

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Executive to execute a twenty-four (24) month agreement for the continuation of computer software and hardware maintenance and technical support for the Roadway and Asset Management System, for use by the Public Works Department, Road Maintenance Division, with Universal Asset Management, L.L.C., for an amount not to exceed \$15,000.00 for 2009.

RESOLUTION #16849, March 16, 2009

INTRODUCED BY Bob Spence, County Legislator

WHEREAS, the County has a need for the continuation of computer software and hardware maintenance and technical support for the Public Works Department's Roadway and Asset Management System; and,

WHEREAS, Universal Asset Management has provided software and hardware maintenance and technical support in the past, and the Public Works Department is satisfied with its work on the project; and,

WHEREAS, the Director of Public Works recommends the execution of a twenty-four month professional engineering consulting services agreement with Universal Asset Management for software and hardware maintenance and technical support for the Roadway and Asset Management System; now therefore,

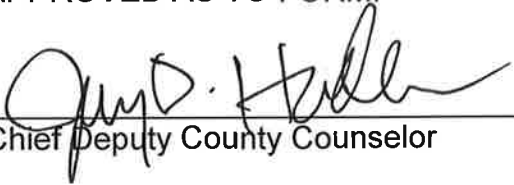
BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Executive be, and hereby is, authorized to execute a contract with Universal Asset

Management for the continuation of these professional engineering services, in a form to be approved by the County Counselor, for an amount not to exceed \$15,000.00 for 2009; and,


BE IT FURTHER RESOLVED that the Director of Finance and Purchasing is authorized to make all payments including final payment on the contract, subject to annual appropriation.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution #16849 of March 16, 2009, was duly passed on March 23, 2009 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

3.24.09

Date



Mary Jo Spino, Clerk of Legislature

There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.

ACCOUNT NUMBER: 004 1506 56662
ACCOUNT TITLE: Special Road & Bridge Fund
Road Maintenance
Software Maintenance
NOT TO EXCEED: \$15,000.00

Remaining funds sufficient to meet this obligation are subject to appropriation of the 2010 annual budget.

3/12/09

Date



Director of Finance and Purchasing

**AGREEMENT FOR SOFTWARE/HARDWARE
MAINTENANCE AND CONSULTING SERVICES**

THIS AGREEMENT, made and entered into this 1 day of March, 2009 by and between the County of Jackson, Missouri hereinafter referred to as "County" and Universal Asset Management, L.L.C., hereinafter referred to as "Engineer."

WITNESSETH:

WHEREAS, County requires the services of Engineer in connection with the following project: General Services and Engineering and computer support for the Roadway and Asset Management System, RAMS; and,

WHEREAS, County desires to enter into an Agreement with Engineer to perform Consulting services as aforementioned; and,

WHEREAS, Engineer represents that the firm is equipped, competent, and able to undertake such an assignment, Mr. Javier Valencia, the original developer of the RAMS is currently employed by the Engineer ;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, IT IS HEREBY AGREED by the parties hereto as follows:

ARTICLE I – SCOPE OF SERVICE TO BE PROVIDED BY THE ENGINEER:

Engineer, upon receipt of written notice from the County that this Agreement has been approved, will furnish the necessary services as stipulated in the attached proposal from the Engineer in Exhibit A, attached, dated January 19, 2009, page 1 of 3.

ARTICLE II - ADDITIONAL SERVICES:

The County reserves the right to request additional work, based on changed or unforeseen conditions which require changes and work beyond the scope of this Agreement. In this event, an Addendum to this Agreement shall be executed prior to performing the additional changed work or incurring any additional cost therefor. Any change in compensation will be covered in the Addendum.

