

MANAGEMENT AGREEMENT
Pegasus Property Management

This AGREEMENT is made on the 1st day of January 2018, and shall continue through the 31st day of December 2018, by and between ISLAND PARK VILLAGE, SECTION 5.2 CONDOMINIUM ASSOCIATION, INC. (a Florida Not-For-Profit Corporation) and Pegasus Property Management (PPM) with reference to the following facts:

The Association is the entity created under Chapter 718, Florida Statute, which is responsible for the operation of ISLAND PARK VILLAGE, SECTION 5.2 CONDOMINIUM ASSOCIATION, INC. APPOINTMENT OF MANAGING AGENT

The Association hereby appoints PPM and PPM hereby accepts such appointment on the terms and conditions herein contained as the Managing Agent of the Association to maintain, operate, manage, and supervise the community in accordance with the terms and provisions of this Agreement and to otherwise perform the obligation as hereinafter set out.

IT IS THEREFORE AGREED AS FOLLOWS:

1. **EXCLUSIVE MANAGER.** The Association hereby retains and appoints PPM, and hereby accepts such retainer and appointment, on the terms and conditions set forth below, as exclusive Manager for the Association.
2. **TERM.** This Agreement shall commence on the date specified in Exhibit "A", and shall continue for a one year period thereafter. If neither party has given the other 30 days written notice of its desire to terminate this Agreement as herein after provided, then the term shall be automatically renewed for an additional one year term and such renewals and or revisions shall continue on a year-to-year basis unless terminated as hereinafter provided.
3. **DEFINITIONS: GOVERNING LAW.** The terms used in this Agreement shall be defined as stated in Chapter 718, Florida Statutes, in the Declaration, or in the Covenants and Restrictions. It is the intent of the parties that this Agreement complies in all respects with Chapter 718.
4. **RESPONSIBILITIES OF MANAGING AGENT.** The role of the Managing Agent is to implement the decisions and the policies established by the Board of Directors of the Association. The Board of Directors of the Association is responsible for the administration of the programs, services, and activities of the association as established in the founding documents and as amplified or clarified by resolution of the corporation. Subject to direction by the Board of the Association, the PPM's functions, duties, responsibilities, and authority shall include the following:
 - 4.1. **Administrative Services**
 - a. Organize and coordinate meetings of the Board, including the Annual Meeting, including the preparation of notices, agendas, minutes, proxies, ballots, and other necessary documents.
 - b. Organize and coordinate meetings of the Board of the Association, including the budget meeting, including the preparation of notices, agendas, minutes, proxies, and other necessary documents.

Accepted by:

ISLAND PARK - #000001

- c. Guide and assist members of the Board in regard to Florida Statute 718 in the performance of their obligations, including enforcement, to the extent permitted by law, of the governing documents for the Association and resolutions adopted by the Board of Directors from time to time.
- d. Guide and assist the Board in the development of policies and procedures.
- e. As requested by the Board, assist in the administration of the provisions of the Declaration, Articles of Incorporation, and By-laws, Rules and Regulations and policies of the Association (the "Governing Documents").
- f. Keep all records of the affairs of the Association and the Board, including, but not limited to, the Declaration, Articles of Incorporation, By-laws, Rules and Regulations, policies, minutes of meetings, copies of contracts, etc., (which documents are to be provided to PPM by the Association) and maintain all such documents in a current status. All such records shall belong to the Association.
- g. Maintain current registers of owners, officers, and directors and such other registers or schedules as may be required by the governing documents, which is to be provided to PPM by the Association.
- h. Prepare all general correspondence regarding the Association.
- i. Assist in resolving individual owner requests as they pertain to the administration of the Association, its common areas, and governing "Rules and Regulations".
- j. Perform not less than one monthly on-site inspection.

4.2. Fiscal Services

- a. Assist as needed in the preparation of the annual budget in accordance with GAAP, not less than thirty (30) days before the beginning of the fiscal year for which the budget applies. The budget shall be based on prior operating expenditures, estimated future income expenses, and required capital reserves. PPM shall not be responsible for any discrepancies between the budget and actual income and expenses, the budget being an estimate to be used only as a guide. The budget shall be submitted to the Board for its consideration and adoption, and if required by the governing documents, PPM shall cause a copy of the proposed budget to be mailed or delivered to each owner.
- b. Account for all monthly assessments and other charges due by owners; maintain checking, savings and other income accounts at institutions of the Association's choosing styled in the name of the Association with at least one member of the Board being amongst the authorized signatories on behalf of the Association and maintain comprehensive records thereof; each of such accounts to be separate and apart from all other accounts of PPM and the amounts therein not to be commingled with any other funds controlled by PPM. PPM shall not be an authorized signatory on the Association account (s) without the permission of the Board.

- c. Mail notice of delinquency to any Owner in arrears and take such reasonable action for the collection of the delinquent assessments as the Board may determine in accordance with the governing documents and adopted policy procedures.
- d. Make all disbursements from assessments collected for normal recurring expenses as provided in the budget. All expenditures not budgeted shall be made only with the approval of the Board. Approval shall be deemed on acceptance of the monthly financial statement at the subsequent meeting of the Board.
- e. Furnish a monthly financial statement prepared on a full accrual basis, in accordance with generally accepted accounting principles, which will include all income and expenses and will reflect the net cash position of the Association.
- f. Review and verify all bills received for services, work, supplies, materials, and similar items ordered in connection with maintaining and operating the common areas, and cause all such bills to be paid promptly.

