

SHELBY COUNTY GOVERNMENT
 160 N. Main Street, Suite 900, Purchasing
 MEMPHIS, TENNESSEE 38103
 (901) 222-2250

| |
|--------------------|
| Purchase Order No. |
| S010890 |

| |
|------------|
| Issue Date |
| 02/14/18 |

Purchase Order

| Vendor No. | Delivery Required | Terms | Ship Via | F.O.B. | Requisition No. |
|------------|-------------------|-------|----------|--------|-----------------|
| A0555 | 02/14/18 | N30 | | DEST | |

Issued THY, INC.
 To 1760 MORIAH WOODS BLVD.
 SUITE 1
 MEMPHIS, TN 38117-7128

Ship SHELBY COUNTY ROADS & BRIDGES
 To 6449 HALEY ROAD
 MEMPHIS, TN 38134

EOC #: MLOSB-VS-0919-26961

Buyer: DEBRA LOUIS

IF MATERIAL SAFETY DATA SHEETS ARE
 REQUIRED ON PRODUCT(S) THAT YOU WILL BE
 PROVIDING. PLEASE SUBMIT SAME WITH
 PRODUCT(S) DELIVERED.

| Item | Quantity | U/M | Description | Unit Price | Extended Price |
|--------------------------------|----------|-----|--|-------------|-----------------|
| 1 | | | ENCUMBRANCE OF FUNDS FOR ADDITIONAL SURVEYING SERVICES FOR THE SOUTH CYPRESS CREEK PROJECT FOR THE NATIONAL DISASTER RESILIENCE GRANT PROJECT CA17208581 COMMODITY: 962/58 ACCOUNT DISTRIBUTION: 297-271273-6678 | 50318.00000 | 50318.00 |
| Total of Purchase Order | | | | | 50318.00 |

I hereby certify that the purchase order on attached invoice(s)
 have been received and that payment is in order.
 This is a cash payment fund payment on this P.O.
 Payment amount approved: \$ _____

 Date

ORDER SUBJECT TO TERMS AND CONDITIONS ON REVERSE SIDE
 BILLING INSTRUCTIONS: SHOW PURCHASE ORDER NUMBER
 ON ALL INVOICES. NOTE: PAYMENTS MAY BE DELAYED UNLESS
 BILLING INSTRUCTIONS ARE FOLLOWED EXACTLY.

SEND ORIGINAL INVOICE TO:
 SHELBY COUNTY ROADS & BRIDGES
 6449 HALEY ROAD
 MEMPHIS, TN 38134

901-222-7705

| | |
|---------------------------------------|-------------------------------|
| Sylvie Le Bouthillier | |
| APPROVED: ADMINISTRATOR OF PURCHASING | |
| _____ Date | _____ Authorized Signature |