ARTICLE III - SCOPE OF SERVICES TO BE PROVIDED BY THE COUNTY:

The County agrees to furnish information and have work done without cost to the Engineer as follows:

1. Make available to the Engineer existing records, maps, plans, and other data possessed by County when such are necessary, advisable or helpful to the Engineer in the completion of his work under this Agreement. The County



- shall furnish a copy of property ownership information from County tax records.
2. Provide all necessary title work, deeds, plats, etc. as required for the completion of the project and the preparation of the right-of-way and easement plans and descriptions.
 3. Provide Standard County forms and/or standard plans as required including contractual sections for bid document.
 4. Pay publishing costs for advertisements of notices, public hearings, request for bids, and other similar items. Pay for all permits and licenses that may be required by local, state or federal authorities. Secure the necessary land, easements and right-of-way required for the project.
 5. Designate a representative who will serve as their primary point of contact and who will be authorized to act for and on behalf of the County throughout completion of the services covered by this Agreement.
 6. Examine all studies and drafts developed by the Engineer, obtain reviews by other agencies involved and render decisions thereon in a prompt manner so as not to delay the Engineer.

ARTICLE IV - PERIOD OF SERVICE:

The Engineer will commence work within two (2) weeks after receiving Notice to Proceed from the County. The service duration is assumed to be 24 months from the date the contract is signed/approved, unless terminated sooner.

ARTICLE V - PROGRESS SCHEDULE:

The contracting parties agree that time is of the essence. Each month the Engineer shall submit a Progress Report to the County. The Progress Report will be in the form of either a bar graph or a Critical Path Method (CPM) Schedule. It shall include scheduled periods for each of the elements into which the Engineer's work is divided. Each work element shall be assigned a percentage of the total work upon which progress can be computed for interim payments. The total percentage completed shall be shown. The schedule periods shall also include a time allowance for review and approvals by the County. (Assume three (3) weeks review time for County on each submittal).

ARTICLE VI - COVENANT AGAINST CONTINGENT FEES:

The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement the price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee plus reasonable attorney's fees

ARTICLE VII - SUBLETTING ASSIGNMENT:

No portion of the work covered by this Agreement, except as provided herein, shall be sublet or transferred without the written consent of the County. The subletting of the work shall in no way relieve the Engineer of its primary responsibility for the quality and performance of the work.

ARTICLE VIII – PROFESSIONAL ENDORSEMENT:

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work.

ARTICLE IX - STANDARD OF CARE

Engineer warrants that it shall perform the services in accordance with the standards of care and diligence normally practiced by recognized Consulting firms in performing services of a similar nature. If, during the two year period following the earlier of completion or termination of the Services under the applicable Request for Service it is shown there is an error in the Services caused by the Engineer's failure to meet such standards, and County has promptly notified Engineer of any such error within that period, Engineer shall perform, at Engineer's cost, such corrective Consulting services as may be necessary to remedy such error.

ARTICLE X - - MISCELLANEOUS PROVISIONS:

The following miscellaneous provisions are agreed to by both parties to this Agreement.

1. Inspection of Documents.

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this Agreement and to the project covered by this Agreement, for a period of not less than three (3) years following final payment. An authorized representative of the County shall have access to the records for inspection, during regular working hours at the Engineer's place of business. County shall have the right to audit and inspect Engineer's records and accounts covering costs hereunder at all reasonable times during the performance of the Services and for a period of three (3) years after the acceptance thereof. Engineer shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or of costs which are expressed in terms of percentages of other costs.

2. Conferences, Visits to Site, Inspection of Work.

A representative of the County shall have the privilege of inspecting and reviewing the work being done by the Engineer and consulting with its staff at any time. Conferences are to be held at the request of the County or the Engineer.

3. Accuracy of Work. The Engineer shall be responsible for the accuracy of the work and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the Engineer without additional compensation. Acceptance of the work by the County will not relieve the Engineer of the responsibility for subsequent correction of any such errors and the clarification of any ambiguities during construction. The Engineer shall give immediate attention to these revisions or corrections so there will be a minimum of delay to the project or to the contractor.
4. Relationship with Others. The Engineer shall cooperate fully with Engineers on adjacent projects, municipalities, local government officials, public utility companies, and others as may be directed by the County. This shall include attendance at meetings, discussions and hearings, as may be requested by the County; furnishing plans and other data as may be requested from time to time by the County, and compliance with all directives issued by the County.
5. Ownership of Documents. Plans, electronic data, and maps and specifications prepared under this Agreement shall be delivered to and become the property of the County upon termination or completion of work. Basic survey notes, design computations and other data prepared under this Agreement shall be made available to the County upon request. All such information produced under this Agreement shall be available for use by the County without restriction or limitation on its use. If the County incorporates any portion of the work into a project other than that for which it was performed, the County shall save the Engineer harmless from any claims and liabilities resulting from such use. The Engineer will retain ownership of all software developed or upgraded by the Engineer during the execution of this contract.
6. Termination. Engineer or the County may terminate this Agreement by giving written notice to the other party. Termination of this Agreement shall not constitute a waiver of the rights or obligations which County or Engineer may be entitled to receive or be obligated to perform under this Agreement. Should this Agreement terminate, all books, brochures, flier, lists, and all other County materials must be delivered and returned by the Engineer to the County within 15 calendar days of the demand of the County.