4.3. Physical Management

- a. Direct and order to be done those things that are necessary to maintain the property in accordance with the provisions of the operating budget as approved by the Board. PPM shall not be responsible for taking any action unless directed by the Board.
- b. Negotiate on behalf of the Association contracts for landscaping, pest control, trash removal, and such other services for the Community for which the Association is responsible or as may be necessary and advisable in the best interest of the Association.
- c. Notwithstanding anything to the contrary contained in this Article and the limitations herein imposed, PPM may on behalf of the Association without prior consent, expense any amount or incur a contractual obligation in any amount reasonably required to deal with emergency conditions which may involve a danger to life or property, or may threaten the suspension of any necessary service to the Community.
- d. Everything done by PPM within the scope of this Management Agreement shall be done as an agent for the Association, and all obligations or expenses incurred hereunder shall be for the account, on behalf, and at the expense of the Association. PPM shall not be obliged to make any advance to or for the account of the Association or to pay any sum, except out of funds held or provided as aforesaid, nor shall PPM be obliged to incur any liability or obligation for the account of the Association without assurance that the necessary funds for the discharge thereof will be provided.
- e. PPM shall not be held to a higher degree of care in regard to the performance of its tasks than a Director of the Association shall, as provided in the Florida Not-for-Profit Corporation Act. Specifically, PPM shall discharge its duties in good faith with ordinary care, and in the manner that PPM believes to be in the best interest of the association. PPM is not deemed to have the duties of a trustee of a Trust with respect to the Association its members, officers and directors. Similarly, PPM shall not be deemed to be a trustee for any of the tasks that it shall perform for the Association including but not limited to those tasks

set out in this Management Agreement.

5. INSURANCE

a. PPM agrees to carry at its own expense:

1. Worker's Compensation Insurance in compliance with Florida Employers Liability Act and all amendments thereto.
2. Public Liability Insurance with limits of liability for bodily injury of \$100,000 per person, \$300,000 per accident, and \$25,000 for property damage.
3. Auto Liability Insurance with minimum limits.
4. Fidelity Bond coverage in an amount not less than \$250,000.00

b. The premium in regard to any increase in the amount of coverage set forth in *Section 5.a* above required by the Association shall be paid by the Association and shall be considered as an expense of the operation of the community.

c. PPM shall be named an additional insured on the Association's general liability umbrella, bonding, Directors & Officers insurance policies, which policies shall be maintained in full force and effect during the entire term of this Management Agreement and in such amounts as the Association and PPM may agree. PPM shall be responsible for notification of any additional insured.

6. TERMINATION

Both the Association and PPM have the right to terminate this Management Agreement with or without cause, upon thirty (30) day written notice. Such notice must be delivered via registered/certified mail, return receipt requested, which will trigger and determine the exact termination date upon receipt. Both parties recognize that the Board has the authority to act on behalf of the Association in this regard.

7. COMPENSATION

For PPM's service under this Agreement, PPM shall receive the amounts specified in Exhibit "A" attached hereto which amounts shall be payable monthly in advance. By agreement between PPM and the Board the compensation payable to PPM may be amended to the amount reflected each year in the operating budget as adopted and approved for the ensuing year. PPM is authorized and directed to obtain payment of such compensation when due from the Community's funds regardless of any other payments required to be made.

8. ASSOCIATION REPRESENTATIVE

The Association shall designate a single individual who shall be authorized to deal with the managing agent on any matter relating to this Agreement and the managing agent's performance of its duties. In the absence of any such designation, the president of the association shall have this authority. This does not limit calls to the management company from owners or other board members. It is designed to allow the management company to have a contact authorized by the board.

9. MISCELLANEOUS

a. Notices

Any notice or communication, other than termination, hereunder must be in writing, and shall be personally delivered or sent by facsimile or by registered or certified mail, return receipt requested, and if given by registered or certified mail, same shall be deemed to have been given and received five (5) days after its mailing, postage prepaid to the address listed below. Such notices or communication shall be given to the parties hereto at the following addresses:

To the President of the Association, at the address of the Association, with the date of the notice or communication: c/o PPM at 3409 Pelican Landing Parkway, Suite 3, Bonita Springs, FL 34134.

Any party may at any time, by giving ten (10) days written notice to the other party, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

b. Relationship of Parties

1. All actions by the Manager with respect to management and maintenance under this Agreement shall be as agent for the Association, and all obligations or expenses incurred in the performance of the Manager's duties and obligations shall be for the account of, on behalf of, and at the expense of the Association. The Manager shall not be obligated to make any advances to or for the account of the Association or to pay any obligations of the Association, nor shall the Manager be obligated to incur any liability or obligation on behalf of the Association without reasonable assurance that the necessary funds for the discharge there of will be provided.

2. Management Company employees and agents shall be deemed to be independent contractors and not employees of the Association. The Association shall not be responsible to pay for any employee benefits, employee withholding taxes or other taxes, charges or costs, or any other expenses of any nature, except for the fees and costs specifically provided by this Agreement. The Association will not pay or provide worker's compensation coverage for the Manager. The Manager shall be solely responsible for payment of any such taxes or contributions. The Manager shall be free to contract for similar services to be performed for other entities while it is under contract with Association.

3. Manager is responsible for obtaining all personal licenses necessary to perform his or her duties as a Community Association Manager (CAM), including attendance at any educational seminars or courses as required by law to maintain his, her or its license.

4. The Manager, both during the period when this Agreement is in effect and at any time thereafter, shall not, without written authorization from the Association, directly or indirectly disclose to any other person, firm, or corporation any confidential information or trade secret regarding the Association, take or make available to any other party any documents, files, or other papers belonging to or concerning the business and financial affairs of the Association, including, but not limited to, any owners lists, or commit any other act, or in any way assist others to commit any act, for the purposes of injuring the Association except under court order.

10. ASSOCIATION INSURANCE

a. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds to the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its Management Agent at one time. As used in this paragraph, the term "Persons who control or disburse funds to the Association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the Association. The Association shall bear the cost of bonding.

b. The provisions of this paragraph shall survive the termination of this Agreement, and shall continue in full force and effect subsequent to the termination of this agreement.

11. HOLD HARMLESS/INDEMNIFICATION

The Manager shall be indemnified by the Association against all expenses and liabilities, including legal fees reasonably incurred by or imposed upon Manager in connection with any proceeding or settlement of any proceeding to which the Manager may be a party or in which it may become involved, by reason of this Contract, arising out of or in connection with the Manager's action undertaken with due care and good faith, or at the expressed direction of the Association's Board of Directors. Manager shall indemnify the Association against all costs, damages incurred by the Association, including counsel's fees (through trial and on appeal) arising out of the actions by Manager exceeding the scope of Manager's authority under this Contract or occasioned by the negligence or willful misconduct of Manager or its agents and employees.

12. SECURITY

PPM shall not in any way be considered an insurer or guarantor of security within the property. Neither shall PPM be held liable for any loss or damage by reason of failure to provide adequate security nor ineffectiveness of security measures undertaken. The Board of Directors on behalf of the Association, all owners and occupants of any dwelling, tenants, guests and invitees of any owner, as applicable, acknowledge that PPM does not represent or warrant that any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices, or other security systems (if any are present) will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise nor that fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems will in all cases provide the detection or protection for which the system is designed or intended. The Board of Directors on behalf of the association, each owner and occupant of any dwelling and each tenant, guest and invitee of an owner, as applicable, acknowledges and understands that PPM is not an insurer and that each owner and occupant of any unit and each tenant, guest and invitee of any owner assumes all risk for loss or damage to persons, to units and to the contents of units and further acknowledges that PPM has made no representations or warranties, nor has the association, any owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose: relative to any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems recommended or installed or any security measures undertaken within the property.

13. GENERAL TOPICS

a. PPM recognizes the following legal holidays as "non work days" for our employees:

New Year's Day
Memorial Day

Labor Day
Thanksgiving Day

Christmas Eve
Christmas Day

6

Accepted by:

ISLAND PARK - #000006

- b. Phone lines, to PPM, (239-454-8568) shall be provided and designated to conduct all day-to-day business activities between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.
- c. After business hours, our answering service will contact us if a "property-threatening emergency" occurs. Emergencies are defined as potential damage to the association's common grounds/common areas or residents.
- d. Both parties agree there shall be one employee with the title of "Association Manager". His/her task shall include all of the tasks seen and thought to be in the best interest of the Association, Board of Directors, and membership. The Association Manager will be a licensed, certified Community Association Manager (CAM) in the state of Florida, under section 468.431, Florida Statutes.
- e. Secure contract proposals for services rendered to the Association, upon receipt of written request or through the minutes from the Association's Board members. Board of Directors agrees to allow reasonable time (minimum 21 days) from date of request until desired submission date.

14. SEVERABILITY

If any provision of this Agreement shall be determined to be invalid and unenforceable to any extent, the remainder of this Agreement other than that which is determined invalid or unenforceable, shall not be affected thereby, and the remaining provisions hereof shall remain in full force and effect.

15. APPLICABLE LAW

This Agreement shall be construed in accordance with and enforced under the laws of the State of Florida.

16. AMENDMENTS

This Agreement constitutes the full understanding of the parties and no prior or contemporaneous oral or written representations made by either party shall be binding. This Agreement may be modified only in writing signed by the President of PPM and by the duly authorized representative of the Association.

17. FEES AND COSTS

If either party hires an attorney to enforce its rights under this Agreement, the prevailing party shall be entitled to be reimbursed by the other party for its reasonable attorney's fees and costs. Both parties agree to resolve differences and/or disagreements in connection with and/or arising out of this contract through binding arbitration vs. litigation.

18. ASSIGNABILITY

PPM can and may assign their rights under this Agreement to any third party with written consent of the Association.

Accepted by:

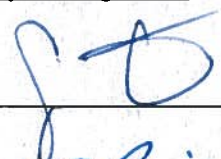
IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED ON THIS ____ DAY OF DECEMBER 2017.

FOR: ISLAND PARK VILLAGE, SECTION 5.2 CONDOMINIUM ASSOCIATION, INC.

BY:  President

WITNESS: _____

FOR: Pegasus Property Management

BY:  Sara A. Catlett President

WITNESS: 

Accepted by:

Exhibit "A"

Exhibit to the Management Agreement entered into between Pegasus Property Management and ISLAND PARK VILLAGE, SECTION 5.2 CONDOMINIUM ASSOCIATION, INC.

Management fee - \$550.00; payable the first day of each month during the term of this Agreement.