TERMS AND CONDITIONS

1. **VENDOR:** Shall in all cases be the Seller.
2. **BUYER:** Shall in all cases be the Shelby County Government/Purchasing Department.
3. **ACCEPTANCE:** This order with any attachments, constitutes the entire agreement of the Vendor and Buyer. No waiver or modification or additions to the terms of this order shall be valid unless in writing and signed by the Vendor and Buyer.
4. **PRICES:** The Buyer shall not be billed at prices higher than those stated on the front of this order. Unless otherwise specified, the price stated includes all charges for packing, hauling, storage and transportation to point of delivery. No taxes shall be included in this price except those which Vendor is required by law to collect from Buyer. If there are any of these taxes, then they shall be listed separate on the Vendor's invoice. Finance charges, interest and/or penalties for late payment will not be paid on this purchase order.
5. **PACKAGING:** Seller with package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (a) Seller's name, address; (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable; (c) container number and total number of containers, e.g. box 1 of 4 boxes and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided.
6. **TITLE & RISK:** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery.
7. **TRANSPORTATION CHARGES:** F.O.B destination unless delivery terms are specified otherwise in bid; Buyer agrees to reimburse Seller for transportation costs in the amount specified in the Seller's bid, or actual cost, whichever is lower, if the quoted delivery terms do not include transportation costs, provided, Buyer shall have the right to designate what method of transportation shall be used to ship the goods.
8. **DELIVERY:** Substitutions will not be accepted. Partial shipments shall be allowed, however, the shipment shall be completed by the date shown on this order or order shall be subject to cancellation by Buyer. Vendor shall not ship excess quantities without Buyer's prior approval.
9. **INVOICING:** Vendor shall invoice all shipments in duplicate. The invoice shall describe the items, reflect any applicable terms of payment, and must show the Purchase Order Number. Unless this Purchase Order Number is shown on the invoice, it may be returned to the Vendor. The invoice shall be an original or a certified copy by the Vendor.
10. **GRATUITIES:** Shelby County Government may, by written notice to the Seller, cancel any contract and/or purchase order without liability to Seller if it is determined by the County that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officials or employee of the County with a view toward securing a contract for securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such a contract. In the event the contract and/or purchase order is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Seller in providing such gratuity.
11. **WARRANTIES:** Seller warrants that the items and services covered hereunder will conform to applicable specifications, instructions, drawings, data and samples, will be merchantable, of good material and workmanship, free from defects and will be fit and sufficient for the purpose intended. These warranties shall be in addition to all other warranties, expressed, implied or statutory. Payment for, inspection of, or receipt of articles or services shall not constitute a waiver of any breach of warranty.
12. **AUTHORIZATION FOR CHANGES:** Only the Administrator of Purchasing or his designated person has the authority to change any description, price or delivery date on this Purchase Order. If the terms listed hereon were purchased by the Buyer on a formal bid form, then NO change in above will be made.
13. **DEFAULT-CANCELLATION:** Buyer reserves the right by written notice of default, to cancel the order, without liability to Buyer, in the event of the happening of any of the following: insolvency of Seller, the filing of voluntary petition in bankruptcy of Seller, the filing of an involuntary petition to have Seller declared bankrupt, the appointment of a Receiver or Trustee for Seller, or the execution by Seller of an assignment for the benefit of creditors. If Seller fails to perform as specified herein, or if Seller breaches any of the terms hereof, Buyer reserves the right, without any liability to Buyer, upon giving Seller written notice, to (1) cancel this order in whole or in part, by written notice to Seller and Seller shall be liable to Buyer for all damages, losses and liability incurred by Buyer directly or indirectly resulting from Seller's breach, or (2) obtain the goods ordered herein from another source with any excess cost resulting therefrom, chargeable to Seller, if such deficiencies are not remedied. The remedies herein provided shall be cumulative and in addition to any other remedies provided at law or in equity.
14. **INDEMNIFICATION:** Seller agrees to indemnify and hold harmless Buyer, its successors and assigns, customers and users of its products against all suits at law or in equity and from all damages, claims and demands arising out of death or injury, to any person or damages to any property alleged to have resulted from the goods hereby ordered, and, upon the tendering of any suit or claim to Seller, to defend the same at Seller's expense as to all costs, fees and damages. The foregoing indemnification shall apply whether Seller or Buyer defends such suit or claims and whether the death, injury or property damage is caused by the sole or concurrent negligence of Seller or otherwise.
15. **PATENT INDEMNIFICATION:** Seller shall indemnify and save harmless Buyer, its successors, assigns, customers or users of its products, from and against all loss, liability and damage, including costs and expenses, resulting from any claim that the manufacture, use, sale or resale of any goods supplied under this order infringe any patent or patent rights, and Seller shall when notified, defend any action or claim of such infringement at its own expense.
16. **ASSIGNMENT:** Neither this contract or this purchase order, nor this order nor any rights or obligations herein may be assigned by Seller, nor may Seller delegate the performance of any of its duties hereunder without, in either case, County's prior written consent. Any assignment or attempted assignment, or any failure to third parties, without consent of the County, shall be cause for termination of the contract and/or purchase order at the option of the County.
17. **EQUAL EMPLOYMENT:** To comply fully with the equal requirements of Title VII of Civil Rights Act of 1964, and with Title VI of the Civil Rights Act of 1964.
18. **CONFLICT OF INTEREST:** No part of the total contract under purchase order amount shall be paid directly or indirectly to any official or employee of the County of Shelby Tennessee as wages, compensation, or gifts in exchange for acting as official, agent, employee, subcontractor, or consultant to the contractor in connection with any work contemplated or performed relative to this contract.
19. **HANDICAP, RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN:** No person on the grounds of handicap, race, color, religion, sex or national origin, will be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this contract, or in the employment practices of the contractor (vendor).
20. **APPLICABLE LAW AND VENUE:** The validity, interpretation and performance of these terms and conditions shall be governed by the laws of the State of Tennessee. By acceptance of this order, the vendor agrees that the venue for any cause of action arising pursuant to same shall be the courts of the State of Tennessee and any attempt by vendor to limit the effect of this provision shall be null and void.
21. **UNIFORM COMMERCIAL CODE:** If any provisions of this agreement are in conflict with the provisions of Title 47, Chapters 1 through 9, TCA, it is the intent of this agreement to modify or vary the provisions of Title 47 of the TCA.
22. **LIABILITY:** Any attempt by Vendor to limit its liability for goods or services provided under this purchase order shall be void and of no effect.

