# AGREEMENT TO MAKE SUBDIVISION IMPROVEMENTS FOR CLASS 1 SUBDIVISION BETWEEN COUNTY AND OWNER

THIS AGREEMENT, made and entered into by and between the COUNTY OF EL DORADO, a political subdivision of the State of California, (hereinafter referred to as "County"), and SUMMERBROOK, EL DORADO, INC., a corporation, duly qualified to conduct business in the State of California, whose principal place of business is 707 Aldridge Road, Suite B, Vacaville, California 95688 (hereinafter referred to as "Owner"). This Agreement concerns the SUMMER BROOK – UNIT 1 (PHASE 1 & PHASE 2) AND SUMMERBROOK – UNIT 2 (PHASE 3 & PHASE 4), TM07-1440-R-2 (hereinafter referred to as "Subdivision"); the Final Map of which was filed with the El Dorado County Board of Supervisors on the \_\_\_\_\_\_ day of \_\_\_\_\_, 202\_.

### RECITALS

Owner is vested with fee title to Subdivision; a tract of land located in the County of El Dorado, State of California, and described as Summer Brook – Unit 1 (Phase 1 & Phase 2) and Summerbrook – Unit 2 (Phase 3 & Phase 4), TM07-1440-R-2. Owner desires to construct on said property certain public improvements as hereinafter described, in connection with the Subdivision.

In consideration for the complete construction and dedication of all the public improvements specified in this Agreement, the approval and acceptance by County's Board of Supervisors of the Conditions of Approval, and the Final Map to be filed and recorded, the parties agree as follows:

### **AGREEMENT**

#### OWNER WILL:

- 1. Make or cause to be made all those public improvements in Subdivision required by Section 120.16.010 of the El Dorado County Ordinance Code (hereinafter referred to as "Code") and shown or described in the improvement plans, specifications, and cost estimates entitled Improvement Plans for Summer Brook Unit 1 (Phase 1 & Phase 2) and Summerbrook Unit 2 (Phase 3 & Phase 4), TM07-1440-R-2 which were approved by the County Engineer, Department of Transportation, on July 7, 2021. Attached hereto is Exhibit A, marked "Summer Brook TM07-1440R Engineer's Bond Estimate Unit 1 (Phase 1 and Phase 2) March 31, 2021," Exhibit B, marked "Summer Brook TM07-1440R Engineer's Bond Estimate Unit 2 (Phase 3 and Phase 4) March 31, 2021," and Exhibit C, marked "Certificate of Partial Completion of Subdivision Improvements;" all of which exhibits are incorporated herein and made by reference a part hereof. The Exhibits describe quantities, units, and costs associated with the improvements to be made.
- 2. Prior to commencing construction, obtain all necessary environmental clearances, acquire any necessary right-of-way, and obtain any necessary permits from any outside agencies.

Agreement to Make Subdivision Improvements for Class 1 Subdivision Between County and Owner Summer Brook – Unit 1 (Phase 1 & Phase 2) and Summerbrook – Unit 2 (Phase 3 & Phase 4), TM07-1440-R-2 AGMT 22-55005 Page 1 of 7

- 3. Complete the Subdivision improvements contemplated under this Agreement within two (2) years from the date that the Subdivision Final Map is filed with the El Dorado County Board of Supervisors.
- 4. Install or cause to be installed, modify or cause to be modified, any and all erosion and sediment control features, whether temporary or permanent, deemed necessary by the County Engineer to ensure compliance with the Clean Water Act, the Statewide General Permit, and County's Grading, Erosion, and Sediment Control Ordinances. Failure to comply with this provision shall constitute a material breach of this Agreement.
- 5. Post security acceptable to County as provided in Section 120.16.050 of the Code. In the event that the Sureties issuing the posted securities are subsequently downgraded to a rating unacceptable to County in its sole discretion, Owner shall, upon twenty (20) days written notice by County, post replacement securities that are acceptable to County.
- Provide for and pay the costs of related civil engineering services, including the costs of
  inspection and utility relocation when required, and attorneys' fees, costs, and expenses of legal
  services.
- 7. Provide deposit for and pay to County all costs of construction oversight, inspection, administration, and acceptance of the work by County in accordance with the County Engineer Fee Schedule adopted by Resolution of the Board of Supervisors of El Dorado County.
- Have as-built plans prepared by a civil engineer acceptable to County's Department of Transportation and filed with the Department of Transportation Director as provided in Section 120.16.060 of the Code.
- 9. Repair at Owner's sole cost and expense, any defects, in workmanship or materials, which appear in the work within one (1) year following acceptance of the work by County.
- 10. To the fullest extent allowed by law, defend, indemnify, and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any other economic or consequential losses, which are claimed to or in any way arise out of or are connected with Owner's work, design, operation, construction of the improvements, or performance of this Agreement, regardless of the existence or degree of fault or negligence on the part of County, Owner, any contractor(s), subcontractor(s), and employee(s) of any of these, except for the sole, or active negligence of County, its officers, agents, employees, and representatives, or as expressly provided by statute. This duty of Owner to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

This duty to indemnify is separate and apart from any insurance requirements and shall not be limited thereto.

