

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040433

1. REQUESTED MOTION:

ACTION REQUESTED: Approve Bid Waiver # W-040380 to waive the formal quotation procedure and allow Facilities Management to proceed with the purchase of the FacilityMax (the newest software version of FacilityFocus) from Maximus, Inc.; and authorize the Board Chairman on behalf of the BOCC to execute and sign the accompanying purchasing agreement. The pricing breaks down as follows: \$50,000 for software/unlimited site license/council membership; \$10,000 for annual maintenance costs (added to the \$19,000 currently charged annually for FacilityFocus which was approved by the Board on 4/23/02); and \$18,000 for travel costs. Total expenditure: \$78,000. Authority is also requested to expend the funds necessary for the annual software maintenance costs for the life of the system – currently \$29,000 per year (with increases not-to-exceed 10% annually).

WHY ACTION IS NECESSARY: Expenditures exceeding \$50,000 require Board approval.

WHAT ACTION ACCOMPLISHES: Keeps the FacilityFocus program current with web-enabled features; and gives Lee County "development council" member status, thus enabling the County to purchase this software at the introductory price of \$50,000 vs. the anticipated market price of \$250,000. Savings to taxpayers: \$182,000 (\$250,000 less \$50,000 - software costs and \$18,000 – travel expenses).

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

A2A

3. MEETING DATE:

05-11-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. AC-41
- CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT _____
- C. DIVISION Facilities Management

BY: Rich Beck, Director *[Signature]*

BACKGROUND: On April 2, 2004, the Division of Purchasing received a request from Facilities Management to waive the formal quotation procedure and purchase FacilityMax – the newest software version of FacilityFocus.

Funds are available: QC5190100100.503465 (50%) & OD5361948700.503465 (50%)

Please see attachments:

- (1) Request for Bid Waiver/Justification for Waiver Purchase
- (2) Maximus Proposal/Prospectus
- (3) Atos Origin Summary/Recommendation
- (4) Blue Sheet No. 20020180 (Approving Purchase of FacilityFocus)
- (5) Purchasing Agreement

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services	G County Manager								
<i>[Signature]</i> 4/22/04	<i>[Signature]</i> 4-16 4/22/04			<i>[Signature]</i> 4/22/04	<table border="1"> <tr><td>OA</td><td>QM</td><td>Risk</td><td>GC</td></tr> <tr><td><i>[Signature]</i></td><td><i>[Signature]</i></td><td><i>[Signature]</i></td><td><i>[Signature]</i></td></tr> </table>	OA	QM	Risk	GC	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> 4-22-04
OA	QM	Risk	GC											
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>											

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *Apr 10 04*
Time: *A:10 Pm*
Forwarded To:
Co. Admin
4/23/04

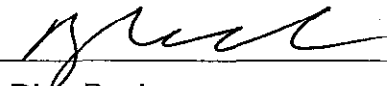
RECEIVED BY
COUNTY ADMIN:
4/22/04
4pm
COUNTY ADMIN
FORWARDED TO:
4-28-04
5pm

Memorandum
from
Public Works Administration/Construction & Design
Facilities Management

ATTACHMENT #1

To: Janet Sheehan
Purchasing

Date: April 2, 2004

From: 
Rich Beck
Director

Re: Facility/MAX

Please see the attached form requesting Purchasing prepare a Sole Source/Waiver bluesheet on behalf of Facilities Management. Per the attached Proposal from Maximus, we desire to purchase the newest software version of Facility Focus, called FacilityMAX. This "production" version will include an unlimited number of concurrent user licenses, and includes membership on the development council, giving us status as a Facility Focus Beta Testing User.

Your office has already been copied on the Prospectus from Maximus, as well as the recommendation from ITG. This recommendation memo does a fine job of summarizing the specifics.

The original Facility Focus purchase was BOCC approved on 4/23/02. Your office is investigating to see if this product is still available via the Florida State Contract. The yearly maintenance costs (+/- \$19,000/year) were also approved at that time.

Here is the breakdown of the costs needing BOCC approval for the new version:

\$50,000 for the software/unlimited site license/council membership
\$10,000/year for additional annual maintenance costs, through the life of the system
\$18,000 for approx. 4 trips for 3 County council members to Texas for the quarterly council meetings (through the anticipated 8/05 "go live" date)

Why necessary: BOCC approval required for Purchases over \$50,000

What it accomplishes: Keeps our FacilityFocus program current, with web-enabled features: and, as council member, reduces the purchase price from an anticipated +\$250,000 to \$50,000 (+ travel expenses).

Funds will be available in the following accounts:

50% - QC5190100100.503465
Construction & Design/Facilities Management/MARS/General Fund/Software Tech Support

50% - OD5361948700.503465
Lee Co. Utilities/Water Production-Pine Woods/Utilities-Operations/Software Tech Support

cc: Peter Cloutier

JUSTIFICATION FOR SOLE SOURCE AND/OR WAIVER PURCHASE

REQUISITION NUMBER N/A DATE 4/2/04
DEPARTMENT Construction & Design BUSINESS UNIT see memo
Facilities Mgmt.

