

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

JOB ORDER NO. 2 TO NESBITT CONTRACTING CO., INC.
THROUGH EXISTING CONTRACT NO. C2011-184

ELLIOT ROAD MILL AND OVERLAY – HARDY DRIVE TO I-10

PROJECT NO. 5404851

This **JOB ORDER NO. 2** is entered into on this 8th day of March, 2012, by and between the **City of Tempe**, an Arizona municipal corporation (“City”) and **Nesbitt Contracting Co., Inc.**, an Arizona corporation (“JOC”), through the existing Contract made and entered into by and between the parties on December 1, 2011, (Contract No. C2011-184).

SECTION 1 – JOB ORDER PRICE AND WORK LOCATION: JOC shall furnish any and all plant, materials, labor, construction equipment, services and transportation (all applicable taxes included) required for performing all work for the construction of Elliot Road Mill and Overlay – Hardy Drive to I-10, (Project No. 5404851) (“Project”) for the sum of Eight Hundred Forty Five Thousand Forty Seven and 24/100 Dollars (\$845,047.24), as detailed in the Proposal (Exhibit “A”) attached hereto and incorporated herein by this reference, and to completely and totally construct the same and install the materials therein for the Project, in a good and workmanlike and substantial manner and to the satisfaction of City or its properly authorized agents and strictly pursuant to and in conformity with the Specifications and Plans for the Project and other documents that may be requested by City through its Engineer or other properly authorized agents, as provided herein. The full street or physical address of the construction work location (“Work Location”) is Elliot Road just east of the Hardy Drive intersection to poured concrete interface on the east side of I-10 at Elliot Road (approximately 4,990 linear feet), Tempe, Arizona. JOC shall list the Work Location in any subcontract related to this job order at any level and each subcontractor shall likewise include the Work Location in any of its subcontracts.

SECTION 2 – REQUIRED SUBMITTALS: JOC shall submit the completed forms referenced in the Forms Appendix (Exhibit “B”) attached hereto to City for approval prior to receipt of a Notice to Proceed issued by City for the Project.

SECTION 3 – AMENDMENT: City of Tempe Contract No. C2011-184, the terms and conditions contained therein and all exhibits attached to the Contract and to this Job Order No. 2, are by reference incorporated into this Job Order No. 2. All provisions of the underlying Contract where not inconsistent with this Job Order No. 2 shall remain binding on the parties.

SECTION 4 – JOB ORDER TERM: Work shall start as soon as practicable, and in no case later than seven (7) calendar days after the Notice to Proceed is issued by City, and shall be completed within ninety (90) calendar days thereafter.

[SIGNATURE PAGE TO FOLLOW]

Elliot Road Mill and Overlay – Hardy Drive to I-10
Project No. 5404851

DATED this _____ day of _____, 2012.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Director

ATTEST:

Recommended by:

City Clerk

Deputy PW Director/City Engineer

APPROVED AS TO FORM:

City Attorney

JOC warrants that the person who is signing this Job Order on behalf of the JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Job Order.

NESBITT CONTRACTING CO., INC.

By: _____
Name

Its: _____
Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Julie Stennerson
Executive Assistant

EXHIBIT B

FORMS APPENDIX

The following forms shall be completed and submitted with each Job Order.

LIST OF SUBCONTRACTORS SB-1

STATUTORY PERFORMANCE BOND PB-1

STATUTORY PAYMENT BOND PB-3

STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____, with
its principal office in the City of _____ (“Surety”), are held and firmly bound
unto _____ (“Obligee”) in the amount of _____ Dollars
(\$_____), for the payment whereof, the said Principal and Surety bind themselves,
and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by
these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 8th day of March, 2012, to complete Project No. 5404851, which Contract is
hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions
and agreements of said Contract during the original term of said Contract and any extension
thereof, with or without notice to the Surety, and during the life of any guaranty required under
the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions,
and agreements of any and all duly authorized modifications of said Contract that may hereafter
be made, notice of which modifications to the Surety being hereby waived; then the above
obligation shall be void, otherwise to remain in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 6, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by the Court. The performance under this bond is limited to the construction to be performed under this Contract and does not include any design services, preconstruction services, finance services, maintenance services, operations services or any other related services included in the Contract.

DATED this ____ day of _____, 2012.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

STATUTORY PAYMENT BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____,
with its principal office in the City of _____ (“Surety”), as held and firmly
bound unto _____ (“Obligee”) in the amount of _____
Dollars (\$ _____), for the payment whereof, the said Principal and Surety bind
themselves, and their heirs, administrators, executors, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 8th day of March, 2012, to complete Project No. 5404851, which Contract is
hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall promptly pay all monies due to all persons supplying labor or materials to the
Principal or the Principal’s Subcontractors in the prosecution of the construction provided for the
Contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that this bond is executed pursuant to Title 34, Chapter 6,
Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with
the provisions, conditions and limitations of said Title and Chapter to the same extent as if it
were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment
reasonable attorney fees that may be fixed by the Court.

DATED this _____ day of _____, 2012.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

**CITY OF TEMPE DEPARTMENT OF PUBLIC WORKS
UNCONDITIONAL WAIVER AND RELEASE
FOR CONTRACTOR'S PAYMENT
AND SETTLEMENT OF CLAIMS**

Upon receipt of payment from the City of Tempe, the undersigned:

Contractor's Name: _____

Contractor's Address: _____

The undersigned has been paid and acknowledges having received final payment from the City of Tempe in the amount of \$_____ [state dollar amount for final, total contract amount] for full and final payment of all work, services, equipment, labor, skill and material furnished, delivered and performed by the undersigned for the city or anyone in the construction [or other services] for ELLIOT ROAD MILL AND OVERLAY – HARDY DRIVE TO I-10 and PROJECT NO. 5404851 at the location of ELLIOT ROAD JUST EAST OF THE HARDY DRIVE INTERSECTION TO POURED CONCRETE INTERFACE ON THE EAST SIDE OF I-10 AT ELLIOT ROAD (APPROXIMATELY 4,990 LINEAR FEET); and does hereby waive and release any and all rights to mechanic's liens, any state or federal statutory bond right, any private bond right, any claim for payment and any and all rights under any applicable federal, state or local laws related to claim or payment rights for persons in the undersigned's position held on the above-referenced project against the City of Tempe, for this value received. The undersigned further agrees to defend, indemnify and hold harmless the City of Tempe against any and all liens, claims, suits, actions, damages, charges and expenses whatsoever, which the City may incur arising out of the failure or the undersigned to pay in full for all work, services, equipment, labor, skill and material furnished with regard to the project.

The undersigned, in consideration of the payment acknowledged, hereby warrants that he has already paid or will pay using the monies received from this final payment to promptly pay in full all of his contractors, subcontractors, laborers, materialmen and suppliers for all work, materials, equipment or services provided to the above-referenced project.

Contractor Signature

Date

By (Print Name and Title)

Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if signed, even if you have not been paid. If you have not been paid in full, use a conditional release form.

[NOTARY SEAL TO FOLLOW]

STATE OF ARIZONA)
COUNTY OF MARICOPA)

On ____ day of _____, 2012, _____ personally appeared before me, and proved by lawful identification documents to be the person who signed the preceding document in my presence, and who affirmed to me that the contents therein are truthful and accurate to the best of his/her knowledge and belief.

Notary Seal

Notary Public

Printed Name

My Commission Expires:
