

# 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~~ <sup>breach of Contract</sup> 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

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.

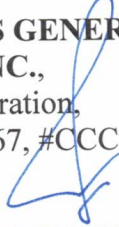


Association and Contractor hereby agree to the foregoing terms and conditions as of the date first set forth above. The individuals, by signing below, represent that they have the authority to bind the party on whose behalf they are signing.

**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
<b>Full-time Residents</b>	
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.
<b>Part-time Residents</b>	
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

# RECONSTRUCTION CONTRACT

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

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## **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~~ <sup>breach of contract</sup> 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

for breach of Contract

12-7-2022



provided though 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 R. Roudebush*  
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
<b>Full-time Residents</b>	
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.
<b>Part-time Residents</b>	
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