SUGGESTED VENDOR

Maximus (V# 263383)

ITEM DESCRIPTION AND REASON FOR ~~SOLE SOURCE AND/OR WAIVER:~~
(MAY ALSO BE ATTACHED AS A MEMO)

Facility/MAX product is still in development stage. (Purchasing has Non-disclosure Agreement) "Project" total is > \$50,000, requiring BOCC Approval

TECHNICAL CHARACTERISTICS:

N/A

REASON FOR REQUESTING SOLE SOURCE:

ITEM MUST MATCH EXISTING EQUIPMENT, WHICH IS:

ITEM IS A REPAIR PART FOR EXISTING EQUIPMENT, WHICH IS:

N/A

ITEM IS TO BE ATTACHED TO EXISTING ITEM, WHICH IS:

upgrade to existing Facility Focus software system

TECHNICAL CHARACTERISTICS OF REQUESTED ITEM ARE ESSENTIAL TO OUR NEEDS BECAUSE:

NO OTHER MANUFACTURER OF THIS TYPE OF PRODUCT EXISTS

OTHER MANUFACTURERS OF THIS TYPE OF PRODUCT DO NOT MEET OUR MINIMUM REQUIREMENTS:

MANUFACTURER'S NAME: _____

REASON: _____

MANUFACTURER'S NAME: _____

REASON: _____

MANUFACTURER'S NAME: _____

REASON: _____

OTHER _____

MUST PERFORM PRICE OR COST ANALYSIS OR ATTACH NEGOTIATED PRICE QUOTE FROM VENDOR; LETTER FROM MANUFACTURER STATING SOLE SOURCE.

see NDA

A) PRICE ANALYSIS PERFORMED

BASED ON:

Proposal is attached

B) COST ANALYSIS PERFORMED:

BASED ON:

See attached memo for costs of project, as well as cost savings purchasing now (as opposed to when product is fully developed).

Peter Cloutier / Rich Beck

SIGNATURE AND TITLE OF REQUESTER

Rich Beck, Facilities Director

I, Robert D. Franceschini, AUTHORIZED BUYER,
CONCLUDE THE FOLLOWING:

SOLE SOURCE JUSTIFICATION IS ADEQUATE AND PURCHASE IS AUTHORIZED WITHOUT COMPETITIVE BIDDING.

SOLE SOURCE JUSTIFICATION IS INADEQUATE AND REQUISITION IS RETURNED TO DEPARTMENT.

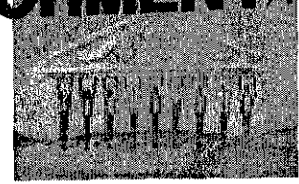
DUE TO TIME RESTRAINTS PURCHASE IS AUTHORIZED WITHOUT COMPETITIVE BIDDING.

COMPETITIVE/NON-COMPETITIVE BID WAIVER APPROVED.

Robert D. Franceschini 4/15/04
BUYER

Janet Sheehan 4-16-04
PURCHASING DIRECTOR

3330 Oakwell Court, Suite 200 San Antonio, TX 78218 (210) 301-1701



Proposal

FacilityFocus™
Unlimited Site License
For
Lee County Florida
February 25, 2004

This proposal defines unlimited Site license cost for FacilityFocus use at Lee County Florida. Also, this site license fee includes a seat on the FacilityMAX Development Council and an unlimited site license for the FacilityMAX web enabled product at no charge, when it becomes available.

Module	Discounted Price	Annual Maintenance 20% of Software
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Software Options:

FacilityFocus Unlimited User Site License	\$ 50,000	\$10,000
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MAXIMUS grants an unlimited site license under the terms and conditions of the existing licensing agreement.

This proposal expires May 1, 2004.

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I. Executive Summary

Introduction

MAXIMUS is pleased to offer your organization the opportunity to join a council of FacilityFocus customers sponsoring the development of a fully web architected facilities management software solution, FacilityMAX™. This new product will incorporate a 100% J2EE-compliant Java code base and is targeted for completion by August 31, 2005.

Background

A. The Need for a Web-architected Facilities Management Solution

There are several compelling forces that prompted the development of FacilityMAX:

Technology: Over the past several years, the development tools used to create Internet-ready software applications have substantially matured. When combined with the ready availability of high-speed Internet access, continual improvements in hardware clock speeds, and the relatively low cost of memory, conditions were optimal for the development of a Web-architected solution.

Market Forces: Driven primarily by budgetary constraints, solutions that require less administrative support are becoming more desirable in the marketplace. Web-architected solutions do not require individual client software loaded on users' workstations (including plug-ins), offering a truly "thin" client. Moreover, since most users are familiar with Web browsers, the new software package will have a familiar "look and feel."

Consumer Demand: Many facilities organizations insist on staying abreast of the latest "cutting edge" technology. Driven by the demands of their internal IT departments, these organizations are looking for the "next generation" of enterprise software solutions to carry them into the foreseeable future.