1. Office Expenses: As listed below are payable from the first day of each month during the term of this agreement:

Copies .15	#9 and #10 Envelopes .20
Postage- at cost	10x13 Envelopes .25
Certified mail at cost	Ballot Inner Envelopes .20
Laser Labels .10	Ballot Outer Envelopes .20
Facsimile – no charge	Proxy Envelopes .20
Long Distance Calls – no charge	Cellular Phone – no charge
- a. Extraordinary labor at the direction of the board for the preparation and mailing of Association newsletter, owner directory, etc., and on-site unit access will be billed on an hourly basis @ \$35.00 per hour. Addition services will be billed by the hour at a rate dependent upon the seniority of the staff required by the task in question.
- b. The cost of items not included above with prior approval from the Board.
- c. Checks, deposit books and bank endorsement stamps – At cost.
- d. Notary Public Fee - \$10.00
- e. Maintain association archives at outside storage facility- \$1.50 per box, per month.
2. The following PPM charges will be collected directly from the Unit Owners: (if applicable)
 - a. Preparation of Estoppels on Re-Sales - \$250.00 (rush fees may apply)
 - b. Rental/ Lease approval - \$100.00
 - c. Duplication of Association's Documents (Declaration, Articles, Bylaws) - \$75 minimum
 - d. Duplication of Community Pool Keys - \$25.00 per key
3. Legal Action: Participation in legal action involving the Association, court appearances, depositions, consultation with attorneys in connection with litigation filed or proposed on behalf of or directed by the Association at an hourly rate of \$80.00 per hour (excludes consultation via telephone.)
4. Amendments: Consultation on the amendments of Documents, By-laws, or Rules and Regulations and attending a Special Members' Meeting - no charge. (No legal service shall be performed.)
5. Tax Returns and Annual Uniform Business Report: The association will pay Pegasus \$225 fee for filing and mailing the Associations Short Form/ Long Form Federal, State, and Intangible tax returns. PPM will file the Association's Annual Uniform Business Report with the State at no cost.
6. Meetings: one Board of Directors meeting per month, one Annual Budget meeting, and one Annual Members meeting per calendar year. The Association will reimburse PPM for additional meetings or conferences or for meetings on Friday night, Saturday or Sunday, at an hourly rate of \$80.00.

Accepted by:

RECONSTRUCTION CONTRACT

Project: Island Park Village, Section V, Part 2 Condominium

THIS RECONSTRUCTION CONTRACT (“Contract”), is made and entered into this 7th day of December, 2022 by **ISLAND PARK VILLAGE SECTION V, PART 2, CONDOMINIUM ASSOCIATION, INC.**, a Florida corporation not-for-profit (“Association”), which is responsible for the operation and maintenance of the Island Park Village, Section V, Part 2 Condominium (“Condominium”); and **ELIAS BROTHERS GENERAL CONTRACTOR, INC.**, a Florida profit corporation, **Contractor’s License #CGC059267**, (“Contractor”). The “Effective Date” of this Contract shall be the date when the last of Contractor and Association has signed this Contract.

1. DESCRIPTION OF WORK:

The Contractor shall perform all work required by this Contract, according to the plans and specifications in the Contractor’s proposal, to be submitted within ten (10) to fourteen (14) days from the Effective Date, and the detailed adjuster’s reports, **EXHIBIT “B”**, both to be attached as received, incorporated herein by reference, and referred to as the “Drawings & Specifications”. These Drawings & Specifications are intended to supplement the terms of this typed Contract. In the case of any conflicting term or condition between the terms set out in the Drawings & Specifications and those set out in the text of this typed Contract, the terms of this typed Contract shall prevail. A list of each unit in the Condominium (each a “Unit”) and the owner of each Unit owner (each an “Owner”) is attached hereto as **EXHIBIT “A”**. The work, as outlined in the Drawings & Specifications may be performed for the Units as most efficient for Contractor.

The parties agree that the Drawings & Specifications and the work to be performed pursuant to this Contract relate to the Association’s insurance claim for flood damage caused by Hurricane Ian. The work will include repairs and replacements of building components and fixtures found within the Condominium common elements and within the Units. Contractor has agreed to perform all repairs that are required and authorized by the Association’s flood insurance carrier for a price that is not to exceed the total amount authorized for each Unit by the Association’s flood insurance carrier for the work. Should the total RCV (defined below) authorized for a Unit be insufficient to complete the scope of work applicable to the Unit, then Contractor shall provide a listing of all invoices, receipts, and expenses for the work performed for said Unit and Association will make a good faith effort to obtain an authorized allowance adjustment for said Unit from the Association’s insurance carrier. Contractor shall provide finishes and material options that are authorized by the Association’s flood insurance carrier and that equal or exceed (if permitted) the kind and quality of the components and the fixtures that existed as of the date of loss.

2. TIMELY COMPLETION:

Upon the full execution of the Contract, Contractor will diligently pursue permits and order materials, and regularly update the Association on the status of each. Upon payment of the first deposit toward the RCV, as provided in Section 5 below, the work to be performed under this Contract shall be evaluated by the Contractor who shall, within ten (10) to fourteen (14) days of receiving the deposit, provide a schedule of the completion date (“Completion Date”) of the work. Work shall commence on or before five (5) days from receipt of permits.

Time is of the essence of this Contract and any breach of same shall go to the essence hereof, and Contractor, in agreeing to complete the work within the time herein mentioned, has taken into consideration and made allowances for all hindrances and delays incident to its work. Contractor, however, is not responsible for delays beyond Contractor’s control, including but not limited to, shortage of materials, weather conditions, pandemics, worker strikes. Association shall not be liable to Contractor for any delays caused by any of Contractor’s subcontractors, or for any other cause whatsoever.



