

# ADAIR COUNTY COMMISSION MINUTES WEDNESDAY, FEBRUARY 18, 2015

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## IN REF. ORDER NO 13 Sprocket Service Level Agreement for Adair County IT Services

Comprehensive IT Labor Services Agreement - 1 Year  
(CITLS)

- Parties and Applicability**  
The terms and conditions of this Managed IT Maintenance Labor Contract Agreement ("Agreement") apply to the services provided by: Sprocket Technologies, a Missouri Limited Liability Company, hereinafter referred to as "SPROCKET", in Adair County Commissioner's (hereinafter referred to as "CLIENT") with a principal place of business located at 106 West Washington, Kirksville, MO, 63501.
- Term / Automatic Renewal**  
This Agreement shall commence as of 12/24/2014 and shall become effective as of the date set forth below ("Effective Date"), and continue for a period of twelve (12) months from the Effective Date (the "Term") and shall automatically renew for like term, unless either SPROCKET or CLIENT provide sixty (60) days written notice to the other prior to the end of the initial Term or any renewal period.
- Responsibilities of SPROCKET**  
SPROCKET reserves the right to inspect the CLIENT's Network on or after the Effective Date of the Agreement for the purpose of conducting an assessment of the Network. Unless stated otherwise, said inspection shall be charged to the CLIENT using SPROCKET's standard hourly billing rates. SPROCKET shall not be responsible to CLIENT for loss of data of the Network or for any other liabilities arising from alterations, additions, adjustments or repairs which have been made to the Network other than by authorized representatives of SPROCKET. SPROCKET reserves the right to suspend the Services or terminate this Agreement if in its sole discretion, conditions at CLIENT'S site or the service site pose a health or safety threat to any SPROCKET representative.
- Responsibilities of CLIENT**  
CLIENT shall follow and adhere to any professional recommendations made in writing by SPROCKET. In addition, CLIENT shall be responsible for protecting data stored on the System and any necessary data backup. SPROCKET disclaims responsibility for any loss, damage, or destroyed software program, data or other information stored or residing on any media or any part of the System covered by the Agreement, including without limitation, deletion or alteration of the contents of any data storage media which may occur during service or repair of the System. In the event that restoration of lost or damaged data is required, the service will be billed on a time and materials basis at prevailing rates and may also include associated hardware costs. In the event a catastrophic issue at the Client's facility and/or the original server hardware operates or in the event of catastrophic software/hardware failure, replacement hardware and/or software will be provided, and billed at prevailing rates. Actual time will be billed at prevailing rates to reestablish the base operating system, software applications and restore applicable client data to the replacement hardware.  
CLIENT is responsible for providing a monthly updated list of project and ticket priorities to SPROCKET staff. CLIENT is to designate one employee to function as the central clearinghouse for all projects, tickets, and support cases. SPROCKET staff will coordinate with this designated employee.  
CLIENT is responsible for transportation, meals and expenses to/from any CLIENT site outside of the contracted CLIENT address.
- Hours of Service**
  - Normal Hours: 8:00 AM to 5:00 PM Monday - Friday, excluding Holidays
  - Outside Hours: Prior to 8:00 AM and After 5:00 PM, Weekends and Holidays
  - Escalation Policy - Unless it is immediately clear that a service call requires on-site service, SPROCKET will treat each service call as a remote service call. Should SPROCKET be unable to resolve the issue remotely within a reasonable period of time, an engineer will be scheduled and dispatched based upon the severity of the problem, and CLIENT position in service queue of other non-critical clients.
  - Scheduled or requested services outside of the hours of 8:00am - 5:00pm Monday through Friday, excluding Holidays, shall be billed at 1.5 times Normal Hours rates. Scheduled or requested services performed during Holidays and Sundays, shall be billed at 2 times the Normal Hourly Rate.
- SERVICES**  
SPROCKET will provide IT labor and project services to CLIENT during regular (8:00 AM to 5:00 PM) business hours on an on-call, as needed basis, with remote support provided when possible.
- Support Fee: CLIENT agrees to the following pre-billed monthly fees for labor charges as indicated in the chart below:**

Rate of Service Category	Total Prepaid Monthly
Comprehensive IT Labor Services Agreement (CITLS)	\$1500.00
All Services mentioned herein are strictly governed by our SPROCKET CITLS Service Level Agreement (SLA) provided upon request.	
Monthly Prepaid service charge is based on covered services and may increase or decrease on a monthly basis as the number of services and change on CLIENT's network.	