B. The Current State of FacilityMAX

Initial development has begun and new personnel have been added to our Research and Development group to augment our programming staff.

C. The Council Approach

Since 1991, the on-going development of FacilityFocus and its predecessors has been driven largely by customer input. Individual customers typically fund enhancements driven by site-specific requirements.

In 1998, MAXIMUS (then AssetWorks, Inc.) proposed an alternative development paradigm for its planned Utility Management module. The Company organized a council of leading customers to direct and fund the development of the new module.

Then again in 2001, MAXIMUS embarked on a Council concept to develop a Space management application. We again organized a group of customers to gain insight and feedback on how to build a better space management (or CAFM) solution.

Driven by the success of these efforts, MAXIMUS is pursuing a similar course of action for the development of FacilityMAX.

Value Proposition

As a member of the FacilityMAX development council, your organization will derive the following direct benefits:

- The ability to directly influence the features, functionality, and development of the proposed Web-architected FacilityMAX product through participation in status conference calls, review sessions and beta testing;
- An unlimited concurrent user license for the "production" version of FacilityMAX, which is incorporated into the cost of sponsorship and represents a fraction of the full list price;
- Monthly status calls will begin January 15, 2004 and will take place on or around the middle of every month.
- An on-site meeting in San Antonio, Texas will take place every four months with the first meeting scheduled for mid-April of 2004.
- A web forum will be designed for interaction between the Council and MAXIMUS. This site will include known bugs, feedback, suggestions, etc.
- FacilityMAX will be available for review and usage via a URL. Access will be granted via a unique Username and Password.

II. Technical Architecture

Development Environment

FacilityMAX will be based on the J2EE development standard and will be application server independent.

Software Requirements

FacilityMAX will support Apache/GNU/Linux based server architectures, such as Tomcat, MySQL and Linux.

III. Responsibilities of Council Members

Kick-off Meeting

The kick-off conference call is scheduled for January 15, 2004 at 2:00 p.m. Central Time.

Monthly Status Calls

On a monthly basis, MAXIMUS will convene "design and progress meetings" via conventional teleconference call or *WebX*[®] conference. During these sessions, a functional review of the system will be conducted, functional design issues will be discussed, and feedback from council members will be elicited. MAXIMUS will also review the overall status of the project and discuss upcoming development plans.

On-site Reviews

Every four months, MAXIMUS will conduct on-site reviews at its offices in San Antonio, Texas. Council members will be encouraged to participate in these reviews in person. Issues pertaining to the design, usability, and technology will be discussed. MAXIMUS will also review the overall status of the project and discuss upcoming development plans and milestones.

Beta Site Evaluation

Upon completion of the principal development and testing of the proposed application enhancements ("alpha" testing), council members will conduct field tests of the system. "Beta" code will be deployed in a test environment that enables council members to emulate a "production" setting. Beta testing will ultimately determine the operational efficacy of the application in terms of its functionality, usability, and performance. MAXIMUS will make all necessary test-related revisions in preparation for the first production release of the application.

IV. Council Membership and Fees

Membership fees will be assessed on a tiered structure based on an organization's square footage. This special fee structure will be in effect until June 30, 2004. Any organization wishing to join the Development Council will have two options to join:

1. Provide a Purchase Order for an unlimited site license of FacilityFocus prior to the first monthly development call (you may contact Broc Zautner to discuss pricing and terms). This will also provide the organization with an unlimited site license for FacilityMAX.
2. Sign a memorandum of agreement prior to the first monthly development call, in which the organization agrees to furnish a Purchase Order for an unlimited site license by June 30, 2004 (you may contact Broc Zautner to discuss pricing and terms).

Software maintenance for the Site license upgrade will be 20% of the upgrade fee. This plus your current FacilityFocus maintenance fee will be your Total maintenance fee. Maintenance for the unlimited site license will begin July 1, 2004.

Signature, Ken Slaughter, MAXIMUS

Signature, _____

Proposal for New and Enhanced Services

Customer:	Jim Desjarlais	Request Sched. Date	03/19/04
Project Name:	Facility Focus Beta	Response Date:	03/16/04
Department:	IT	Request Date:	

Request:

To determine what requirements are required to be a Facility Focus official Beta Tester and see if it would benefit Lee County Government.

This is a follow on to the original response sent in December 2003, after additional information has been received from MAXIMUS (Facility Focus vendor) and also the Facilities/Utilities departments

Response:

Overview

MAXIMUS has what is called a "council" of FacilityFocus customers sponsoring the development of a fully web architected facilities management software solution.

The new version is going to be called FacilityMAX™. This new product will incorporate a 100% J2EE-compliant Java code base and is targeted for completion by August 31, 2005.

The council approach used by Maximus is described below:

- Since 1991, the on-going development of FacilityFocus and its predecessors has been driven largely by customer input. Individual customers typically fund enhancements driven by site-specific requirements. The Company organized a council of leading customers to direct and fund the development of new modules.
- Driven by the success of these efforts, MAXIMUS is pursuing a similar course of action for the development of FacilityMAX.