If the Agreement is terminated due to the Engineer's service being unsatisfactory in the judgment of the County, or if the Engineer fails to prosecute the work with due diligence, the County may procure completion of the work in such manner as it deems to be in the best interest of the County. The Engineer will be responsible for any excess cost in addition to that provided for in this agreement or any damages the County may sustain by reason of the termination of this Agreement due to unsatisfactory performance or prosecution.

7. Successors and Assigns. The County and the Engineer each bind themselves, their successors, executors, administrators, and assigns to the other party to this

Agreement, and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this Agreement.

8. Responsibility for Claims and Liability. The Engineer shall be responsible for any and all damage to property or persons while performing work under this agreement, and shall indemnify and save harmless the County, its officers, agents, and employees from all suits, claims, actions, or damages of any nature whatsoever resulting from the negligence of the Engineer in the performance of work under this Agreement.
9. Compliance with Laws. The Engineer shall keep itself fully informed of all existing and current regulations of the County, State, and Federal laws which in any way limit or control the actions or operations of those engaged upon the work, or affecting the materials supplied to or by them. It shall at all times observe and comply with all ordinance, laws, and regulations, and shall protect and indemnify the County against any claims or liability arising from or based on any violations of the same. This Agreement shall be governed by and interpreted in accordance with the laws of Missouri excluding provisions thereof which would apply the laws of another jurisdiction.

The Engineer's attention is directed to Chapter 296, Section 296.010, to Section 296.070, inclusive RSMo 2000, as amended, "Discriminatory Employment Practices," and to Section 644.4, Jackson County Code, 1984, which provides as follows:

644.4 Subcontractors, Agreements with Contractors

The contractor will require that all contracts between it and subcontractors shall contain the following provisions.

a. Not Discriminate

The subcontractor shall not discriminate against any qualified person because of her or his race, color, national origin, religion, age, sex or handicap in recruitment and recruitment advertising, employment, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms of conditions of employment and selection for training including apprenticeship.

b. Inspection by County Contract Review Officer (CRO)

The subcontractor will permit, on reasonable notice and at reasonable times, the CRO to visit its premises, inspect and copy thereon its business records, survey its work forces and interview its employees, as may be necessary to verify compliance with this chapter and implementation of the affirmative action plan of the Subcontractor. The subcontractor further agrees to furnish such future information as may be reasonably required of it within ten (10) working day of the date it is requested in writing by the CRO.

10. Nondiscrimination. The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405(b), which are herein incorporated by reference and made a part of this agreement. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified of the Engineer's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of color, race or national origin.
11. Independent Contractor. The Engineer shall work as an independent contractor and not as an employee of the County. The Engineer shall be subject to the direction of the County only as to the result to be accomplished and not as to the means and methods for accomplishing the result. The Engineer shall report all earnings received hereunder as gross income, and be responsible for its own Federal, State, and City withholding taxes and all other taxes, and operate its business independent of the business of the County except as required by this Agreement.
12. Severability. If any covenant or other provision of this Agreement is invalid, or incapable of being enforced; by reasons of any rule of law or public policy, all other conditions and provision of this Agreement shall nevertheless remain in full force and effect and no covenant or provision shall be deemed dependent upon any other covenant or provision unless as expressed herein.
13. Incorporation. This Agreement along with the Engineer's attached proposal and fee breakdown, incorporates the entire understanding and agreement of the parties.
14. Time of Essence. Timely performance of all duties provided herein is the essence of this Agreement.
15. Decisions Under this Agreement. The County will determine the acceptability of work performed under this Agreement, and will decide all questions which may arise concerning the project. The County's decision shall be final and conclusive.
16. Breach of Contract. The prevailing party, in whole or in part, shall be entitled to reimbursement for all costs and reasonable attorneys' fees in any legal action brought against the other party based on a breach of this Agreement.