Contractor agrees to commence the work when directed by Association's Representative, Rick Roudebush, to perform such work diligently and continuously, and to coordinate the work with other work being performed on the project by other trades, so that Association shall not be delayed by any act or omission of Contractor in completion of the project within the time specified above.

Contractor acknowledges that working hours may be from 6:00 AM to 9:00 PM, Monday through Sunday. Exceptions to working hours must be pre-approved by the Association.

Contractor shall make payments promptly to its vendors and contractors, and for material used by it in the performance of the work.

Contractor shall diligently prosecute the work in a good and workmanlike manner and achieve completion of the entire work on or before the agreed upon Completion Date as provided above. Contractor hereby accepts and confirms that the time allowed herein is reasonable and sufficient for completing the work within such time requirements and hereby agrees to dedicate such personnel and other resources as may be necessary to assure that the work is continuously managed and performed in a diligent, skilled, and workmanlike manner.

3. ASSOCIATION'S REPRESENTATIVE:

This Section 3 is reserved.

4. ENGINEERING/INSPECTIONS:

This Section 4 is reserved.

5. CONTRACT PRICE AND PAYMENTS:

For purposes of this Contract, "Replacement Cost Value" ("RCV") shall mean the final amounts approved by the Association's flood insurance carrier for repair and replacement of each flood damaged Unit, including Unit deductible amounts. All prices will reflect Xactimate pricing as provided by the flood insurance carrier, plus authorized allowance adjustments authorized by the Association's insurance carrier.

Contractor has agreed to perform all repairs required and authorized by the Association's flood insurance carrier for a price that is not to exceed the RCV authorized by the Association's flood insurance carrier for the work, which is shown in the Drawings & Specifications and is segmented by each damaged Unit. No additional work or extras shall be performed unless the same shall be authorized in writing by the Association. If the Owner of any unit in the Condominium wishes to have Contractor perform work or use any finishes or materials that exceed the scope anticipated by this Contract, then the change in scope must be made by a written change order that must be signed by the Association and that must require the Owner to produce their own upgraded materials and finishes and also pay for any cost beyond the RCV to the Association before the commencement of the additional work.

Upon signing of this Contract, the Association shall pay Contractor a deposit equal to \$150,000, which is an estimated ten percent (10%) of the RCV allocated to this project. An additional five percent (5%) of the RCV shall be paid to Contractor when work commences. An additional ten percent (10%) of the RCV shall be paid to Contractor when the Association receives that amount in pro rata proceeds for the listed Units from the Association's insurance carrier, and, if these proceeds are not paid by the Association's insurance carrier by January 30, 2023, then Contractor may pause work until sufficient funds are received by the Association. The

remainder of the RCV shall be paid to Contractor monthly based on percentage of completion, as provided below, unless Contractor achieves substantial completion sooner.

Upon completion by Contractor of any stage of the work requiring payment under this Contract, all work will be inspected by Association or by a consultant selected by the Association to supervise the project. Any objections to work performed shall be given in writing to Contractor within ten (10) days of the Contractor's written notice to Association that the work has been completed. If no objections are made within this period, then payment shall be tendered to Contractor, and Contractor shall submit simultaneously a Progress Payment Affidavit, a Partial Release of Lien, a Partial Release of Lien from all Lienors (as defined in Section 713.01(18), Florida Statutes) that have served a Notice to Owner pursuant to Section 713.06, Florida Statutes, or, if completion is final, a Contractor's Final Payment Affidavit, on forms that the Association may provide, indicating that all subcontractors, laborers, materialmen, and suppliers have been paid for the work completed.

All work under this Contract shall be subject to the approval of the Association, and, with the exception of an initial deposit on a unit plus deductible amount, no payment shall be due under the Contract if Association does not approve of the work completed under the Contract. Any remedial work required must be performed within twenty-one (21) days of the Association's refusal to accept work that has been completed, provided all materials are available and no other causes arise that are beyond Contractor's control that may delay such repairs

In the event of a dispute arising between Association and Contractor, under this provision the parties shall agree upon and appoint a third-party expert to determine whether or not the work meets the specifications set out in the Contract. If the work meets said specifications, Association shall make the payment due, whereas if the specifications are not met, all work necessary to meet the specifications shall be done by Contractor to the satisfaction of the third-party expert before payment is due under the Contract, or Association may exercise such other rights as are provided herein. All costs associated with the retaining of the third-party expert shall be paid by the Association if the work is determined to meet specifications and shall be paid by the Contractor if the work is determined to not meet specifications.

Payments due to Contractor may be withheld by Association on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing claims, failure of Contractor to make payments properly to subcontractors or for material or labor, or the reasonable belief of Association that the work to be performed under this Contract that remains unfinished cannot be completed for the balance then unpaid. If any of the foregoing causes are not removed, or if Contractor fails to perform or to adhere to any agreement on its part herein contained, Association shall have the option, after seven (7) days written notice to Contractor and without prejudice to any other remedy it may have, to pay such claims and provide for such labor or materials and to deduct the cost thereof from any money due or thereafter to become due by Association to Contractor. In addition to the foregoing rights and remedies, Association shall be at liberty to terminate the employment of Contractor under this Contract and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon and to employ any other person or persons to finish the work and to provide the materials therefor, and in case of such discontinuance of the employment of Contractor, then Contractor shall not be entitled to receive any payment under this Contract that might be due to Contractor, except for those sums incurred by Contractor for labor and materials, minus reasonable set offs of the Association for defective workmanship or other breaches by Contractor. When said work shall be finished and payment in full therefor shall be made by Association, if the unpaid balance of the amount to be paid under this Contract shall exceed the reasonable expenses incurred by Association in finishing Contractor's work, such excess shall be paid by Association to Contractor, but if such reasonable expenses shall exceed such unpaid balance Contractor shall pay the difference to Association. Contractor's right to payment under this Contract shall also be subject to those conditions for payment set forth in other provisions of this Contract. Notwithstanding the foregoing, the Association may terminate Contractor for ~~convenience~~ ^{breach of Contract} at any time by providing five (5) days written notice of termination. Upon termination of Contractor for ~~convenience~~, the Association shall pay Contractor for all work and materials

