



# Master Agreement

NO. 870 3854A - 1

TERM: 2019-02-01 to 2020-01-31

Page 1 of 4

Date Issued: 01/24/2019

<b>Vendor contact:</b> <b>Name:</b> THOMAS P MCGUIRE JR <b>Phone:</b> 386-767-3900 <b>Ext.:</b> <b>E-mail:</b>		<b>County contact:</b> <b>Name:</b> KEVIN KANE <b>Phone:</b> 386-248-1760 <b>Ext.:</b> 1267 <b>E-mail:</b> KKane@volusia.org		<b>Bill To:</b> <b>County of Volusia</b> AS REQUIRED BY USING DEPARTMENT  VOLUSIA COUNTY, FL 32720	
<b>Vendor Name:</b> FLAIR SERVICE INC  935 ALEXANDER AVENUE  PORT ORANGE, FL 32129		<b>Vendor No.</b> FLS23510000		<b>Ship To:</b> AS REQUIRED BY USING DEPARTMENT  VOLUSIA COUNTY, FL 32720	
<b>Solicitation Number:</b> 16-B-12VB  <b>Award Date:</b>  <b>Award Authorization:</b> COUNCIL		<b>Purchasing Phone:</b> HEIDI OTT 386-626-6626 <b>Ext:</b> 16626 <b>E-mail:</b> hott@volusia.org		<b>Payment Terms:</b> Net 45 Days, FOB Dest, Freight allowed	
<b>Document Description:</b> HVAC & Ice Machine Repair Svcs. & Sheet Metal Fabrication					

Line Item	Commodity Code	Unit	Description	Unit Price or Contract Amount
1	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Regular hours	66.000000
2	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Apprentice Regular hours	34.000000
3	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Overtime	85.000000
4	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC Services Apprentice Overtime	53.000000
5	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Emergency Regular hours	85.000000
6	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Emergency Apprentice Regular hours	53.000000
7	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC & Ice Machine Repair Emergency Overtime	85.000000
8	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. HVAC Services Emergency Apprentice Overtime	53.000000

A delivery order is required for the release of items / services from the referenced Master Agreement. If a solicitation number is referenced then the terms and conditions of said solicitation become part of the Master Agreement. Deviation from prices stated is not permitted without a signed corrected Change Order.

If vendor terms and conditions conflict with Count of Volusia Terms and Conditions, the County's Terms and Conditions prevail. See reverse side for terms and conditions.

# Purchase Order (PO) or Master Agreement (MA) Terms and Conditions

Providing any good or service constitutes acceptance of this entire PO or MA without exception.  
In the event this document is issued based on a solicitation or quote, the terms and conditions of the solicitation or quote prevail.

Acceptance. Products/Services purchased as result of this PO or MA may be tested for compliance with specifications. Items delivered not in conformance with the specifications may be rejected and returned at the Provider's expense. Those items and items not delivered by the delivery date specified in the accepted offer and/or PO or MA may be purchased on the open market.

Cancellation of Order. A request by either party to PO to cancel the order at no cost.

Delivery. Title and risk of loss shall pass when items have been received, inspected, and accepted by County of Volusia ("County"). All associated shipping, insurance, and other related costs shall be borne by Provider.

Discontinued. Provider shall give County 30 (thirty) days advance notice of a discontinued item(s) so that County can purchase additional quantities of discontinued item(s). County must give written approval of replacement(s) if they exceed previous price or fail to meet quality, form, fit, or function of the discontinued item. Time is of the essence regarding Performance of Services and this PO or MA can be terminated by the County for convenience, non-appropriation of funds, or non-performance.

Disputes. If such dispute arises under this PO or MA and is not resolved informally by the parties within five (5) business days, the party bringing a claim ("Disputing Party") shall deliver to the first level representative of the other party a written statement ("Dispute Notice") describing the dispute. If the respective representatives cannot resolve the dispute within ten (10) days, the dispute shall be escalated through two higher levels of management. If the dispute has not been resolved within 25 (twenty-five) calendar days after delivery of the Disputing Party's notice, either party may give written notice to the other party declaring the resolution process terminated and pursue other legal recourse or initiate formal non-binding mediation before a single mediator, which shall be completed within 30 (thirty) days of initiation, in accordance with rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700, et seq., of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions. This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency and Contractors shall be prepared to comply with the requirements of the FEMA Super Circular CFR 200.318-326 and Appendix II Contract Provisions as amended. These documents can be found on the Internet at: <https://www.gpo.gov/ fdsys/ granule/ CFR-2014-title2-vol1/ CFR-2014-title2-vol1-sec200-318>

Governing Law/Jurisdiction/Venue. This PO or MA shall be governed by the laws of the State of Florida and venue for any litigation arising from this PO or MA shall be in the County of Volusia, Florida, and any trial shall be non-jury. Provider shall comply with all applicable laws and regulations.

Insurance. For goods and services delivered or performed by Provider on County premises, Provider certifies it maintains comprehensive general liability insurance and auto insurance in the amounts identified in the solicitation and/or contract and any amendments thereto pertaining to this PO or MA, or from an A.M. Best "A -" or better rated insurance firm authorized by the State of Florida Insurance Commissioner. The County reserves the right to require the "County of Volusia" be named as additional insured for projects when deemed necessary. For services performed off County premises and goods delivered by third party carriers, the Provider shall use such carriers that maintain such insurance coverage as set forth above.

