



**PURCHASING ITEM
FOR
COUNCIL AGENDA
Memo No. CA09-160**

1. Agenda Item Number:
37
2. Council Meeting Date:
February 12, 2009

TO: MAYOR & COUNCIL

3. Date Prepared: January 22, 2009

THROUGH: CITY MANAGER

4. Requesting Department: Public Works

5. SUBJECT: Approval of Change Order No. 1 to Nesbitt Contracting in an amount not to exceed \$6,781.42 for Western Canal Dust Control Project No. ST0811-401, under Job Order Contract JOC07-11 for a revised contract total not to exceed \$54,971.42.

6. RECOMMENDATION: Staff recommends that Council approve Change Order No. 1 to Nesbitt Contracting in an amount not to exceed \$6,781.42 for Western Canal Dust Control Project No. ST0811-401, under Job Order Contract JOC07-11 for a revised contract total not to exceed \$54,971.42.

7. BACKGROUND/DISCUSSION: In order to avoid receiving a Notice of Violation (NOV) from Maricopa County for Dust Control, staff determined that it was essential that fencing be installed across the same of the basins just south of the Western Canal at Alma School and Arizona Avenue. The fencing deters unauthorized access by motorized vehicles that are a leading contributor to dust complaints and potential violations. This change order covers the costs for special modifications including grounding and padlock tabs for the fencing, which was imposed by SRP as additional requires.

8. EVALUATION: Under separate instrument, Council is being asked to approve a one-year Contract in an amount not to exceed \$1,000,000 with the option of four one-year extensions, to Nesbitt Contracting, JOC07-11, for Transportation Related Construction. The costs for this project have been reviewed and approved by City Staff.

9. FINANCIAL IMPLICATIONS:

Original:	\$48,190.00
CO#1	\$ 6,781.42 14% of Org.
Total Cost:	\$54,971.42

Fund Source:

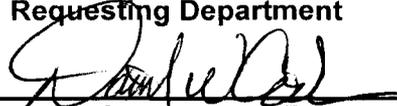
<u>Acct. No.:</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
412.3310.0000.6511.9ST303	Storm Sewer Bonds	Street Construction Various Improvements	FY08/09	\$6,781.42

10. PROPOSED MOTION: Move that Council approve Change Order No. 1 to Nesbitt Contracting in an amount not to exceed \$6,781.42 for Western Canal Dust Control Project No. ST0811-401, under Job Order Contract JOC07-11 for a revised contract total not to exceed \$54,971.42.

ATTACHMENTS: Location Map, Contract

APPROVALS

11. Requesting Department



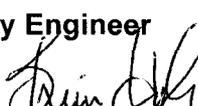
Daniel W. Cook, Deputy Public Works
Director

13. Department Head



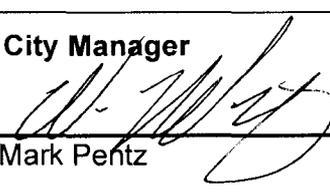
R.J. Zeder, Public Works Director

12. City Engineer



Sheina Hughes, Assistant Public Works
Director/City Engineer

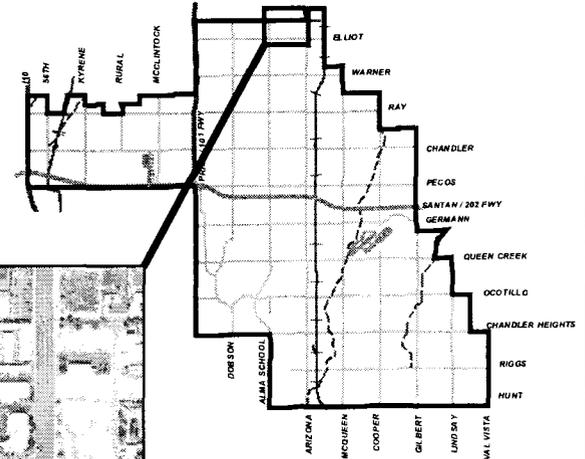
14. City Manager



W. Mark Pentz



WESTERN CANAL/DUST CONTROL MEASURES PROJECT NO. ST0811-401



MEMO NO. CA09-160

PROJECT AREA



NTS
Changis

CITY OF CHANDLER CHANGE ORDER

CHANGE ORDER NUMBER 1

DATE 1/16/09

This Change Order is not valid until signed by both the City and the Contractor. Signature of the Contractor indicates agreement herewith, including any adjustments in the Contract Price or Contract Time.