SPROCKET has the right to review/increase the above rates or hours no more than one time per TERM with 30 days' notice to CLIENT
- Failure to pay**  
In the event CLIENT fails to pay SPROCKET for the Services within ten (10) days from the due date of SPROCKET's invoice, SPROCKET may, at its discretion, suspend the Services until such invoice is paid by CLIENT. Any fees for Services which are not paid when due are subject to a finance charge equal to the greater of one percent (1%) per annum or the highest judgment rate allowed under Missouri law for this type of Agreement. CLIENT agrees that such finance charge shall be paid with any fees past due prior to SPROCKET resuming Services under this Agreement. Payments for monthly prepaid services must be made prior to work commencing.
- Termination of Agreement**  
SPROCKET and/or CLIENT shall have the right to terminate this Agreement under any of the following conditions:
  - If one of the parties shall be become bankrupt, abandon, or close its business
  - If a petition is filed in any court and not dismissed in ninety (90) days to declare one of the parties bankrupt under a reorganization under the Bankruptcy Law or any similar statute
  - If a Trustee in Bankruptcy or a Receiver or similar entity is appointed for one of the parties
  - Breach of a term of this Agreement

Should either SPROCKET or CLIENT breach the terms of this Agreement, SPROCKET or CLIENT will provide the other with written notice of its failure to comply. If, after 30 days, the other has not complied with the terms of this Agreement, SPROCKET or CLIENT may terminate this Agreement. At that time, any unearned amount will be returned to the Provider.

by SPROCKET will be refunded, or any fees owed by CLIENT will be paid, within the ten (10) day period after termination. In the event that CLIENT breaches the terms of this Agreement, SPROCKET shall be entitled to reimbursement from CLIENT for its reasonable attorney's fees and costs associated with the breach. If the terms of this Agreement are terminated, any property including hardware and/or software, needed to deliver the Services to CLIENT which is the sole property of SPROCKET may be removed from the CLIENT'S premises, and CLIENT grants SPROCKET the right of access to the Administrator location at any location where such property is being stored.

**10. Miscellaneous**

**Notwithstanding to Whomever:** SPROCKET MAKES NO WARRANTIES OF ANY KIND, EXCEPT AS SET FORTH IN THIS AGREEMENT. SPROCKET SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND IMPROVEMENT. Except as set forth in these terms and conditions, SPROCKET makes no representation, warranty or covenant concerning the capabilities or performance of the Service or goods that SPROCKET might provide to the CLIENT in connection with this Agreement.

**Limitation of Liability:** SPROCKET, its directors, officers, employees, and agents shall not be liable for any damages suffered by the CLIENT other than actual damages directly and proximately resulting from the failure, delay, or nonperformance of the Services to be provided by SPROCKET under this Agreement. The recovery of such or indirect, special, incidental or consequential damages (even if SPROCKET is made aware that such damages have been incurred by CLIENT) in any event, the total liability of SPROCKET to CLIENT for such direct damages will be limited and will not exceed the total fees paid to SPROCKET under this Agreement in the prior twelve (12) month period.

**Client Warranty With Respect to Software Licenses:**  
Client warrants that all software it provides to SPROCKET for installation, configuration or use in any way, has been legally obtained and is properly licensed.

- Client further warrants that it has legally purchased sufficient number of copies of such software and that it has not violated any licensing laws, configuration or use of such software.
- Client understands and acknowledges that it shall be solely responsible and liable for all licensing and purchasing of software.

**Non-Solicitation:** During the term of this Agreement, and for twenty-four (24) months thereafter, Client and SPROCKET shall refrain from directly or indirectly soliciting for employment any of the employees, agents, or contractors of the other.

**Mediation:** Client and SPROCKET expressly agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action, subject to the section that immediately follows. Mediation may, if any, shall be divided equally among the parties involved. If any party shall not be limited to recover attorney's fees, even if they would otherwise be available to that party in any such action.

**Arbitration:** Client and SPROCKET expressly agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action, subject to the section that immediately follows. Mediation may, if any, shall be divided equally among the parties involved. If any party shall not be limited to recover attorney's fees, even if they would otherwise be available to that party in any such action.

**Waiver:** Client and SPROCKET expressly agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action, subject to the section that immediately follows. Mediation may, if any, shall be divided equally among the parties involved. If any party shall not be limited to recover attorney's fees, even if they would otherwise be available to that party in any such action.

