This contract is for a one year period upon software installation or commencing on 06/27/2018 whichever comes first.

ATTEST: *[Signature]*  
County Clerk

*[Signature]*  
Presiding Commissioner