- 11. Enter into another agreement with County for all road improvements to be performed on County property. Such agreement shall also include a requirement that Owner furnish insurance and bonds that comply with the standard County insurance and bonding requirements in the amounts stated, to be approved by the County's Risk Management Division.
- 12. Provide continuous, sufficient access to County, Owner's successors and assigns, including but not limited to its Surety and Surety's agents, to the Subdivision to enable the public improvements to be constructed and completed. Access shall be continuous until completion of said public improvements, and release by County of the security underlying this Agreement.
- 13. Agree that said agreement to provide continuous, sufficient access is irrevocable and shall run with the land and shall be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of Owner.

### **COUNTY WILL:**

- 14. Upon execution of this Agreement and receipt of good and sufficient security as required by Section 120.16.050 of the Code, and upon compliance with all requirements of law, including all County ordinances, approve the Final Map of the Subdivision.
- 15. Upon receipt of a Certificate from County Engineer stating that a portion of the public improvements agreed to be performed herein has been completed, describing generally the work so completed and the estimated total cost of completing the remainder of the public improvements agreed upon to be performed herein, accept new security as provided in Section 120.16.040 of the Code.
- 16. Release the security posted in accordance with Sections 120.16.040 and 120.16.052 of the Code.
- 17. Require Owner to make such alterations, deviations, additions to, or deletions from, the improvements shown and described on the plans, specifications, and cost estimates as may be deemed by County Engineer to be necessary or advisable for the proper completion or construction of the whole work contemplated.
- 18. Require Owner to maintain, and to make such alterations, deviations, additions to, or deletions from, the project erosion control features shown and described on the plans, specifications, and cost estimates and the Storm Water Pollution Prevention Plan (SWPPP) as may be deemed by County Engineer to be necessary or advisable for compliance with the Clean Water Act, Statewide General Permit requirements, and County's Grading, Erosion, and Sediment Control Ordinances.
- 19. Upon completion of the public improvements agreed to be performed herein, adopt a resolution accepting or rejecting the streets of said Subdivision into County's road system for maintenance.

- 20. Retain a portion of the security posted in the amount of ten percent (10%) of the estimated cost of all of the improvements for one (1) year following acceptance of the work by County to secure the repair of any hidden defects in workmanship or materials which may appear.
- 21. Require Owner to pay County for costs, expenses, and reasonable attorneys' fees to be paid by Owner should County be required to commence an action to enforce the provisions of this Agreement, to enforce the security obligations provided herein, and all attorneys' fees, costs, and expenses of litigation incurred by County even if Owner subsequently proceeds to complete the work.

## **ADDITIONAL PROVISIONS:**

- 22. The estimated cost of installing all of the improvements is THREE MILLION SIXTY THOUSAND FIVE HUNDRED NINETY DOLLARS AND ZERO CENTS (\$3,060,590.00).
- 23. Owner shall conform to and abide by all Federal, State, and local building, labor and safety laws, ordinances, rules, and regulations. All Work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshal, safety orders of the Division of Industrial Safety, California Electrical Code, California Building Code, California Plumbing Code, and any and all other applicable laws and regulations. Nothing in this Agreement, including but not limited to the improvement plans and specifications and cost estimates, is to be construed to permit work not conforming to these codes.
- 24. Inspection of the work and/or materials or statements by any officer, agent, or employee of County indicating that the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments therefore, or any combination or all of these acts, shall not relieve Owner of its obligation to fulfill this Agreement as prescribed; nor shall County be stopped from bringing any action for damages arising from the failure to comply with any terms and conditions hereof.
- 25. This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.
- 26. Neither this Agreement, nor any part thereof may be assigned by Owner without the express written approval of County.
- 27. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be in duplicate and addressed as follows:

County of El Dorado Department of Transportation 2850 Fairlane Court Placerville, CA 95667

Attn.: Natalie Porter, P.E., T.E.
Supervising Civil Engineer
Transportation Planning
and Land Development

County of El Dorado Department of Transportation 2850 Fairlane Court Placerville, CA 95667

Attn.: Adam Bane, P.E. Senior Civil Engineer

or to such other location as County directs.