**Assignment:** SPROCKET will furnish services as an independent contractor with sole authority to control and direct the performance of the details of the services. Client being interested only in the results obtained as long as they are obtained within copyright laws and legal permission to provide services. CLIENT shall not solicit or make offers of employment, in any capacity, either directly or indirectly, or enter into any consulting, advisory or agreement with the employees or agents of SPROCKET during the term of this Agreement, and for a one year period thereafter without SPROCKET's prior written consent.

**Entire Agreement:** In the event any one or more of the provisions of this Agreement or of any Attachment hereto to be void, invalid or otherwise unenforceable, the enforceability of the remaining provisions shall nevertheless continue in full force and effect, and shall not be affected in any way.

**Severability:** This parties expressly agree and acknowledge that this agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

**Force Majeure / Control of Either Party (Force Majeure):** No party shall be liable for any loss or damage due to failure or delay in rendering any services called for under the Agreement, resulting from any cause, including but not limited to acts of God, flood, hurricane, extreme weather, fire, or other natural calamity, acts of governmental agencies, or similar causes beyond either party's reasonable control.

**Client's Agreement (Understanding Clause):** This Agreement, including the Attachment, constitutes the entire agreement between the parties and encompasses all prior agreements between the parties, whether written or oral, relating to the same subject matter. No modifications, amendments or supplements to this Agreement shall be effective for any purpose unless in writing and signed by both parties. If the terms of the Attachment and the main body of this Agreement are in conflict, the main body of the Agreement shall control.

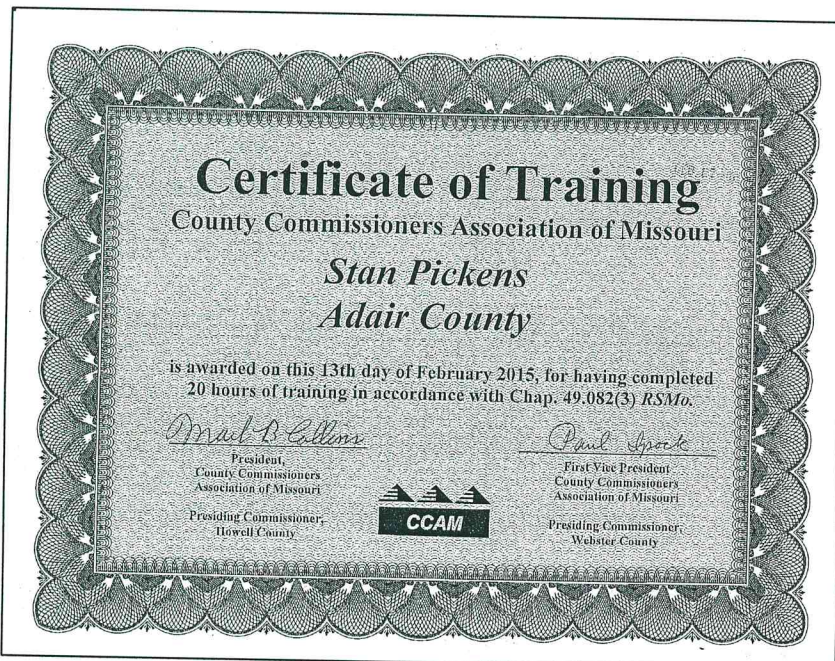
**Legal Remedies:** The parties expressly agree and acknowledge that this contract has been negotiated at arms length and that both Client and SPROCKET have had the right and opportunity to consult with legal counsel before entering into this contract. In executing this contract, all portions and terms, including any amendments, shall be interpreted equally among the parties and without reference to the party who prepared or who caused to be prepared this contract.

**Effective Date:** The effective date of this Agreement is the date upon which SPROCKET signs the Agreement. This Agreement may be executed in one or more counterparts, including a photocopy or facsimile thereof, each of which shall be deemed to be an original, including this signature thereon, but all of which together shall constitute one and the same agreement.

<p>CLIENT</p> <p><i>Stanley Pickens</i> Authorized signature Date: 2/18/2015</p> <p><i>Stanley Pickens</i> Print Name Title: Presiding Commissioner</p>	<p>Sprocket Technologies</p> <p><i>[Signature]</i> Authorized signature Date: 2/18/2015</p> <p><i>[Signature]</i> Print Name Title: Support Engineer</p>
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## IN REF. ORDER NO 14 Certificates of Training for Presiding Commissioner, Stanley Pickens; 1<sup>st</sup> District Commissioner, Carson Adams; and 2<sup>nd</sup> District Commissioner, Mark Thompson



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ATTEST: *Carson Adams*  
County Clerk

*Stanley Pickens*  
Presiding Commissioner