Benefits from the involvement are:

As a member of the FacilityMAX development council, the organization will derive the following benefits:

1. The ability to directly influence the features, functionality, and development of the proposed Web-architected FacilityMAX product through participation in status conference calls, review sessions and beta testing;

2. An unlimited concurrent user license for the "production" version of FacilityMAX, which is incorporated into the cost of sponsorship and represents a fraction of the full list price. This price is \$50,000 which will be a significant savings over the final price of FacilityMAX. The final pricing structure of FacilityMAX was estimated to be in excess of \$250,000.

3. FacilityMAX will be available for review and usage via a URL. Access will be granted via a unique Username and Password.
4. Although FacilityFocus will still be developed/supported by Maximus, it is expected that this will only be the case for another 2-3 years. After this there would be a need to purchase FacilityMAX at full list price (~\$250k+) or an alternate solution.

Responsibilities of Council Members:

1. **Kick-off Meeting:** The kick-off conference call is scheduled for January 15, 2004 at 2:00 p.m. Central Time. [This has already happened, however, we can still join the council even though we did not participate in this meeting]
2. **Monthly Status Calls:** On a monthly basis, MAXIMUS will convene "design and progress meetings" via conventional teleconference call or WebX[®] conference. During these sessions, a functional review of the system will be conducted, functional design issues will be discussed, and feedback from council members will be elicited. MAXIMUS will also review the overall status of the project and discuss upcoming development plans. Participation is mandatory for council members.
3. **On-site Reviews:** Every four months, MAXIMUS will conduct on-site reviews at its offices in San Antonio, Texas. Council members will be required to participate in these reviews in person. Issues pertaining to the design, usability, and technology will be discussed. MAXIMUS will also review the overall status of the project and discuss upcoming development plans and milestones. Participation is mandatory for council members.
4. **WEB FORUM:** A web forum will be designed for interaction between the Council and MAXIMUS. This site will include known bugs, feedback, suggestions, etc. The council members are required to regularly visit the sites and test the application under development to provide feedback
5. **Beta Site Evaluation:** Upon completion of the principal development and testing of the proposed application enhancements ("alpha" testing), council members will conduct field tests of the system. "Beta" code will be deployed in a test environment that enables council members to emulate a "production" setting. Beta testing will ultimately determine the operational efficiency of the application in terms of its functionality, usability, and performance. MAXIMUS will make all necessary test-related revisions in preparation for the first production release of the application.

Costs associated for the council are as follows:

1. Membership fees will be \$50,000. This includes an unlimited concurrent user license for the "production" version of FacilityMAX. This special fee structure will be in effect until June 30, 2004.
2. Hotel, flights and expenses for each mandatory onsite meeting in Texas (every 4 months).
3. Resources committed for mandatory monthly conference calls.
4. Resources committed for involvement in the Web Forum (testing and providing feedback for development code).

5. Resources and environment available for beta testing the product.

Items 3, 4 and 5 are mainly human resources costs, where the people identified to be on the council will need to have sufficient time available to participate.

Recommendation

The benefits that the County would receive are to have more "input" on the Web version of Facility Focus (FacilityMAX) and to receive a significant cost savings by being a member of the Council. On top of the \$50,000 production license / membership fee there are some on-going costs; e.g. review meetings, beta testing, etc. which need to be taken into account, however, this is still a fraction of the cost compared to if the County waits to purchase the production product.

\$50,000 covers a site license for FacilityFocus (the product you have now), a seat on the development council for the new product, AND a site license for the web product when it becomes available.

Maintenance for the site license is 20% of the site license fee, or \$10,000 in the County's case. This is added to the maintenance the County currently pays. However, this first maintenance fee will not be charged to the county until the new product ships. So, if Maximus stays on schedule, the new product will ship in Aug. of 2005. The County's maintenance on the new product will be due in the next maintenance billing cycle after that ship date.

The added benefit is that any issues that are currently causing concerns for Facilities/Utilities from using Facility Focus (e.g. limitations, work flow etc), can be addressed to the council in order to try and add functionality to FacilityMAX.

The recommendation is to include three people from Lee County as Council members, one from each of: Facilities, Utilities and ITG. This would ensure we have both business knowledge/requirements input from Facilities and Utilities and IT experience from ITG.

Estimated Costs - License	\$ 50,000
Annual Maintenance	\$10,000 plus current maintenance fee of \$18,990 = \$28,990.
Additional Costs	Conference every 4 months (Flights, Hotel, Expenses) for 3 people (required)
Resource Requirements	Business Users from Facilities and Utilities to be able to test and provide feedback on FacilityMAX. Support from ITG.
Scheduling Required	None unless a test environment needs to be built by ITG (which would need to be scheduled).

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20020180

1. REQUESTED MOTION:

ACTION REQUESTED: Approve award of the following Projects: EX020267, the purchase of FacilityFocus TM enterprise-wide work order/facility management software from Maximus, Inc. at the Florida State Contract price of \$171,100.00; and IT020268, the purchase of a Compaq server with accessories (to run the software) at the informally quoted price of \$7,317.00 from the best price vendor, QA Systems, Inc.; for the Lee County Information Technology Group (ITG). Also approve the expenditure of a not-to-exceed amount of \$6,000.00 for temporary help to input data via Lee County Quote #Q-010389 for Temporary Personnel Services; and a not-to-exceed amount of \$10,000.00 for incidentals such as, but not limited to, overnight delivery, accessories, etc. Authority is also requested to expend the funds necessary for the annual software maintenance costs from the first year through the life of the system (the current Florida State Contract price for annual maintenance is \$18,990.00 per year). The requesting department will be responsible for monitoring its expenditures. **Continued on next page**

WHY ACTION IS NECESSARY: Section 11.0.3.1 of the Lee County Purchasing and Payment Procedures Manual exempts "the purchase of equipment that has gone through the Administrative Code Procedure, such as State Contracts or Federal General Services Administration Schedules, providing the purchase, rental or lease amount does not exceed \$50,000.00". As this expenditure will exceed \$50,000.00, Board approval is required.

WHAT ACTION ACCOMPLISHES: Provides all County departments with the upgraded ability to request and track work orders. Will also allow Facilities Management to schedule preventative maintenance, track County assets, and satisfy Internal Auditing requests for improved asset management and Disaster Recovery preparedness. Also allows the County to comply with the Governmental Accounting Standards Board (GASB Statements 34 and 35) for managing and maintaining capital assets which will reflect favorably with bond raters. In addition, the system can be expanded into other areas, such as job cost estimating, contract administration, and real estate/facility management.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

CIB

3. MEETING DATE:

04-23-2002

4. AGENDA:

- CONSENT
- ADMINISTRATIVE APPEALS
- PUBLIC
- WALK ON TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. AC-4-1
- CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Administration
- C. DIVISION County Manager

BY: Bill Hammond, Deputy County Manager

7. BACKGROUND:

--BACKGROUND BEGINS ON PAGE TWO--

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services	G County Manager
<i>Walt Ford</i>	<i>[Signature]</i>			<i>[Signature]</i>	<i>[Signature]</i> 4/11 COA 4/11/02 OM 4/11/02 Risk 4/11 GC 4-11-02	<i>[Signature]</i> 4-11-02

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED

RECEIVED BY COUNTY ADMIN. 2/26/02 350pm
COUNTY ADMIN. FORWARDED TO: 4/11 430

2/26/02 2:32pm CO. ATTY. FORWARDED TO: ADMIN
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--BACKGROUND CONTINUED FROM PAGE ONE--

On February 14, 2002, the Division of Purchasing received a request from the Lee County Information Technology Group (ITG) to prepare a request to purchase FacilityFocus TM enterprise-wide work order/facility management software from Maximus, Inc. at the Florida State Contract price of \$171,100.00; and a Compaq server with accessories (to run the software) at the informally quoted price of \$7,317.00 from the best price vendor, QA Systems, Inc. It was also requested by ITG that Board approval be obtained for the expenditure of a not-to-exceed amount of \$6,000.00 for temporary help to input data via Lee County Quote #Q-010389 for Temporary Personnel Services; and a not-to-exceed amount of \$10,000.00 for incidentals such as, but not limited to, overnight delivery, accessories, etc. Authority is also requested to expend the funds necessary for the annual software maintenance costs from the first year through the life of the system (the current Florida State Contract price for annual maintenance is \$18,990.00 per year).

These requests are a result of the following: After a report by Internal Auditing, Lee County Facilities Management requested ITG/ACS' assistance to find, evaluate, and recommend a new work order/facility management system. ITG reviewed over 50 software packages and selected three that would meet Facilities' business and technical requirements. Facilities Management staff selected FacilityFocus TM software by Maximus, Inc. (please see the vendor selection matrix – Attachment #2). It should also be noted that the memorandum requesting this purchase has been co-signed by Richard Beck, Director of Facilities Management, who concurs with this request/purchase.

Continuation of Action Requested

Authorize transfer from General Fund reserves in the amount of \$213,407.00. Also approve budget amendment resolution for data processing fund 515 in the amount of \$213,407.00 to recognize the receipt of monies from the General Fund.

Funds will be available upon the transfer in KC5132851500.506410. (Annual maintenance costs will be budgeted and paid for by Facilities Management.)

PLEASE SEE ATTACHMENTS:

- (1) Department Request for Purchases
- (2) Vendor Selection Matrix
- (3) Matrix Inc.'s Quote via Florida State Contract No. 252-033-02-1
- (4) Tabulation Sheet for Informal Telephone Quote No. IT020268
- (5) Florida State Contract No. 252-033-02-1
- (6) Contract Summary Information for Q-010389 – Temporary Personnel Services

**MEMORANDUM
FROM
THE DIVISION OF PURCHASING**

DATE: APRIL 19, 2004

TO: RICH BECK
FACILITIES MGMT. DIRECTOR

FROM: JANET SHEEHAN, CPPB
PURCHASING DIRECTOR

RE: BLUE SHEET # 20040433

PROJECT: FacilityMax Software

TYPE: Bid Waiver

AWARDED TO: Maximus, Inc.

