

Renee Sloan

From: Renee Sloan
Sent: Friday, February 3, 2023 1:57 PM
To: Rodney Salyers
Cc: Joe DiRienzi Sr.
Subject: EBG - work agreement executed for 17601 Captiva Lane - Jim Cillo
Attachments: Rice - EBG - Jim Cillo - 17601 Captiva Lane - executed contract 2.3.23.pdf

| Tracking: | Recipient | Delivery |
|------------------|------------------|-----------------------------|
| | Rodney Salyers | |
| | Joe DiRienzi Sr. | Delivered: 2/3/2023 1:58 PM |

Hi Rodney,
Please see the attached executed work agreement for 17601 Captiva Lane. Should you have any questions, please feel free to call the office anytime.

Have a great weekend.

Renee Rae Sloan



3570 Enterprise Ave, Suite 100
Naples, FL 34104
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www.eliasbrothersgroup.com

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Per Florida Senate Bill 76 - Consumer is responsible for payment of any insurance deductible; It is insurance fraud punishable as a felony of the third degree for a contractor to knowingly or willfully, and with intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible application to payment to the contractor for repairs to a property covered by a property insurance policy; and It is insurance fraud punishable as a felony of the third degree to intentionally file an insurance claim containing false, incomplete, or misleading information.



**RICE INSULATION & GLASS
WORK AGREEMENT**

License #:CGC 1518376

Branch#: 488 | 8951 Alico Trade Center Rd | Ft Myers, FL 33912 | (239) 495-0344

CUSTOMER/BUILDER
ELIAS BROTHERS GROUP / 1803689
3570 ENTERPRISE AVE Suite 100
NAPLES, FL 34104
(239) 272-7542

JOB SITE INFORMATION
USEPPA III MODEL / INSULATION
17601 CAPTIVA LN
FORT MYERS, FL 33908

TRADE: INSULATION
QUOTE #: 81791350 / 1
ISSUE DATE: 01-30-2023
SALES PERSON: Salyers, Rodney Allen

Base

| Work Area | Item | Notes |
|---------------------|---|--|
| Crawl Space Ceiling | R-20 HIGH YIELD = 5.5 Nominal Inches OPEN CELL FOAM | SPRAY R20 OPEN CELL FOAM AT CRAWL SPACE.ALL OLD INSULATION REMOVED BY OTHERS IF NEEDED . |

BASE TOTAL: \$5,222.00

NOTE: This agreement consists of multiple pages. If you do not receive the number of pages noted below, please contact Contractor directly at the telephone number stated above.

Draft stop, fire block, fire stop (IBC 718.4.1, 718.4.2 and 718.4.3 or locally adopted equivalent), and fire rated caulking are not included within Contractor's Work unless specifically listed above.

Contractor is willing to furnish to you all material and labor required for the Scope of Work, subject to the terms and conditions stated in this agreement.

TERMS OF PAYMENT: Payment in full due as stated on invoice regardless of any payment arrangements you have with third parties. Visit www.truteambillpay.com to manage your invoices and make payments online with TruTeam Bill Pay.

ACCEPTANCE: Contractor may change and/or withdraw this agreement if Contractor does not receive your signed acceptance within 10 business days after the Date stated above.

PRICING: The prices stated in the Scope of Work above will remain firm for 60 days after the Date stated above. If performance of this agreement extends beyond this 60 day period, you agree to pay Contractor's then current pricing ("Price") for any Work performed after that 60 day period. The Prices are based only on the terms and conditions expressly stated in this agreement. The Prices exclude any and all terms and conditions not expressly stated herein, including, without limitation, any obligation by Contractor to name you or any third-party as an additional insured on its insurance policy; to provide per project aggregate insurance coverage for the Work; to participate in any owner controlled, wrap, or similar insurance program; to indemnify or defend you or any third-party from any claims, actions and/or lawsuits of any kind or nature whatsoever except to the limited extent state in Section 18 of this agreement. Any terms or conditions required by you by contract or otherwise in addition to or inconsistent with those expressly stated in this agreement will result in additional charges and/or higher Prices. Any additional work performed is subject to Contractor's then current pricing (unless Contractor otherwise agrees in writing) and to this agreement.

CUSTOMER:

By: _____
SIGNATURE TITLE

CONTRACTOR

By:  _____
SIGNATURE TITLE

Company Name: _____

Date: 2/3/23

THE INFORMATION CONTAINED IN THIS AGREEMENT IS CONFIDENTIAL. NEITHER THIS AGREEMENT NOR ITS TERMS MAY BE DISCLOSED TO THIRD PARTIES.

