



Fairfield Insulation
Lic #: NONE ON FILE



WORK AGREEMENT

TO: BERKELEY PROPERTIES		RE:	
Address:		Job A	
Attn: ROBERT CAFFREY		Date: 08/26/2013	Expiration Date: 08/01/2013
Tel:		Estimator: Telesco, Thomas	
Fax:			

Bid Summary

Quote #	Plan	Trade	Total
1717101	Version 1 Of 1	FIREPLACE	\$3,400.00

Prices Good For Work Performed Through: August 01, 2013

Bid Date: May 03, 2013

Total Bid: \$3,400.00



Fairfield Insulation
Lic #: NONE ON FILE
 227 Wilson Ave Norwalk, CT 06854-5026
 Tel: (203) 854-5767, Fax: (203) 854-5747
WORK AGREEMENT

TO: BERKELEY PROPERTIES		RE: 159 OENOKE RIDGE RD FIREPLACE	
Address: 37 BISSELL RD Lebanon, NJ 08833		Job Address: 159 OENOKE RIDGE RD NEW CANAAN CT 06840	
Attn: ROBERT CAFFREY		Date: 08/26/2013	Expiration Date: 08/01/2013
Tel: (908) 3031641		Estimator: Telesco, Thomas	Quote #: 1717101 Version 1 Of 1
Fax: (908) 2366630			

Subject to the terms and conditions stated in this agreement, Company is willing to furnish to Customer all material and labor required for the Scope of Work described below:

Scope of Work (the "Work") to be performed:	
Plan#:	Trade: FIREPLACE
<p align="center"> FPGA LE LDV42P, ELITE LINEAR DIRECT VENT 42" GAS FIREPLACE LP FPOP LE SURR-LDV42-B, SURROUND LINEAR 42", BLACK FPGA LE VE SV4.5HT-2 HORIZONTAL TERMINAT FPGA LE VE SV4.5L12 12" RIGID DV VENT FPGA LE VE SV4.5E90 90 DEGREE ELBOW FPGA LE VE SV4.5LA ADJUSTABLE LENGTH SLI </p>	
Base Price: <u>\$3,400.00</u>	Additional Information: Set and Vent: \$3400
<p>The term "Price" includes only the firebox; fire-stop spacers; wood fueled fireplace system and/or gas fueled fireplace system components (as specified in this Agreement); and chimney and/or venting system (per height or run as stated).</p> <p>Unless otherwise expressly stated in this Agreement, "Price" does not include: [1] elbows and/or offsets; [2] glass doors; [3] outside air access equipment; [4] chase covers or shrouds; [5] accessories; and [6] permits.</p> <p>To be performed by Customer: You shall (a) furnish all framing, cutting of holes, gas lines with shut-off valves; drywall where required in chase area, all finish carpentry and electrical power and switch; (b) properly design and install chases to prevent heat or cold infiltration, unless otherwise stated in this Agreement; (c) ensure that proper clearances to fireplace system are maintained by other contractors after Contractor installs the fireplace; (d) ensure that the fireplace and its components are not altered, modified or damaged after installation by Contractor; and (e) ensure that the property line setback complies with applicable code provisions.</p> <p>Condition to Commencement of Work by Contractor: You shall ensure that all holes are cut and/or chases framed to required height and other dimensions.</p> <p>You shall maintain a safe work environment providing general orderliness, hazards from other contractors, fall protection (guardrails in place), floor openings (holes covered/protected), hazards from debris, snow, ice and grease, protection from falling objects (from above) and proper access to all levels.</p>	

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

TERMS OF PAYMENT: Payment in full due as stated on invoice regardless of any payment arrangements you have with third parties.
ACCEPTANCE: Company may change and/or withdraw this agreement if Company does not receive your signed acceptance on or before the Expiration Date stated above.
PRICING: The prices stated in this Agreement will remain firm for 90 days after the Date stated above. If performance of this agreement extends beyond this 90 day period, you agree to pay Company's then current pricing ("Price") for any Work performed after that 90 day period. The Prices are based only on the terms and conditions expressly stated in this agreement and include any and all addendums, attachments, schedules or exhibits attached hereto. The Prices exclude any and all terms and conditions not expressly stated herein, including, without limitation, any obligation by Company 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 Company's then current pricing (unless Company otherwise agrees in writing) and to this agreement.

CUSTOMER:	COMPANY:
By: _____	By: _____
SIGNATURE TITLE	SIGNATURE TITLE
Company Name _____	Date: _____

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 Company 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 Company 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 Company 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. Company 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 Company or its authorized representative. You shall be solely responsible for the correctness of the plans and specifications and shall release and hold harmless Company from any damages resulting from improper, inadequate or vague information supplied by you. Company 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.** Company shall maintain workers' compensation (employer liability), as required by law, and \$1,000,000 in general liability insurance while performing the work. Company reserves the right to be self insured to the extent allowed by applicable law. Company does not agree to name any other persons or entities as additional insureds.

4. **LIMITATION OF REMEDIES.** Your sole and exclusive remedy against Company 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 Company, at Company'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 Company 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 Company is willing and able to repair or replace the nonconforming work and, in any event, Company's maximum liability for any damages shall be limited to the total amount paid to Company 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 Company of the claim and provide Company an opportunity to inspect the alleged damages within 30 days after Company's receipt of the notice. If you fail to give the required notice and/or fail to allow Company 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 Company. 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 Company arising under this agreement must be made within 13 months from the date of completion of the installation. **COMPANY 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. COMPANY 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 COMPANY FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES AND DAMAGES FOR INJURIES TO PERSONS OR PROPERTY, WHETHER ARISING FROM COMPANY'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 COMPANY BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS, ATTORNEYS 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 Company. 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 Company or you by reason of this transaction. No retention is permitted unless Company agrees otherwise in writing. Any past due payment will be, at Company'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 Company 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 Company, 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 Company receives payment in full. Company 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.** Company 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 Company or of suppliers to the Company. 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 Company covering the pertinent portion of the building. If any contingency occurs, Company 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 Company's premises or you otherwise receive any proprietary or confidential information from Company, you shall retain such information as confidential and not use or disclose it to any third party without Company'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 Company's credit department and Company 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 or security satisfactory to Company. By signing this agreement, you authorize Company to check your credit and references.

10. **CANCELLATION.** This agreement, or any part of it, may only be cancelled with Company'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 Company receives notice of cancellation; (c) the cost of any materials and supplies which Company 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 Company (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 Company's default, wholly or in part, by giving Company written notice of termination as follows. You may give a written notice of termination only if Company 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 Company's receipt of the notice of default. Delivery of nonconforming products or work by Company 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 Company prior to the effective date of such termination. A default on Company's part shall not subject Company to liability, through payment by Company, 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 Company 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 Company'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 Company, 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 Company 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 Company harmless and release Company 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.