When you have finished your review of this package, please forward it to Kristie Kroslack in the County Attorney's Office.

If there are any questions or concerns with this package, please contact Bob Franceschini at 344-5450.

PURCHASING AGREEMENT

ATTACHMENT 5

This Agreement, made and entered into this _____ day of _____, in the year _____, by and between LEE COUNTY, FLORIDA, a political subdivision of the STATE OF FLORIDA, acting by and through the BOARD OF COUNTY COMMISSIONERS, PARTY OF THE FIRST PART AND, Maximus, Inc., 3330 Oukwell Court, Suite 200, San Antonio, TX 78218, PARTY OF THE SECOND PART.

WITNESSTH: That the parties hereto, for the consideration herein set forth mutually agree as follows:

Article 1. SCOPE OF WORK: The vendor shall provide all labor, services, materials, and equipment and perform all the necessary work in the manner and form provided by the Contract Documents for the performance of:

Waiver No.: W-040380, FacilityMAX

Article 2. CONTRACT SUM: The County shall pay to the vendor, for the faithful performance of the terms as specified in the Purchasing Agreement, in lawful money of the United States of America, and subject to the additions and deductions as provided in the Contract Documents, total sum as follows:

Based on the agreed upon price shown in the Proposal previously submitted to the County, a copy of said Proposal being a part of this Agreement

the sum of \$50,000 for software/unlimited site license/council membership; \$29,000 for software maintenance (with increases not to exceed 10% annually).
DOLLARS \$79,000

Article 3. PAYMENTS: If during the progress of the work or furnishing of services it appears that the vendor's bills for the materials and labor are not being paid, the County shall have the right to withhold from the vendor's monthly payments sufficient sums to protect itself against all losses from possible liens, and to apply the said sums to the payment of such debts. Payments of monthly estimates are agreed not to be admission by the County that the work is done or that its quality or quantity is satisfactory; final acceptance shall occur only with final payment. Before the final payment is made, the vendor shall show to the County satisfactory evidence that all just liens or claims for payment from all persons supplying the vendor labor, material and supplies used directly or indirectly by the vendor or any subcontractor or subcontractors of the vendor in the prosecution of the work are fully satisfied, and that there are no liens, claims and demands resulting from the vendor's performance. The County shall have the right to withhold up to ten (10%) percent of each progress payment which shall be due and payable to the vendor upon final completion of the work.

un/a?

Should the vendor fail to complete the work within the time limit, no partial estimate will be rendered and no payments will be made after the date established for completion except as follows:

1. If a Surety Bond was furnished, the vendor shall deliver to the County's Agent the written consent of the vendor's Surety covering every such partial payment permitting such payment to be made without affecting the validity of the Bond.
2. If a Cash Bond was furnished, the County's Agent will examine the conditions relating to the delay, also the amount and nature of the work remaining to be completed and his decision will determine whether partial payments will continue to be made or withheld.

The validity of the Bond shall in no way be affected regardless of which course of action is taken.

Article 4. This purchasing Agreement shall be in effect from the period commencing the _____ day of _____, 20____ up to and including the _____ day of _____, 20____.

Article 5. **FAILURE TO COMPLETE THE WORK ON TIME:** The time limit for the completion of all work under this Purchasing Agreement shall be as set forth in the Proposal. The dates fixing this period upon the calendar shall be as established and stated in the "NOTICE TO PROCEED" from the Purchasing Agent. After commencement of work for this Agreement, it shall be pushed with proper dispatch toward completion, to the satisfaction of the County and shall be fully completed within the time limit if so established. It is understood and agreed that the time limit for completion of said work is the essence of this agreement and, should the party of the second part fail to complete the work within the time limit, it is agreed that for each calendar day that any work provided for in these plans or specifications shall remain incomplete after the time limit has expired, including any official extension of time limit, the sum per day given in the following schedule shall be deducted from monies due this vendor, not as a penalty, but as liquidated damages and added expense for supervision.

Amount of Liquidated Damages per day: N/A

The vendor shall take into account all contingent work which has to be done by other parties, arising from any cause whatsoever, and shall not plead his want or knowledge of said contingent work as an excuse for delay in his work, or for its nonperformance.

Article 6. **PURCHASING AGREEMENT DOCUMENTS:** The documents hereinafter listed shall form the Purchasing Agreement and they are as fully part of the Purchasing Agreement as if attached hereto:

1. Advertisement for quotes (if Advertising actually performed)
2. Proposal Quote Form
3. Quote Bond (if required)
4. Specifications
5. Insurance Certificate (if required)
6. Vendors Bond (if required)
7. Plans (if applicable)

Article 7. **APPLICABLE LAW:** Unless Otherwise specified, this Purchasing Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or the laws, rules and regulations of the United State when providing services funded by the United State Government.

