



Contractor's License No.: AC 14126
General Engineering Contractor

2836 Awaawaloa Street
Honolulu, Hawaii 96819
Phone: 833-5400 Fax: 833-1300

AGREEMENT

This agreement made and executed this 29th day of December, 2004, by and between Road Builders Corporation, hereinafter called RBC, and Smith/Fori Development LP, hereinafter called the Customer.

Customer and RBC hereby agree as follows:

RBC will perform work included in the plans and specifications for the excavation and installation of fire hydrant and water meter, and paving work at 91-069 Fort Weaver Road, Ewa Beach, Hawaii 96706.

Scope of work to be performed and materials to be used:

- 1. Excavation for Fire Hydrant and Water Meter.....\$16,580.00
- 2. Installation of Fire Hydrant and Water Meter.....43,785.00

Note: The above price on excavation is based on excavating ordinary soil. Removal of hard rock encountered 12" below natural ground elevation will be charged as extra cost and will be re-negotiable. Additional inclusions and exclusions: See Exhibit B

- 3. Scarify, repave and compact existing materials. Apply prime coat and pave with new 2" Hot Mix Asphalt\$21,950.00

Additional inclusions and exclusions: See Exhibit C

Total Contract Amount ****EIGHTY-TWO THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$82,315.00)****

Number of days for Completion: 60 working days

Special Conditions:

1. The Work and Contract Price. Subject to Customer's acceptance of the terms of this Agreement by signing and returning it to RBC within ten (10) calendar days of the date stated above, RBC agrees to provide the labor and materials described above for improvement of the Property described above. Customer agrees to pay RBC the Contract Price stated above.

2. Payment, Interest, Costs, and Fees. Payment Schedule.

- 1/3 Upon issuance of the Notice to Proceed
- 1/3 Upon completion of the Fire Hydrant and Water Meter Installation.
- 1/3 Within thirty (30) days after completion of all work required under the contract.

Payment in full, no retention withheld. Interest at the rate of 12% will be charged on any outstanding invoices. If RBC hires an attorney to collect the amounts due under this Agreement, Customer shall pay RBC its reasonable attorneys' fees, costs, and expenses.

3. Limited Warranty. RBC will guarantee that its labor will be performed in a workmanlike manner and its materials are not defective for one year from the date of RBC's final invoice. RBC makes NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. RBC shall not be liable for incidental or consequential damages, nor for loss of income, business, or profit.

4. Delays. RBC shall not be liable for any delay or other failure of performance caused by strikes, lockouts, riots, civil disorders, wars, governmental restrictions, accidents, labor troubles, transportation delays, actions or inactions of persons not employed by RBC, fire, flood, acts of God, casualty or other causes not within RBC's reasonable control. If delays extend the number of days for completion of the Work, the Contract Price shall be equitably adjusted to account for any increased costs to RBC resulting from such delay.

5. Indemnity. Customer shall indemnify, defend, and hold RBC harmless from and against all claims, suits, costs, expenses, attorneys' fees, liabilities, and damages arising out of, caused by, or related to action or inaction by any parties or persons, other than RBC or its employees, with respect to the Work, this Agreement, or the Property.

6. Changed Or Concealed Conditions. Customer shall promptly inform RBC of any conditions and circumstances affecting RBC's Work. If conditions are encountered on the Property which are subsurface or otherwise concealed, then the Contract Price shall be equitably adjusted to account for any increased costs to RBC as a result of such conditions, together with RBC's overhead and profit.

7. Disclosure of Lien Rights. Attached as Exhibit A is a Disclosure of Lien Rights which is provided by RBC to Customer in connection with this Agreement.
8. Waiver Of Jury Trial. Customer and RBC agree that if there is any action or lawsuit filed in connection with the Work, this Agreement or the Property, that it shall be WITHOUT A JURY TRIAL and the parties waive any rights they may have to trial by jury in connection with such actions or lawsuits.
9. Value Engineering. Contractor and customer agree that, should there be a savings associated with consolidating water, sewer and fire hydrant lines into fewer trenches or other cost saving value engineering items, contractor will credit Customer the savings amount.
10. Miscellaneous. This Agreement contains all of the terms and conditions agreed to by the parties and takes the place of all earlier or other agreements between the parties relating to the Work. There are no oral agreements, statements, or representations of any kind relating to the Work. This Agreement may be changed only by a writing signed by the parties. This Agreement shall be governed by the laws of the State of Hawaii and shall be binding upon the parties and their respective heirs, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

ROAD BUILDERS CORPORATION
2836 Awaawaloa Street
Honolulu, Hawaii 96819
License No: AC14125

Smith-Foti Development LP
212 Merchant Street, Suite 330
Honolulu, Hawaii 96813

By Severino Agbayani
Severino Agbayani, Vice President

By John Foti
Print: Name and title