1. **ACCEPTANCE.** This agreement is expressly limited to and made conditional upon your acceptance of its terms and conditions. Any of your terms and conditions which are in addition to or different from those contained herein which are not separately agreed to in writing (except additional provisions specifying quantity, description of the products or work ordered and shipping instructions) are deemed material and are hereby objected to and rejected. You waive your objection to any terms and conditions contained herein if Contractor does not receive written notice of your objection within ten business days of the date of this agreement. You will in any event be deemed to have assented to all terms and conditions contained herein if any part of the products or work described herein are provided or performed. Please note particularly the Limited Warranty, Limitation of Remedies and Limitations on Actions and Liability provisions set forth below. You acknowledge that the prices stated are based on the enforceability of these terms and conditions, and on the Limited Warranty, Limitation of Remedies and Limitation of Actions and Liability provisions below, that the price would be substantially higher if Contractor could not limit its liability as herein provided, and that you accept these provisions in exchange for such lower prices.
2. **LIMITED WARRANTY.** All work performed by Contractor is warranted to be free from defects in material and workmanship for one year from the date of completion of the installation subject to the terms below. Contractor makes no warranties regarding products sold but assigns to you any manufacturer warranties relating to the products. **THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** This limited warranty does not cover damages relating to (a) accident, misuse, abuse, neglect, or normal wear and tear; (b) failure to use or maintain the product in accordance with manufacturer's instructions; and (c) alteration, repair or attempted repair by anyone other than Contractor or its authorized representative. You shall be solely responsible for the correctness of the plans and specifications and shall release and hold harmless Contractor from any damages resulting from improper, inadequate or vague information supplied by you. Contractor does not take on any obligation to inspect or evaluate the work of other parties in any manner or aspect. This warranty is not transferable.
3. **INSURANCE.** Contractor shall maintain workers' compensation (employer liability), as required by law, and \$1,000,000 in general liability insurance while performing the work. Contractor reserves the right to be self insured to the extent allowed by applicable law. Contractor does not agree to name any other persons or entities as additional insureds.
4. **LIMITATION OF REMEDIES.** Your sole and exclusive remedy against Contractor for any and all claims for damages arising out of or alleged to have arisen out of the Work will be limited to the repair or replacement by Contractor, at Contractor's option, of any nonconforming work or to the issuance of a credit for such nonconforming work in accordance with these terms and conditions provided Contractor is given a reasonable opportunity to inspect the work and confirms such nonconformity. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as Contractor is willing and able to repair or replace the nonconforming work and, in any event, Contractor's maximum liability for any damages shall be limited to the total amount paid to Contractor for the Work under this agreement. This Limitation of Remedies clause shall apply to the parties to this agreement as well as to the current owner(s) of the project and its/ their respective successors and assigns. If you receive a claim for damages by any owner arising out of or alleged to have arisen out of the Work, you agree to give written notice to Contractor of the claim and provide Contractor an opportunity to inspect the alleged damages within 30 days after Contractor's receipt of the notice. If you fail to give the required notice and/or fail to allow Contractor an opportunity to inspect the alleged damages within 30 days, you hereby waive any and all rights for damages and/or correction of work against Contractor. This Limitations of Remedies may be plead as a complete bar to any action in violation of this clause.
5. **LIMITATIONS ON ACTIONS AND LIABILITY.** All claims and/or lawsuits including but not limited to claims or lawsuits for indemnity and/or contribution against Contractor arising under this agreement must be made within 13 months from the date of completion of the installation. **CONTRACTOR WILL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR INJURY RESULTING FROM DELAY IN DELIVERY OF THE PRODUCTS OR FOR ANY FAILURE TO PERFORM THAT IS DUE TO CIRCUMSTANCES BEYOND ITS CONTROL. CONTRACTOR DISCLAIMS ALL LIABILITY FOR ANY AND ALL DAMAGE WHICH MIGHT BE SUSTAINED BY ANY PERSON WHO MAY BE ALLERGIC TO OR AFFECTED BY THE EMANATION OF PARTICLES FROM CERTAIN TYPES OF INSULATION, THE MAXIMUM LIABILITY, IF ANY, OF CONTRACTOR FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES AND DAMAGES FOR INJURIES TO PERSONS OR PROPERTY, WHETHER ARISING FROM CONTRACTOR'S BREACH OF THIS AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, WITH RESPECT TO THE PRODUCTS, OR ANY SERVICES IN CONNECTION WITH THE PRODUCTS, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE CONTRACT PRICE. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS, ATTORNEY'S FEES AND/OR COSTS EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED IS YOUR EXCLUSIVE REMEDY IN THE EVENT THAT ANY OTHER CONTRACTUAL REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**
6. **PRICES, TERMS AND SHIPMENT.** No cash discounts, back charges, set offs or counterclaims are allowed unless specified by Contractor. In addition to the prices specified, you agree to pay any federal, state or local excise, use, occupational, or similar tax now in force or to be enacted in the future, assessed against Contractor or you by reason of this transaction. No retention is permitted unless Contractor agrees otherwise in writing. Any past due payment will be, at Contractor's option, subject to interest at 1.5% per month (18% per annum) to the extent permitted by law. You agree to receive (or permit Contractor to receive) near the work site, any materials needed to complete the Work. You agree to protect such materials from damage or loss and provide Contractor, free of charge, with reasonable use of light, heat, water, power, storage space and use of available elevators and hoists as needed. Title to all materials under this agreement shall not transfer to you until Contractor receives payment in full. Contractor may charge you a fee and its actual expenses if the job site is not ready for work on the date you specify.
7. **FORCE MAJEURE.** Contractor shall not be liable for any delay, failures, or default in performance of this agreement or otherwise, in whole or in part, caused by the occurrence of any contingency beyond the control either of Contractor or of suppliers to the Contractor. Such contingencies include but are not limited to failure or delay in transportation, acts of any government or any agency or subdivision thereof, judicial action, labor disputes, fire, accident, acts of nature, severe weather, product allocation or shortages, labor shortages, fuel shortages, raw material shortages, machinery or technical failure, or work that cannot be completed because of another contractor covering the pertinent portion of the building. If any contingency occurs, Contractor may allocate production, deliveries, and performance of work among its customers or substitute substantially similar materials, in its sole discretion, without liability for doing so.
8. **CONFIDENTIALITY.** If you visit Contractor's premises or you otherwise receive any proprietary or confidential information from Contractor, you shall retain such information as confidential and not use or disclose it to any third party without Contractor's written consent.
9. **CREDIT APPROVAL.** Shipment and delivery of goods and performance of work shall at all times be subject to the approval of Contractor's credit department and Contractor may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or upon terms and conditions of security satisfactory to Contractor. By signing this agreement, you authorize Contractor to check your credit and references.
10. **CANCELLATION.** This agreement, or any part of it, may only be cancelled with Contractor's written approval. In the event of cancellation of this agreement, or any part hereof, you shall pay: (a) the contract price of all completed items; (b) that portion of the contract price that is equal to the degree of completion of products or work in process, effective on the date Contractor receives notice of cancellation; (c) the cost of any materials and supplies which Contractor shall have purchased to perform and which cannot be readily resold or used for other or similar purposes; (d) a restocking fee; and (e) any expenses incurred by Contractor (including legal fees and judgments) as a result of the cancellation of subcontracts or purchases related to this agreement.
11. **DEFAULT.** You may terminate this agreement for Contractor's default, wholly or in part, by giving Contractor written notice of termination as follows. You may give a written notice of termination only if Contractor has received a written notice from you specifying such default, the default is not excusable under any provision hereof, and the default has not been remedied within thirty (30) days (or such longer period as may be reasonable under the circumstances) after Contractor's receipt of the notice of default. Delivery of nonconforming products or work by Contractor shall give you the rights set forth in paragraph 4 hereof but shall not be deemed a default for purposes of termination. In the event of termination for default, you shall be relieved of the obligation to pay for work not performed by Contractor prior to the effective date of such termination. A default on Contractor's part shall not subject Contractor to liability, through payment by Contractor, set off or otherwise, for any other damages, whether direct, consequential or incidental, and whether sought under theories of contract or tort.
12. **ASSIGNMENT.** You may not assign this agreement or any claim against Contractor relating to this agreement.
13. **GOVERNING LAW.** This agreement shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of Contractor's address first listed on the front of this agreement.
14. **DISPUTES AND MANDATORY MEDIATION.** In the event that a dispute arises over the reasonableness of or entitlement to fees charged by Contractor, the prevailing party will be entitled to reasonable attorneys fees and costs. In all other disputes of any nature, each party shall pay its own fees and costs. Except as required to protect confidential information and to obtain preliminary injunctive relief to prevent irreparable harm, you and the Contractor agree that prior to the initiation of any legal action the parties will engage in facilitative mediation of any and all disputes in any way related to this agreement. If the parties cannot agree upon a facilitative mediator within 30 days of when the dispute arose, one will be selected pursuant to the Commercial Mediation Rules of the American Arbitration Association. Each party will share equally the fees of the facilitative mediator and costs of the mediation.
15. **INSULATION DOES NOT PREVENT FROZEN PIPES.** Insulating around water lines in an unconditioned or semi-conditioned area will not prevent pipes from freezing or accumulating condensation. To decrease the possibility of frozen pipes, locate any water pipes within a conditioned area, such as internal walls rather than external walls. If You do not locate the pipes within an internal wall, you hold Contractor harmless and release Contractor from any claims relating to frozen or burst pipes.
16. **SEVERABILITY.** If any provision on this agreement is not enforceable, that provision shall be effective only to the extent permitted by law and all other provisions of this agreement shall remain.
17. **ENTIRE AGREEMENT.** This instrument contains the entire agreement of the parties relating to the subject matter hereof and may only be waived, changed, modified, extended or discharged orally by a writing signed by the party against whom enforcement of any such waiver, change, modification, extension or discharge is sought. The terms and conditions of this agreement supersede any agreement to which it is attached.
18. **INDEMNITY.** Each of the parties to this agreement agrees to defend and indemnify one another from any and all claims, actions and/or lawsuits caused by the party's negligent acts or omissions. This indemnity clause and the obligations created herein shall control and take priority over any contrary indemnity agreement entered into prior to this agreement. Furthermore, this indemnity clause and the obligations created herein shall control and take priority over any contrary indemnity agreement entered into subsequent to this agreement unless the subsequent agreement specifically refers to this indemnity clause and declares it null and void.