Article 8. **ASSIGNMENT AND TRANSFER:** The vendor shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfer that result from transfer or consolidation with a third party, without the prior written approval of the county. The vendor shall have the right to employ other persons and/or firms to serve as subcontractors in connection with the requirements of the Agreement.

Article 9. **TERMINATION:** This Agreement may be terminated by either party by giving thirty (30) calendar days advance written notice. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.

However, if the vendor is adjudged bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for the vendor or for any of the property, if it files a petition to take advantage of any debtors act or to reorganize under the bankruptcy or similar laws, if it disregards the authority of the County's designated representatives, if it otherwise violates any provisions of this Agreement, or for any other just cause, the County may, without prejudice to any other right or remedy and after giving the vendor seven (7) calendar days written notice, terminate this Agreement.

Where the vendor's services have been terminated by the County, said termination shall not affect any rights of the County against the vendor then existing or which may thereafter accrue. In the event of termination of this Agreement, not the fault of the vendor, the County shall compensate the vendor for: (1) all services completed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the vendor in effecting the termination of services and work, and incurred by the submittal to the County of project drawings, plans, data, and other project documents which are the subject of this Agreement.

Article 10. SEVERABILITY: The provisions and scope of work included in this Agreement are severable. The excuse of nonperformance of a portion of this Agreement shall not excuse the vendor from further performance or completion of the Agreement.

Article 11. CONFLICTING PROVISION: Should any provision of this Agreement conflict with any other specifications or provisions included or incorporated by reference, the provisions of this Agreement shall control.

Article 12. WAIVER: Any waiver by the County or the breach of any provision of this Agreement shall not be construed or deemed to be a modification of the terms of this Agreement.

Article 13. MODIFICATION: Modification to covenants, terms and provisions of the Agreement shall only be valid when issued in writing as an amendment or change order agreed to by both parties.

Article 14. ILLEGAL OR UNCONSTITUTIONAL PROVISIONS: Should a Court of Law determine any provision of this Agreement to be contrary to the law, such a ruling shall not relieve the vendor from fulfilling other responsibilities under the Agreement.

Article 15. DAMAGE TO PRIVATE PROPERTY: Should any private property not belonging to the vendor be damaged through the fault of the vendor, while carrying out this Agreement, such damage shall be repaired by the vendor prior to the completion of the project. The County shall withhold final payment until such repairs have been made.

Article 16. INSURANCE: The vendor will provide a certificate of insurance, meeting the requirements outlined in the specifications (if required).

Article 17. HOLD HARMLESS AND INDEMNITY: The vendor agrees through the signing of this document by an authorized party or agent that he shall hold harmless and defend the County of Lee and its agents and employees from all suits and actions, including attorneys' fees and all costs of litigation and judgements of every name and description arising out of or incidental to the performance of this Agreement or work performed thereunder, whether or not due to or caused by negligence of the County excluding only the sole negligence of the County.

the Licensed Software shall be the property of Maximus, Inc. The County further agrees that additions and supplements to the Licensed Software which may be developed for the County through the reimbursed or un-reimbursed efforts of Maximus, Inc. employees or agents shall be the exclusive property of Maximus, Inc. All software, training and procedural materials developed by the County acting without Maximus, Inc., shall be the exclusive property of the County.

Article 25. PROPRIETARY RIGHTS: Maximus, Inc. retains for itself, and the County acknowledges that Maximus, Inc. so retains, all proprietary rights in and to all designs, engineering details, and other software pertaining to the FacilityMAX. The Licensed Software shall be deemed to be the trade secrets of Maximus, Inc. The County shall not reverse assemble, reverse compile or translate any portion of the Licensed Software.

Article 26. GOVERNING LAW: This agreement shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF the said Lee County, Florida, has caused this Agreement to be executed in its name by the Chairman, attested by the Clerk of Courts to be hereto attached; and the said party of the second part has caused this Agreement to be executed in its name by its _____ President, attested by its _____ Secretary _____, and has caused the seal of said corporation to be hereunto attached, all on the day and year first above written.

Signed, sealed and delivered
in the presence of:

David R. Francis
Secretary

MAXIMUS, INC.
(Correct Name of Corporation)

BY: John H. Hines III
President

(Corporate Seal)

ATTEST: Clerk of Court

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM

BY: _____
County Attorney's Office

Revised: March 18, 2002

PURCHASING AGREEMENT

ATTACHMENT 5

This Agreement, made and entered into this _____ day of _____, in the year _____, by and between LEE COUNTY, FLORIDA, a political subdivision of the STATE OF FLORIDA, acting by and through the BOARD OF COUNTY COMMISSIONERS, PARTY OF THE FIRST PART AND, Maximus, Inc., 3330 Oakwell Court, Suite 200, San Antonio, TX 78218, PARTY OF THE SECOND PART.

WITNESSTH: That the parties hereto, for the consideration herein set forth mutually agree as follows:

Article 1. SCOPE OF WORK: The vendor shall provide all labor, services, materials, and equipment and perform all the necessary work in the manner and form provided by the Contract Documents for the performance of:

Waiver No.: W-040380, FacilityMAX

Article 2. CONTRACT SUM: The County shall pay to the vendor, for the faithful performance of the terms as specified in the Purchasing Agreement, in lawful money of the United States of America, and subject to the additions and deductions as provided in the Contract Documents, total sum as follows:

Based on the agreed upon price shown in the Proposal previously submitted to the County, a copy of said Proposal being a part of this Agreement

the sum of \$50,000 for software/unlimited site license/council membership; \$29,000 for software maintenance (with increases not to exceed 10% annually).
DOLLARS \$79,000

Article 3. PAYMENTS: If during the progress of the work or furnishing of services it appears that the vendor's bills for the materials and labor are not being paid, the County shall have the right to withhold from the vendor's monthly payments sufficient sums to protect itself against all losses from possible liens, and to apply the said sums to the payment of such debts. Payments of monthly estimates are agreed not to be admission by the County that the work is done or that its quality or quantity is satisfactory; final acceptance shall occur only with final payment. Before the final payment is made, the vendor shall show to the County satisfactory evidence that all just liens or claims for payment from all persons supplying the vendor labor, material and supplies used directly or indirectly by the vendor or any subcontractor or subcontractors of the vendor in the prosecution of the work are fully satisfied, and that there are no liens, claims and demands resulting from the vendor's performance. The County shall have the right to withhold up to ten (10%) percent of each progress payment which shall be due and payable to the vendor upon final completion of the work.

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Should the vendor fail to complete the work within the time limit, no partial estimate will be rendered and no payments will be made after the date established for completion except as follows:

1. If a Surety Bond was furnished, the vendor shall deliver to the County's Agent the written consent of the vendor's Surety covering every such partial payment permitting such payment to be made without affecting the validity of the Bond.
2. If a Cash Bond was furnished, the County's Agent will examine the conditions relating to the delay, also the amount and nature of the work remaining to be completed and his decision will determine whether partial payments will continue to be made or withheld.

LCP061

The validity of the Bond shall in no way be affected regardless of which course of action is taken.

Article 4. This purchasing Agreement shall be in effect from the period commencing the _____ day of _____, 20__ up to and including the _____ day of _____, 20__.

Article 5. **FAILURE TO COMPLETE THE WORK ON TIME:** The time limit for the completion of all work under this Purchasing Agreement shall be as set forth in the Proposal. The dates fixing this period upon the calendar shall be as established and stated in the "NOTICE TO PROCEED" from the Purchasing Agent. After commencement of work for this Agreement, it shall be pushed with proper dispatch toward completion, to the satisfaction of the County and shall be fully completed within the time limit if so established. It is understood and agreed that the time limit for completion of said work is the essence of this agreement and, should the party of the second part fail to complete the work within the time limit, it is agreed that for each calendar day that any work provided for in these plans or specifications shall remain incomplete after the time limit has expired, including any official extension of time limit, the sum per day given in the following schedule shall be deducted from monies due this vendor, not as a penalty, but as liquidated damages and added expense for supervision.

Amount of Liquidated Damages per day: N/A

The vendor shall take into account all contingent work which has to be done by other parties, arising from any cause whatsoever, and shall not plead his want or knowledge of said contingent work as an excuse for delay in his work, or for it's nonperformance.

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However, if the vendor is adjudged bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for the vendor or for any of the property, if it files a petition to take advantage of any debtors act or to reorganize under the bankruptcy or similar laws, if it disregards the authority of the County's designated representatives, if it otherwise violates any provisions of this Agreement, or for any other just cause, the County may, without prejudice to any other right or remedy and after giving the vendor seven (7) calendar days written notice, terminate this Agreement.

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the Licensed Software shall be the property of Maximus, Inc. The County further agrees that additions and supplements to the Licensed Software which may be developed for the County through the reimbursed or un-reimbursed efforts of Maximus, Inc. employees or agents shall be the exclusive property of Maximus, Inc. All software, training and procedural materials developed by the County acting without Maximus, Inc., shall be the exclusive property of the County.

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Article 26. GOVERNING LAW: This agreement shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF the said Lee County, Florida, has caused this Agreement to be executed in its name by the Chairman, attested by the Clerk of Courts to be hereto attached; and the said party of the second part has caused this Agreement to be executed in its name by its _____ President, attested by its _____ Secretary _____, and has caused the seal of said corporation to be hereunto attached, all on the day and year first above written.

Signed, sealed and delivered
in the presence of:

David R. Francis
Secretary

MAXIMUS, INC.

(Correct Name of Corporation)

BY: John H. Hines
John H. Hines
President

(Corporate Seal)

ATTEST: Clerk of Court

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM

BY: _____
County Attorney's Office

Revised: March 18, 2002