Intellectual Property. Provider agrees to protect, defend, indemnify, and save the County, its agents, officials, including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that a copyright, trademark, trade secret, or patent ("Intellectual Property"), as provided under this PO or MA, infringes or misappropriates any third party's Intellectual Property. If Provider must pay a third party any license, royalty, or other such usage fee in order to deliver the item(s) under this PO or MA, such third party and usage fee must be specified in the Provider's offer to sell to the County.

Indemnification. The Contractor shall indemnify, defend and hold harmless the County and its employees, officers, elected and appointed officials, agents, attorneys, representatives, volunteers, divisions, departments, districts, authorities, and associated entities from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement to the extent that any such claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, anyone directly or indirectly employed by Contractor.

Modification & Assignment. County may unilaterally change, at no additional cost, the quantity and receiving point within the County for items not yet shipped. All other items must be mutually agreed upon in writing. County is not required to pay for defective items, back-orders, late deliveries, those quantities exceeding the PO or MA quantity, or items shipped at a higher price than stated on the PO or MA. Neither this PO or MA nor any interest herein shall be assigned, transferred, or encumbered by Provider except as authorized in writing by the County.

Notices. All notices given by one party to the other party under this PO or MA shall be delivered to the receiving party's address set forth on this PO either by hand, qualified courier, or e-mail and shall be deemed received the day after it is transmitted. For the County, it shall be addressed to the Purchasing and Contracts Department, 123 West Indiana Avenue, 3rd Floor, DeLand, Florida, 32720 or [purchasing@volusia.org](mailto:purchasing@volusia.org).

No Waiver. Except as expressly set forth herein, no failure or delay on the part of County in exercising any right, power, or remedy hereunder shall operate as or be deemed a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

Order of Precedence. In the event of conflict between this PO or a Master Agreement (MA), the originating Volusia County contract and amendments thereto shall be controlling. This control shall pertain to all specifications and scopes of work included in the originating Volusia County contract and any amendments thereto.

Payment. Except for construction services, which shall be paid pursuant to the Florida Prompt Payment Act, County shall pay Provider within 45 (forty-five) days after receipt of an accurate and undisputed invoice, unless the County accepts a prompt payment discount from Provider and the goods or services are not defective. Invoice, packing slip, delivery receipt, order acknowledgement, and correspondence shall clearly indicate the PO or MA number. Any additional or different terms and conditions on Provider's documents shall be considered null and void. The County may deduct amounts it is due from Provider's payment or not pay disputed invoices until such dispute is resolved. Nothing in this PO or MA shall create any obligation on the part of the County to pay directly to any subcontractor of Provider any monies due to such subcontractor or claims of such subcontractor for amounts owed by Provider to subcontractor for goods or services provided under this PO or MA.

Sovereign Immunity. The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of the Agreement, Master Agreement, and/ or this Purchase Order to the contrary, nothing in any such documents shall be deemed as a waiver of immunity or the limitations of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in the Agreement, Master Agreement, or this Purchase Order shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

Taxes. County is exempt from Manufacturers' Federal Excise Tax (Exemption# 49-6000-885) and Florida sales tax (Exemption# 85-8012622393C-9). Certificates are available at [www.volusia.org/purchasing](http://www.volusia.org/purchasing). After accessing the foregoing website, select, "Doing Business with Volusia County" and "Consumer Certificate of Tax Exemption" from the available menu screens to see a copy of the certificates.

Termination for Convenience. The County may cancel the PO or MA in whole or part when it is in the best interest of the County with thirty (30) days notice.

UCC. In addition to any rights or remedies contained in this P.O., each party shall have rights, duties, and remedies available through the Uniform Commercial Code (UCC).

Warranty. Provider warrants that all Work or Services performed under this PO or MA shall be performed in a good and competent workmanlike manner to the satisfaction of the County, and materials shall be of good quality (unless otherwise stated on PO or MA), and free from defects and pursuant to specifications and requirements of the contract related to this PO or MA.



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11	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. Installation of new HVAC Units Regular hours	66.000000
12	91036	HOUR	HVAC REPAIRS MUST BE COORDINATED WITH FACILITIES. Installation of new HVAC Units Overtime	85.000000
13	91036	EA	OEM Parts Cost plus 50-100%	0.000000
14	91036	QTR	Marine Science Center Quarterly Maintenance refrigeration equipment	88.000000
15	91036	QTR	Medical Examiner Quarterly Maintenance refrigeration equipment	240.000000
16	91036	EA	DeBary Hall Filter Change (every 2 months)	860.000000
17	91036	EA	DeBary Hall Annual cleaning of AC units	935.000000
18	91036	EA	DeBary Hall Filter Change Annual cleaning of ice machine	275.000000

Jeaniene Jennings CPPB  
Purchasing & Contracts Director

County of Volusia  
Sales Tax Exemption Number  
85-8012622393C-9

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