breach of Contract

12-7-2022



provided through the date of termination, *and associated overhead and profit. FR*  12-7-2022

6. CONTRACT COSTS:

The work includes all transportation, storage, equipment, machinery, supplies, labor and materials, plans, and anything else necessary for the completion of the work. Contractor shall ensure that the work complies with all applicable codes and inspection requirements. All work performed by the Contractor or by others to make the Contractor's work comply with applicable building codes, or interpretations thereof, shall be performed at no additional cost to the Association.

The work shall also include all labor, materials, and everything required or claimed by Contractor's materialmen, suppliers, or laborers to complete the work in accordance with the Drawings & Specifications, notwithstanding that such labor, materials or other things may not be expressly designated in the Drawings & Specifications.

Contractor shall give all notices and comply with all local ordinances, requirements of city and county building codes and of federal and state authorities which are applicable to the work, local sanitary laws and rules and regulations and all orders both present and future, and interpretations of such ordinances, requirements, laws, rules, and regulations by governing public authorities, regardless of whether such ordinances, requirements, laws, rules and regulations are set forth in this Contract, or the Drawings & Specifications. Contractor shall furnish without any extra charge any additional materials and labor which may be required to comply with such ordinances, requirements, laws, rules, and regulations. Contractor shall secure, in its own name and right, and pay for all permits, inspections, fees, licenses and royalties necessary for the execution of the work to be performed.

Contractor will pay all social security and other taxes imposed upon it as an employer in connection with the performance of this Contract, and will furnish evidence, when required by Association, showing that all such payments required to be made have been paid.

Contractor shall pay all applicable health and welfare charges, local, state, and federal taxes, including sales and use taxes, and union fees in connection with its work. All Contract costs paid by Contractor shall be at the expense of Contractor.

7. SUPERVISION:

Contractor shall supervise and direct the work, using its best skill and attention, and it shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the work under the Contract. Contractor's resident superintendent, foreman, and all supervisors shall speak English fluently and shall be able to communicate with all workers present on site. Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him or her.

Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. It shall take all reasonable protections to prevent damage, injury, or loss to (1) all employees on the work, occupants and all other persons who may be affected thereby, (2) all the work and all materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto. It shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and orders of any public authority, including, but not limited to, O.S.H.A., bearing on the safety of persons and property and their protection from damage, injury, or loss. Prior to starting any work, Contractor will implement a safety plan detailing how it will protect Unit occupants during the project.

Further, it is the sole responsibility of Contractor to secure, safeguard and protect its material and operation from

damage or theft until formally accepted by Association.

Contractor shall promptly remedy all damage or loss to any property (including any damage to any grass or landscaping) caused in whole or in part by Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Contractor shall be responsible to Association for the acts and omissions of its employees, subcontractors and their agents and employees, and other persons performing any of the work under a contract with the Contractor, including with regard to damages to any persons or property. The foregoing obligations of the Contractor are in addition to its obligations under Section 12 of this Contract.

8. INSURANCE:

The Contractor agrees to furnish worker's compensation and liability insurance with limits of at least \$1,000,000.00 for each occurrence. Contractor's General Liability shall name the Association as an additional insured and include completed operations and product liability coverage and eliminate exclusion with respect to property under care, custody, or control of Contractor. Contractor's insurance shall be primary and non-contributory and name the Association as an additional insured and include completed operations and product liability coverage and eliminate exclusion with respect to property under care, custody, or control of Contractor. All insurance must be underwritten by a company with A.M. Best's Guide rating level of a "A-" or better, and a financial size category of Class VII or higher. The policies shall be on standard, unmodified ISO forms and the limits shall be as follows:

a. General Aggregate:	\$2,000,000.00
b. Products – Completed Operations Aggregate:	\$2,000,000.00
c. Personal and Advertising Injury:	\$1,000,000.00
d. Bodily Injury and Property Damage (each occurrence):	\$1,000,000.00
e. Medical Expense Limit	\$ 5,000.00

Contractor shall also maintain automobile liability insurance which shall insure it against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations are by the Contractor or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of automobile insurance shall be not less than \$1,000,000 combined limit for bodily injury and property damage per occurrence.

In addition, Contractor shall procure Builder's Risk insurance to protect against damage to improvements during construction due to acts of casualty and/or vandalism.

The Contractor agrees to supply the Association with evidence of and keep said insurance policies in full force and effect during the entire course of the work to be performed. It is the understanding that if any insurance cancellation notice is received by the Contractor, it will immediately notify Association, and Contractor agrees to replace said policies promptly. Contractor agrees that it shall perform no work under this Contract during such time as said insurance policies are not in full force and effect.

The Contractor shall ensure that all subcontractors meet the insurance requirements of this Section.