RICE INSULATION & GLASS

ADDENDUM

License #:CGC 1518376

Branch#: 488 | 8951 Alico Trade Center Rd | Ft Myers, FL 33912 | (239) 495-0344

CUSTOMER/BUILDER

ELIAS BROTHERS GROUP / 1803689
3570 ENTERPRISE AVE Suite 100
NAPLES, FL 34104
(239) 272-7542

JOB SITE INFORMATION

USEPPA III MODEL / INSULATION
17601 CAPTIVA LN
FORT MYERS, FL 33908

TRADE: INSULATION

QUOTE #: 81791350 / 1
ISSUE DATE: 01-30-2023
SALES PERSON: Salyers, Rodney Allen

Rice Insulation & Glass ("Contractor") and Customer each agree to amend the agreement ("Agreement") for the Project specified above as follows:

- 1. Customer has contracted with Contractor for the installation of spray polyurethane foam in accordance with the scope of work ("Work") specifically set forth in the Agreement. This Addendum modifies the terms of the Agreement and its exhibits and addenda. If any of the terms and conditions of this Addendum should conflict with any terms and conditions of the Agreement this Addendum shall control. These modifications are mutually agreed to by the parties and are supported by legal consideration. Customer's acceptance shall be evidenced by permitting Contractor to perform the Work.
2. Contractor agrees to incorporate by reference the scope of work and terms and conditions as set forth in Contractor's Proposal, dated January 30, 2023, including all exclusions contained therein.
3. In performing work, Subcontractor is not inspecting or assessing, and undertakes no responsibility to inspect or assess, the Project site (or any component or system thereof) for any purpose other than to perform the Work. The rights and obligations between Contractor and Customer concerning Work performed by Contractor shall be as expressly stated in the Proposal.
4. Customer acknowledges that the spray polyurethane products and the installation specifications selected by the Customer and described in the Work are subject to building codes and evaluation reports which contain express requirements and/or recommendations which are outside the Work unless expressly enumerated in the Proposal. Such requirements and/or recommendations may include, but are not necessarily limited to: installing a specified attic hatch; limiting entry to the attic or crawl space only for service of utilities and not permitting storage in the attic or crawl space; ensuring that (a) there are no interconnected attic, crawl space or basement areas, (b) the air in the attic or crawl space is not circulated to other parts of the building, (c) combustion air and attic ventilation is provided when required, (d) the attic assembly has been properly constructed and (e) a code official has provided the required inspections.
5. The Contractor bears no responsibility for the failure of the Customer, developer, builder, owner or subsequent owner, to use and maintain the attic space in strict accordance with the applicable building codes and evaluation reports.
6. Building codes may require, and evaluation reports may specify, a thermal barrier or ignition barrier be applied to the spray foam applied insulation. A thermal barrier or ignition barrier is not included within the Work unless specifically listed in the Proposal.

CUSTOMER:

CONTRACTOR:

By:

By:

[Handwritten signature]

Date:

Date:

2/3/23