17. Safety Requirements. Engineer shall make every reasonable effort to perform the Services in a manner complying with all applicable safety legislation and with applicable environmental laws, rules, and regulation in force at the time of development of designs. Engineer shall also be responsible for the safety of its own employees at all times during the performance of any Request for Services.
18. Purchase Orders. In the event the County uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only and any typed provision in conflict with the terms of this Agreement and all-preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.

ARTICLE XI - INSURANCE AND INDEMNIFICATION:

INSURANCE

ENGINEER'S LIABILITY INSURANCE

Engineer shall purchase and maintain such insurance as will protect itself against loss from its alleged or actual liability to satisfy those claims which are set forth below and which may arise out of or result from Engineer's operations under the Agreement, whether such operations be by itself or by anyone for whose acts it may be liable:

- (A) claims under workers compensation, disability benefits and other similar employee statutes;
- (B) claims for damages for bodily injury, occupational sickness or disease, or death of its employees and any person other than its employees;
- (C) claims for damages for personal injury sustained (1) by any person as a result of an act directly or indirectly related to the employment of such person by the Engineer, or (2) by any other person;
- (D) claims for damages for injury to or destruction of tangible property, including loss of use resulting therefrom; and
- (E) claims for damages for bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle whether it is owned, non-owned, hired or rented.

The insurance required by the proceeding paragraph shall be written for not less than a combined single limit for bodily injury and property damage of \$100,000.00 each person; \$1,000,000.00 each occurrence.

CONTRACTUAL LIABILITY INSURANCE

The insurance required by the proceeding paragraph shall include contractual liability insurance applicable to the Engineer's indemnification obligations under other paragraphs of the Agreement.

SUBCONTRACTORS

If Engineer shall subcontract any of this work to a third party, Engineer shall see to it that such third party maintains such insurance and shall furnish evidence thereof to the County. Engineer will cause all such policies of insurance to name the County as additional insured and provide indemnification for the County against liability upon the risks insured thereby to the amount of coverage specified therein for the Engineer.

FILING OF CERTIFICATES OF INSURANCE AND POLICIES WITH THE COUNTY

The Engineer shall file with the County upon request a copy of all policies of insurance required under the Agreement.

Within ten (10) calendar days of the date when requested or before commencement of the work, Engineer shall file with the County's Public Works Director Certificates acceptable to him of the insurance required by the Agreement. These certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least thirty (30) days prior written notice of cancellation has been given to the County's Public Works Department Director. Failure to so file these certificates is a breach hereof.

INDEMNIFICATION:

The Engineer agrees to indemnify, defend and save harmless the County, against all damages to property, structures and utilities together with all claims for damages arising out of personal injury, including accidental death due to the Engineer's negligent or willful acts or the negligent or willful acts of the Engineer's subcontractors, agents or employees, in the performance of work under this Agreement.

ARTICLE XII - PAYMENTS TO THE ENGINEER:

For the Consulting services performed by Engineer under this Agreement and as full compensation therefor, and for all expenditures made and all expenses incurred by Engineer in connection with this Agreement, except as otherwise expressly provided herein, subject to conformance with all provisions of this Agreement, County will pay Engineer as follows:

1. County will pay a not-to-exceed fee of \$15,000, as compensation for Engineer's services and expenses in the first year, as set forth in the Engineer's attached Proposal and Rate Schedule.

2. Upon successful completion of each task outlined in the proposal, the Engineer will present an invoice to the County, and said invoice shall be approved by The Director of Public Works who will recommend payment to the Engineer.

ARTICLE XIII - ENCLOSURES & ATTACHMENTS

Engineer's Proposal to Provide Consulting Services and Current Rate Schedule.

IN WITNESS WHEREOF, Jackson County, Missouri, has caused these presents to be executed in its behalf by its duly authorized agent; and the Engineer has hereunto set it hand and seal.