The Association and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; and (2) separate contractors, if any, and any of their subcontractors and sub-subcontractors, agent, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the project, except such rights as they have to proceeds of such insurance. The Association or

Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from any separate contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this paragraph shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (a) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (b) even though that person or entity did not pay the insurance premium directly or indirectly, or (c) whether or not the person or entity had an insurable interest in the damaged property.

9. BOND:

Section 9 is reserved.

10. CLEAN-UP:

Contractor shall cause no waste to the condominium property or adjoining property in the performance of this Contract and at all times shall keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of the work, Contractor shall remove all of its waste materials and rubbish from and about the work site, as well as its tools, construction equipment, machinery, and surplus materials, and return all affected areas of the property to a broom clean condition.

If, after three (3) days' notice by Association's representative to Contractor's representative at the site of the work, Contractor has not diligently proceeded with the clean-up as outlined in this provision, then Association has the right to proceed with the clean-up work at Contractor's costs and expense. Free, clear, and unobstructed egress and ingress with respect to the community shall be maintained by Contractor.

11. WARRANTIES:

Contractor warrants to Association that all materials and equipment incorporated in the work will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract documents, including, but not limited to, the specifications and building code requirements. All work not conforming to these standards may be considered defective. Further, Contractor expressly warrants and guarantees all work and materials provided under this Contract to be fit for the purposes intended for a period of one (1) year from date of final acceptance, and Contractor hereby agrees that during said period of time any flaws or deficiencies in either work or material shall be corrected and/or replaced and restored to first class working order at no cost to Association. In the event of Contractor's refusal to so restore same as aforesaid, Association may do said work and/or secure additional material after three (3) days' notice to Contractor, and Contractor shall reimburse Association for such sum.

Contractor further warrants that it will comply with all application and other requirements of each producer or supplier of materials, and will ensure that any inspections or other requirements of a producer or supplier for a warranty of the materials takes place or, alternatively, will assume responsibility for any such warranty that might otherwise have been provided.

12. HOLD HARMLESS:

To the fullest extent permitted by law, the Contractor shall indemnify, defend (at Contractor's sole expense), and hold harmless the Association and its officers, directors, members, agents, and employees from and against all claims, damages, losses, and expenses, including, but not limited to, attorney fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself),

including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section 12. In any and all claims against the Association or any of its members, agents, or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 12 shall be limited to the greater of \$1,000,000.00 per occurrence or the aggregate policy limits of all applicable insurance policies. The parties hereto specifically acknowledge and agree that the above-mentioned limitation is included pursuant to the requirements of Section 725.06(1), Florida Statutes.

However, such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the Association or its Officers, Directors, agents, and employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractor's subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. The terms of this Section 12 shall survive termination of the Contract.

13. LIENS:

Contractor will save and keep the improvements referred to in this Contract or the lands upon which they are situated free from all construction liens and all other liens by reason of its work or any materials or other things used by Contractor therein. If Contractor fails to remove such lien(s) by bonding it or otherwise, or if Contractor files a lien against the property referred to in this Contract prior to the time when the amount claimed is payable to Contractor by Association under the terms of this Contract, Association may retain sufficient funds, out of any money due or thereafter to become due by Association to Contractor, to pay the same and to pay all costs incurred by reason thereof, including reasonable attorney fees and the cost of any lien bonds that Association may elect to obtain, and Association may pay said lien or liens and costs out of any funds which are or which may become due to Contractor and which are at any time in the possession of Association. Invoices shall be accompanied with a detailed breakdown of the allocation of the amount required together with copies of lien releases.

14. WAIVER:

No change or modification of this Contract shall be valid unless in writing and signed by all parties hereto. No waiver of any provisions of this Contract shall be valid unless in writing and signed by the party against whom it is sought to be enforced. Further, the provisions, conditions, terms, and covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors, assigns, trustees, receivers, and personal representatives of the parties hereto.

No failure of Association to exercise any power or right given hereunder or to insist upon strict compliance by Contractor with any of its obligations hereunder, and no custom or practice of the parties at variance with the terms of this Contract, shall constitute a waiver or variation of Association's rights to demand exact compliance with the terms hereof.

15. ALTERATIONS:

No alterations shall be made in the work as shown or described in the Drawings & Specifications as modified by applicable ordinances, requirements, laws, rules and regulations as set forth herein, except on the written authorization of Association; and, when so made, the value of the work or materials added or omitted, any

extension or deduction from the time of completion necessitated thereby shall be computed and determined by Contractor, subject to the written approval and acceptance by Association, and the amount so determined shall be added to (if Contractor has not previously agreed to perform the additional work under the terms of this Contract) or deducted from the Contract price or prices and time of completion. Contractor shall have no claim for the cost of additional work or for an extension of time (including, without limitation, claims for impact damages or to costs due to delay) unless such work and the cost and expenses thereof or time is stated on the face of a written change order and approved and accepted by the Association on such written change order. Any attempted reservation by Contractor of the right to subsequently claim any amount or extension of time not stated on the face of a written change order approved and accepted by Association shall be null and void. All change orders issued under this Contract shall be subject to all of the terms of this Contract.

16. ASSIGNMENT:

Contractor shall not let, assign, or transfer this Contract or any part thereof, or any interest therein, without the written consent of Association.

17. DISCLOSURES:

Florida Homeowners' Construction Industries Recovery Fund

PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT WHERE A LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

Telephone: (850) 487-1395
Construction Industry Licensing Board
2601 Blair Stone Road
Tallahassee, FL 32399

Radon Disclosure

Radon is a naturally occurring radioactive gas that, when it accumulates in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon testing may be obtained from your county public health unit.