Item #: 3

Moved by: BILLINGSLEY

Prepared by: John Modzelewski

Seconded by: _____

Reviewed by: Lisa A. Overall
Assistant County Attorney

RESOLUTION APPROVING A CONTRACT AMENDMENT WITH THY, INC., IN THE AMOUNT NOT TO EXCEED \$50,318.00 FOR A TOTAL CONTRACT AMOUNT OF \$147,046.00 FOR PROFESSIONAL SURVEYING SERVICES RELATED TO THE SOUTH CYPRESS CREEK NATIONAL DISASTER RESILIENCE GRANT PROJECT. THIS ITEM REQUIRES THE EXPENDITURE OF FY 2018 FEDERAL GRANT FUNDS IN THE AMOUNT OF \$50,318.00. SPONSORED BY COMMISSIONER DAVID REAVES.

WHEREAS, Shelby County Government ("County") previously entered into a Contract dated June 7, 2017, with THY, Inc., for services to provide surveying data for the South Cypress Creek National Disaster Resilience Grant Project; and

WHEREAS, The County requires additional professional surveying services for the development of the South Cypress Creek project; and

WHEREAS, THY, Inc., has submitted a proposal in an amount not to exceed \$50,318.00 which is deemed to be fair and reasonable, to perform the requested additional services; and

WHEREAS, The parties now desire to enter into a Contract Amendment, attached hereto as Exhibit A to complete and fund said work; and

WHEREAS, Funds are available in the FY 2018 Operating Budget from Account No. 297-271273-6678, Professional Services-Other, for said work.

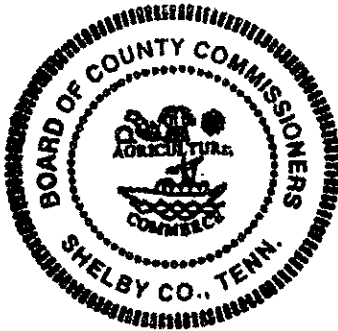
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the requested amendment to Contract No. CA1720858 with THY, Inc., attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.


BE IT FURTHER RESOLVED, That the County Mayor is hereby authorized to execute the aforementioned contract amendment and any and all documents necessary to effectuate this Resolution on behalf of Shelby County Government, an executed copy of which is to be placed on file in the Contract Administration Section of the Office of the County Attorney.

BE IT FURTHER RESOLVED, That the County Mayor and the Director of Administration and Finance are authorized to issue their warrant or warrants in an amount not to exceed \$50,318.00 to THY, Inc., for the purposes contained in this Resolution and to take proper credit in their accounting therefor.

BE IT FURTHER RESOLVED, That the Purchasing Department is authorized to issue purchase orders to THY, Inc., for the purchase of professional surveying services from the FY 2018 Operating Budget, Account No. 297-271273-6678, Professional Services – Other, subject to the availability of funds at the time the purchase orders are issued.

BE IT FURTHER RESOLVED, That this Resolution shall become effective in accordance with the Shelby County Charter, Article II, Section 2.06(B).