PROJECT NAME	<u>Western Canal Dust Control Measures</u>	CONTRACTOR	<u>Nesbitt Contracting Co., Inc.</u>
PROJECT NO.	<u>ST0811-401</u>	COST ACCT #	<u></u>
USER DEPT	<u>Streets</u>	NTP DATE	<u>4/16/08</u>

TO: Nesbitt Contracting Co., Inc.

(CONTRACTOR)

YOU ARE DIRECTED TO MAKE THE FOLLOWING CHANGES TO THIS CONTRACT:

(Describe changes in detail and/or reference attached cost breakdown sheet.)

Costs for change of scope per SRP requirements to add grounding and padlock tabs to fencing, Exhibit A attached hereto and incorporated by reference. Exhibit B, Required Compliance With Arizona Procurement Law, attached hereto and incorporated by reference.

THESE CHANGES RESULT IN THE FOLLOWING ADJUSTMENTS OF CONTRACT PRICE AND TIME:

ORIGINAL CONTRACT AMOUNT:	<u>\$48,190.00</u>
CURRENT CONTRACT PRICE PRIOR TO CHANGE ORDER (Including previous change orders)	<u>\$48,190.00</u>
NET CHANGE RESULTING FROM THIS CHANGE ORDER:	<u>\$ 6,781.42</u>
REVISED CONTRACT PRICE INCLUDING THIS CHANGE ORDER:	<u>\$54,971.42</u>
CHANGE ORDER IS % OF ORIGINAL CONTRACT AMOUNT:	<u>14.07%</u>

CONTRACT TIME OR COMPLETION DATE PRIOR TO THIS CHANGE ORDER (Including previous change orders):	<u>45</u>	<u>5/31/08</u>
	DAYS	DATE

NET CHANGE RESULTING FROM THIS CHANGE ORDER:	<u>260</u>
	DAYS

REVISED CONTRACT TIME AND COMPLETION DATE:	<u>305</u>	<u>2/15/09</u>
	DAYS	DATE

THE ABOVE IS AGREED TO BY:

<u>Nesbitt Contracting Co., Inc.</u>	<u><i>Joe Crowley</i></u>	<u>1/28/09</u>
CONTRACTOR	Signature:	Date

CITY OF CHANDLER (Date & Name of Owner Dept. verbal approval): 1/9/09 Dan Cook

For Change Orders of less than \$50,000 and 10% of contract price:

Title:	Signature:	Date:
<u>Director or Designee</u>	<u></u>	<u></u>

Or (but not both)

For Change Orders of \$50,000 or more, or 10% or more of contract price:

<u>MAYOR</u>	<u></u>	
Approved by Council on:	Date:	
<u></u>	<u></u>	
Date	Attest: City Clerk	Date
Approved at to Form:	<u></u>	<u></u>
City Attorney by:	<u><i>[Signature]</i></u>	<u></u>

EXHIBIT A
FEE SCHEDULE

Item No.	Description	UM	Unit Cost	QTY	Cost
1	Alma School Rd Grounding	LS	\$3,268.23	1	\$3,268.23
2	Arizona Ave Grounding	LS	\$1,569.84	1	\$1,569.84
3	Alma School Rd Padlock Tabs	LS	\$76.00	1	\$ 76.00
	Subtotal		\$4,914.07	1	\$4,914.07
	Coefficient (38% of Subtotal)	38%	\$1,867.35	1	\$1,867.35
	Total				\$6,781.42

EXHIBIT B

REQUIRED COMPLIANCE WITH ARIZONA PROCUREMENT LAW

Compliance with A.R.S. § 41-4401. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Iran.

In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Sudan."

EXHIBIT B (continued)

Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited State contract meet all conditions contained herein.

Project Number/Division:	ST0811-401 – Western Canal Dust Control Measures				
Name (as listed in the contract):	Nesbitt Contracting Co., Inc.				
Street Name and Number:	100 S. Price Road				
City:	Tempe	State:	AZ	Zip Code:	85281

I hereby attest that:

The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;

All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees; and

The contractor has identified all contractor and subcontractor employees who perform work under the contract and has verified compliance with Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214.

Signature of Contractor (Employer) or Authorized Designee:



Printed Name: James L. Nesbitt

Title: President

Date (month/day/year): January 28, 2009