Notices to Owner shall be in duplicate and addressed as follows:

Blue Mountain Communities 707 Aldridge Road, Suite B Vacaville, California 95688

Attn.: Mike Harlan

or to such other location as Owner directs.

- 28. The County Officer or employee with responsibility for administering this Agreement is Natalie Porter, P.E., T.E., Supervising Civil Engineer, Transportation Planning and Land Development, Department of Transportation, or successor.
- 29. Any action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.
- 30. The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

# **Requesting Contract Administrator Concurrence:**

By: Matalu El Mis

Natalie Porter, P.E., T.E. Supervising Civil Engineer Transportation Planning and Land Development Department of Transportation Dated: 3/7/22

Requesting Department Concurrence:

Rafae Martinez, Director

Department of Transportation

"County"

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

## --COUNTY OF EL DORADO--

Ву:	Dated:
Board of Supervisors "County"	
Attest: Kim Dawson Clerk of the Board of Supervisors	
By:	Dated:
	OOK, EL DORADO, INC ornia Corporation
By:  Sandra Grouf Secretary/Treasurer "Owner"	Dated: 2-1-2022

Notary Acknowledgment Attached

# **OWNER**

ACKNOWL	EDGMENT
State of California  County of	A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
	cline Y. Marcus, Notary Pull (here insert name and title of the officer) Indra Grouf
is/are subscribed to the within instrument an	y evidence to be the person(s) whose name(s) d acknowledged to me that be/she/they execute ies), and that by his/her/their signature(s) on upon behalf of which the person(s) acted,
executed the instrument.  I certify under PENALTY OF PERJURY und foregoing paragraph is true and correct.	
WITNESS my hand and official seal.	SELINA Y. MARCUS COMM. #2292473 Notary Public - California Solano County
Signature Slinay Marc	My Comm. Expires June 11, 2023
	(Seal)

## Exhibit A





SUMMER BROOK - TM07-1440R ENGINEER'S BOND ESTIMATE - UNIT 1 (Phase 1 and Phase 2) MARCH 31, 2021



Item No.	Description	Quantity	Unit	Unit Price	<b>Total Amount</b>
	STREETS & MISCELLANEOUS				
1	Clear & Grub	9.8	ac	\$1,850.00	\$18,13
2	Excavation	16,433	су	\$11.50	\$188,98
3	2.5"AC	98,974	sf	\$2.00	\$197,94
4	5.5" AB	98,974	sf	\$1.00	\$98,97
5	3" AB Shoulder	3,379	sf	\$0.50	\$1,69
6	Type E AC Dike	1,206	1f	\$4.25	\$5,12
7	Type A AC Dike	1,153	1f	\$4.00	\$4,61
8	Type 2 Vertical Curb & Gutter	673	1f	\$23.00	\$15,47
9	Street Sign	2	ea	\$440.00	\$88
10	One Way Sign	1 4	ea	\$440.00	\$1,76
11	Protective Tree Fencing	10,050	1f	\$4.10	\$41,20
12	Fire Lane No Parking Sign	45	ea	\$380.00	\$17,10
13	Caltrans HMA Overside Drain	4	68	\$1,500.00	\$6,00
14	Barricade	52	lf .	\$44.00	\$2,28
				Subtotal	\$600,17
	EROSION CONTROL AND FUGITIVE DUST				
15	Fugitive Dust Control	15	lot	\$700.00	\$10,50
16	Erosion Control Measures	15	lot	\$2,300.00	\$34,50
				Subtotal	\$45,00
	STORM DRAIN				
17	12" HDPE Storm Drain	246	If	\$48.00	\$11,80
18	18" HDPE Storm Drain	450	M	\$61.00	\$27,45
19	24" HDPE Storm Drain	64	1f	\$84.00	\$5,37
20	30" HDPE Storm Drain	123	1f	\$90.00	\$11,07
21	Type B Drain Inlet	4	ea	\$3,400.00	\$13,60
22	48" Storm Drain Manhole	2	ea	\$6,400.00	\$12,80
23	12" Flared End Section	4	ea	\$1,040.00	\$4,16
24	18" Flared End Section	14	ea	\$1,220.00	\$17,08
25	24" Flared End Section	2	ea	\$1,380.00	\$2,76
26	30" Flared End Section	4	ea	\$1,600.00	\$6,40
27	4' Wide Rock Lined Ditch (Backing #3)	3,875	1f	\$19.30	\$74,78
28	4' Rock Lined Down Drain (Backing #3)	50	1f	\$19.30	\$96
29	6' Wide Rock Lined Ditch (Backing #3)	1,038	1f	\$29.00	\$30,10
30	6' Wide Rock Lined Ditch (Backing #2)	145	If	\$29.00	\$4,21
31	Vegetative Swale	580	If	\$25.00	\$14,50
32	RSP 1/2 Ton	191	су	\$93.30	\$17,82
33	RSP Backing No. 1	14	су	\$93.30	\$1,30
34	RSP Backing No. 3	9	су	\$93.30	\$79
				Subtotal	\$256,993