Mark H. Luttrell, Jr.,
County Mayor

Date: 1-29-18

ATTEST:



Pamela A. Hiebes
Clerk of County Commission

ADOPTED: January 22, 2018



Revised January 2, 2018

Mr. Tom Needham, PE
Shelby County
Director of Public Works
Via email

Re: South Cypress Creek Project Additional Services

Dear Mr. Needham,

THY, Inc., is pleased to submit this proposal for additional services to the SHELBY COUNTY GOVERNMENT for providing Land Surveying services for the development of the project mentioned above.

We have received requested information regarding detailed stream locations from Stantec, as well as additional information requested from Sasaki outside of the original scope as proposed by THY to Shelby County Government dated March 22, 2017. I have attempted to outline the additional services below.

Wetland Locations

| | |
|--|--------------------|
| 60 hours of field time @ \$156.00 per crew hour | \$9,360.00 |
| 2 hours of Survey Technician time @ \$75 per hour | \$150.00 |
| 32 hours of PLS supervision, calculations, review @ \$146 per hour | \$4,672.00 |
| Total | \$14,182.00 |

Sasaki additional information requests, enlarged detail area

Pick up additional information in enlarged detail survey area as requested

| | |
|--|-------------------|
| Estimate of one week of field work: 40 hours @ \$156.00 per crew hour | \$6,240.00 |
| Estimate of two days Survey Technician time: 16 hours @ \$75.00 per hour | \$1,200.00 |
| Estimate of two days of PLS supervision: 16 hours @ \$146.00 per hour | \$2,336.00 |
| Total Good Faith Estimate | \$9,776.00 |

Stantec Stream Locations and bridge survey information

Pick up selected stream profiles, additional sections, wet weather conveyances, wetland elevations, as provided on map provided by Stantec.

| | |
|--|--------------------|
| Estimate of three weeks of field work: 120 hours @ \$156.00 per crew hour | \$18,720.00 |
| Estimate of three days Survey Technician time: 24 hours @ \$75.00 per hour | \$1,800.00 |
| Estimate of two days of PLS supervision: 16 hours @ \$146.00 per hour | \$2,336.00 |
| Total Good Faith Estimate | \$22,856.00 |



Revise Surface with additional information

Revise the existing surface provided by THY to incorporate the additional requested information.

| | |
|---|-------------------|
| Estimate of 3 days of PLS supervision: 24 hours @ \$146.00 per hour | \$3,504.00 |
| Total Good Faith Estimate | \$3,504.00 |

Southern railroad crossing over South Cypress Creek

THY has performed some limited work in this area in the past. At that time, THY was denied access to the railroad property for the scope of that particular project. Working within the railroad right of way requires a substantial amount of paperwork, that additional insurance policies are in effect, railroad approved flagmen, etc. Should the design require THY personnel to enter into the railroad right of way, these issues will have to be addressed, and charged accordingly. The exact costs associated with this access cannot be determined until we know the exact extent of the scope for this area. Please keep in mind that should the design require this information, THY will attempt to coordinate with the County and the Railroad, but access cannot be guaranteed.

ADDITIONAL SERVICES

Any work not included in the above scope may be provided as additional services.

INFORMATION PROVIDED BY CLIENT

The Client agrees to promptly provide any pertinent information for the timely completion of the above tasks.

PROPOSED FEE FOR ADDITIONAL SERVICES

THY estimated time to perform the above-mentioned tasks. Based upon our conversations this will be an hourly project with a Not to Exceed Fee. Any services that exceed these good faith estimates will require a change order to the contract.

| | |
|--|---------------------------|
| Wetland Locations | \$14,182.00 |
| Sasaki Additional Information Requests | \$9,776.00 |
| Stantec Stream Profile Information | \$22,856.00 |
| Revise Surface with additional information | \$3,504.00 |
| Total | <u>\$50,318.00</u> |

NOTE: THE ABOVE ESTIMATES ARE BASED UPON THE WORK BEING COMPLETED DURING THE JANUARY/FEBRUARY TIMEFRAME. THE VEGATATION IN THIS AREA IS EXTREMELY THICK, AND LATE WINTER/EARLY SPRING AND SUMMER MONTHS THE TIME REQUIRED TO PERFORM THESE TASKS ARE MUCH GREATER, AND MORE EXPENSIVE.

Vertical text on the right edge of the page, possibly a page number or reference code.