18. CHAPTER 558 NOTICE OF CLAIM:

Contractor and Association agree that this Contract shall be exempt from the provisions of Chapter 558 of the Florida Statutes, and further agree to opt out of the provisions and notice requirements contained in Chapter 558, Florida Statutes, pursuant to Section 558.005(1), Florida Statutes.

19. NOTICES:

All notices shall be in writing and shall be (a) personally delivered with a written receipt of delivery; or be (b) sent by a nationally-recognized overnight delivery service requiring a written acknowledgement of receipt or providing a certification of delivery or attempted delivery; or be (c) sent by United States Mail, certified mail,

return receipt requested, with postage prepaid; or be (d) sent by electronic mail delivery with an original copy thereof transmitted to the recipient by one of the means described in subsections (a) and (b) above, no later than one (1) business day thereafter. Notices shall be deemed received and effective on the earlier of (i) the date actually received or delivery is attempted (which, in the case of electronic mail notice, shall be deemed to be the date such electronic mail is transmitted and; in the case of notices sent by overnight courier, shall be deemed to be the business day following delivery of such notices to the overnight courier), or (ii) two (2) business days after being placed in the United States Mail in the manner provided above. For purposes of notice, the addresses of the parties will, until changed by notice to the other party, be as follows:

As to Association: c/o Kelsey Angstadt, CAM

Pegasus Property Management

8840 Terrene Court, #102

Bonita Springs, Florida 34135

-and-

Alex Menendez, Esq.

Pavese Law Firm

1833 Hendry Street

Fort Myers, Florida 33901

As to Contractor:

Elias Brothers General Contractor, Inc.

Attn: Roni Elias

4627 Arnold Ave., Ste 100

Naples, FL 34104

20. ATTORNEY FEES AND VENUE:

In any adversarial proceeding, including breach, enforcement, or interpretation arising out of this Contract, the prevailing party in such litigation, shall be entitled to recover from the non-prevailing party reasonable attorney fees and costs, including such fees and costs regarding all aspects of the litigation, including any appeals. This Contract is made in the State of Florida and shall be governed by Florida law. The State Courts of Lee County, Florida shall be the proper venue for any litigation involving this Contract.

21. ADDITIONAL TERMS:

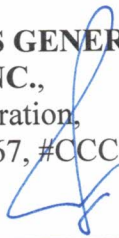
This Contract and all Exhibits and change orders constitute and expresses the entire agreement and understanding between the parties concerning the subject matter of this Contract. All previous discussions, promises, representations, and understandings relative thereto, if any, between the parties are considered to have been merged into this Contract. Except as expressly provided otherwise in this Contract, there shall be no modification of any provision of this Contract unless the parties agree to the modification by a writing that is signed by all parties. As all parties have had an opportunity to review this Contract and to negotiate terms of this Contract, the parties acknowledge and agree that no party shall be deemed to be a "drafting" party for the purposes of interpreting any provision of this Contract. The captions and headings used throughout this Contract are strictly for the convenience of the parties hereto and shall not be used or referenced to interpret any provisions of this Contract. This Contract may be executed in counterparts, the combination of which shall be deemed to be a fully executed copy. Electronically transmitted signatures shall be accepted as originals.

Association and Contractor hereby agree to the foregoing terms and conditions as of the date first set forth above. The individuals, by signing below, represent that they have the authority to bind the party on whose behalf they are signing.

**ISLAND PARK VILLAGE
SECTION V, PART 2,
CONDOMINIUM ASSOCIATION, INC.**
a Florida not-for-profit corporation

By: 
Rick Roudebush, President

**ELIAS BROTHERS GENERAL
CONTRACTOR, INC.,**
a Florida profit corporation,
License #CGC059267, #CCC042795

By:  Ron

Print: Ron ELIAS

Title: PRES

EXHIBIT A
List of Units and Owners

Units	Owners
Full-time Residents	
17601 Marco Island Lane	Benz, Judith R.
17641 Marco Island Lane	Roudebush , Rick R. & Kelly R.
17643 Marco Island Lane	Carlton , Sue E.
17603 Captiva Island Lane	Avis, Louis L. Diane K.
17610 Captiva Island Lane	Ibbotson, Becky
17611 Captiva Island Lane	Edwards, Gerald E.
17613 Captiva Island Lane	Howley , Virginia A.
17621 Captiva Island Lane	Damian, Meghan Anne
17641 Captiva Island Lane	Barker Joseph H. & Connie
17653 Captiva Island Lane	Popoli, Jaye L.
Part-time Residents	
17623 Marco Island Lane	Minnis, Elaine Trustee
17601 Captiva Island Lane	Cillo, James & Geraldine
17600 Captiva Island Lane	Tortorici, Joseph & Donna
17602 Captiva Island Lane	Marin , Radu Liviu & Karina
17620 Captiva Island Lane	Goff, Janelle W.
17631 Captiva Island Lane	Roumie, Youssef H.
17632 Captiva Island Lane	McCann, George L. & Cynthia A.
17633 Captiva Island Lane	Rita T Angelini & Normann Riess, Marina Riess
17640 Captiva Island Lane	Zanetti , Linda A.
17642 Captiva Island Lane	Cooper, Michelle Breen & Michael
17643 Captiva Island Lane	Calcagno, Joseph R & Andrea