Approved by:

Mike Sanders
Mike Sanders
County Executive

Recommended by:

Jerry Page
Jerry Page
Director of Public Works

Approved to form this _____ day of December, 2009

William G. Snyder
William G. Snyder
CHIEF DEPUTY COUNTY COUNSELOR

ATTEST:
Mary Jo Spino
CLERK OF COUNTY LEGISLATURE

By: [Signature]
Engineer

REVENUE CERTIFICATE

I hereby certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this Agreement is chargeable, and a cash balance otherwise unencumbered in the treasury from which payment is to be made, each sufficient to meet the obligation of \$ _____ which is hereby authorized.

December 11, 2009
Date [Signature]
Finance Director

Account Code 004 - 1506 - 5666Z

Tax ID # _____
15062009005

EXBIT A

Engineer's Proposal including Rate Schedule for current year.

SOFTWARE SERVICE AND MAINTENANCE AGREEMENT TO
JACKSON COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD MAINTENANCE DIVISION
January 19, 2009

This Agreement (the "Agreement") effective as of March 1, 2009, is between Universal Asset Management, LLC (hereinafter: UMA) and Jackson County Public Works Road Maintenance (hereinafter: JCPW – Road Maintenance), located at 34900 E. Old US 40 Highway, Oak Grove, Missouri, 64075.

WHEREAS

- Universal Asset Management is the software maintenance service provider of the RMS system presently used by Public Works for Road Maintenance Management, Fleet Maintenance Management and Sign Maintenance Management.
- Public Works has need for continuing maintenance service to accomplish both specific task and on an as needed basis at the direction of the Director of Public works or his authorized representative.

Therefore the parties agree of the following:

General Software/Hardware, Report Assistance

UMA will provide on-call general assistance to JCPW – Road Maintenance to assist in software enhancement, upgrades, report writing development as needed and continued maintenance associated with the Roadway and Asset Management System (RAMS).

Other Work

UAM will perform other work requested by JCPW – Road Maintenance consistent with its capabilities and subject to prior scheduled commitments.

Schedule

The Agreement will cover a period of two (2) years from 2-1-09 to 1-31-2011, and is renewable on a yearly basis subject to budgetary availability. February of 2010, a current year Rate Schedule will be provided to JCPW – Road Maintenance for services associated with tasks performed 2-1-2010 to 1-31-2011 and each year thereafter subject to budgetary availability.

Compensation and Payment

All task work will be conducted on a time, material and expense basis, based on an agreed-upon task description. The cumulative total cost for all task work conducted under this Agreement shall not exceed \$15,000 for the first year of this Agreement. Funds allocated by JCPW – Road Maintenance through budgetary availability will constitute all other yearly Agreement task work. (See 2009 Rate Schedule attached.)

Invoices will be prepared on a monthly basis.

Payments for these services shall be made by JCPW – Road Maintenance within Fifteen (15) days of submission to the county on an invoice of stating services performed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JVL', with a long horizontal flourish extending to the left.

Javier Valencia, PE
Senior Project manager
Universal Asset Management, L.L.C.

Universal Asset Management, L.L.C.
2009 RATE SCHEDULE

Work at UAM or within the Kansas City Metropolitan Area
Work is charged on an hourly basis at the following hourly rates*:

Principal Consultant/Project Manager.....	\$150.00
Senior Consultant/Software Developer.....	\$130.00
Engineer.....	\$100.00
Technician 1/Draftsperson 1.....	\$60.00
Technician 2/Driver.....	\$40.00
Clerical.....	\$40.00

* Includes all indirect costs (overhead) and profit.

Travel time is charged by the hour
Mileage (if applicable) is charged at \$0.445/mile
Parts/equipment are charged at cost +15%
Other expenses are charged at cost +15%

Work at Location outside the Kansas City Metropolitan Area

Work is charged by the day at 8 hr. day
Work in excess of 8 hours is charged at the hourly rate
Total work charges not to exceed 12 hrs/day
Travel time is charged by the hour
Airline tickets are charged at cost +15%
Car rental expenses are charged at cost +15%
Mileage (if applicable) is charged at \$0.445/mile
Per Diem is charged at the Government approved rate for the location
Parts/equipment are charged at cost +15%
Other expenses (parking, transportation to airport, supplies, etc.) are charged at cost +15%