ADDITIONAL NOTES

THY has not estimated the need for any boundary related work for this initial phase of the project. Based upon our experience in this area, the surveying is a difficult, and at times a dangerous, slow process during the summer months. The ideal time for surveying in this area would be in the late fall and winter after the vegetation has died for the season, however, THY is prepared to begin work in this area as soon as we are given a Notice To Proceed.

CLOSURE

We appreciate the opportunity to submit this proposal to you. Please contact me if you have any questions or wish to discuss any part of this proposal.

Sincerely,

A handwritten signature in black ink that reads 'Jimmy L. Cleveland'. The signature is written in a cursive, flowing style.

Jimmy L. Cleveland, RLS, PLS
T.H.Y., Inc
1760 Moriah Woods Boulevard
Suite 1
Memphis, TN 38117
Office: 901.362-3300 ext. 230
Fax: 901.685-1912
Email: jcleland@thyinc.com

First Amendment to Agreement

THIS AMENDMENT (hereinafter "Amendment") is made and entered into this 14th day of February, 2018 by and between Shelby County Government (hereinafter "County") and THY, Inc., (hereinafter "CONSULTANT").

WHEREAS, the parties previously entered into an agreement (hereinafter "Agreement") dated June 7, 2017, for surveying services for the South Cypress Creek National Disaster Resilience Grant design project; and

WHEREAS, the County now requires additional surveying services for the continued development of the South Cypress Creek National Disaster Resilience Grant design project; and

WHEREAS, CONSULTANT submitted a proposal for South Cypress Creek Project Additional Services, Revised January 2, 2018, to perform the additional work for a sum of Fifty Thousand Three Hundred Eighteen and 00/100 Dollars (\$50,318.00), a copy of which is attached hereto as Exhibit "1"; and

WHEREAS, the parties now desire to enter into this Amendment in order to proceed with the execution and performance of the additional required work.

NOW, THEREFORE, for and in consideration of the mutual promises of the parties to this agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:


1. Sections I and II of the Agreement, respectively entitled SCOPE OF WORK and TERM AND COMPENSATION, and Exhibit B to the Agreement are hereby amended to incorporate the additional services and costs as outlined in Exhibit "1", attached hereto and incorporated fully herein by reference.
2. The total cost for this additional work shall not exceed the amount of FIFTY THOUSAND THREE HUNDRED EIGHTEEN and 00/100 dollars (\$50,318.00) payable in accordance with the terms of the original Agreement.

3. CONSULTANT shall not be permitted or authorized to incur costs to the COUNTY beyond the extent that purchase orders have been issued on approved contracts and/or purchases prior to the commencement date, during the term of the contract, and/or subsequent to the termination date of COUNTY contracts or purchases without prior, expressly written, appropriate authorization pursuant to COUNTY purchasing procedures and rules and regulations. COUNTY is not obligated to pay nor shall CONSULTANT be entitled to receive payments for contract fees and expenses incurred in violation of this provision.
4. This Amendment shall be subject to and contingent upon adoption of the Fiscal Year 2017-2018 Operating Budget of Shelby County Government by the Board of County Commissioners and approval of the cost for this Amendment within said Operating Budget.
5. The terms and conditions of the original Agreement, except as amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment on the


14th day of February 2018.

**APPROVED AS TO FORM
AND LEGALITY:**

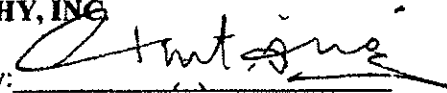


Contract Administrator/
Assistant County Attorney

SHELBY COUNTY GOVERNMENT


for _____
Mark H. Luttrell, Jr., County Mayor

THY, INC

By: 

Title: PRESIDENT

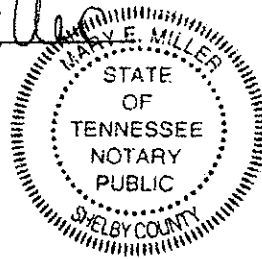
CORPORATE ACKNOWLEDGMENT

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Teck M. Tang, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the THY, Inc. the within named bargainer, a corporation, and that he as such President, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as Teck M. Tang.

WITNESS my hand and official seal at office this 10th day of January 2018.

Mary E. Miller
Notary Public



My Commission Expires: 04/26/2020