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Summerbrook, El Dorado, Inc.

AGMT 22-55005 Exhibit A

# SUMMER BROOK - TM07-1440R ENGINEER'S BOND ESTIMATE - UNIT 1 (Phase 1 and Phase 2) MARCH 31, 2021

Item No.	Description	Quantity	Unit	Unit Price	<b>Total Amount</b>
	WATER				
35	6" Line Incl. Fittings-water	3,294	If	\$91.00	\$299,754
36	8" Line Incl. Fittings-water	314	If	\$61.00	\$19,154
37	6" Gate Valve-water	7	ea	\$1,843.00	\$12,901
38	Fire Hydrant	8	ea	\$6,708.00	\$53,664
39	2" BOV-water	2	ea	\$2,189.00	\$4,370
40	1" ARV-water	2	ea	\$3,691.00	\$7,38
41	2" ARV-water	1	ea	\$6,097.00	\$6,09
42	1" Services-water	15	ea	\$3,099.00	\$46,48
				Subtotal	\$449,81
	DRY UTILITIES				
42	Includes - Joint Utility Trench, Utility Services, Conduit & Services Boxees and Wiring & Transformers	15	lot	\$8,050.00	\$120,75
				Subtotal	\$120,75
		Estimated Direct	Constru	ection Cost	\$1,472,72
				Mobilization (5%)	\$73,63
		Total Estimate	ed Direct	t Construction Cost	\$1,546,36
	SOFT COST				
A	Bond Enforcement Costs	2%			\$30,92
В	Construction Staking	4%		i	\$61,85
C	Contingency	10%			\$154,63
D	Construction Management & Inspection	10%			\$154,63
				Total Soft Cost	\$402,05
	Total Estimated Construction Cost				\$1,948,42
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	eptions taken				



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Summerbrook, El Dorado, Inc.

AGMT 22-55005 Exhibit A

### Exhibit B



SUMMER BROOK - TM07-1440R ENGINEER'S BOND ESTIMATE - UNIT 2 (Phase 3 and Phase 4) MARCH 31, 2021



Item No.	Description	Quantity	Unit	Unit Price	Total Amount
	STREETS & MISCELLANEOUS				
1	Clear & Grub	7.0	ac	\$1,850.00	\$12,950
2	Excavation	16,088	су .	\$11.50	\$185,012
3	2.5"AC	64,531	sf	\$2.00	\$129,062
4	5.5" AB	64,531	sf	\$1.00	\$64,53
5	3" AB Shoulder	2,214	sf	\$0.50	\$1,107
6	Type A AC Dike	67	If	\$4.00	\$268
7	Type E AC Dike	1,262	lf	\$4.25	\$5,364
8	CalTrans HMA Overside Drain	1	ea	\$1,500.00	\$1,500
9	Tree Protective Fencing	3,011	If	\$4.10	\$12,345
10	Fire Lane No Parking Sign	24	ea	\$380.00	\$9,120
				Subtotal	\$421,259
	EROSION CONTROL AND FUGITIVE DUST				
11	Fugitive Dust Control	14	lot	\$700.00	\$9,800
12	Erosion Control Measures	14	lot	\$2,230.00	\$31,220
				Subtotal	\$41,020
	STORM DRAIN				
13	12" HDPE Storm Drain	70	If	\$48.00	\$3,360
14	18" HDPE Storm Drain	112	lf	\$61.00	\$6,832
15	36" HDPE Storm Drain	73	If	\$136.00	\$9,928
16	12" Flared End Section	4	ea	\$1,040.00	\$4,160
17	18" Flared End Section	4	ea	\$1,220.00	\$4,880
18	36" Flared End Section	2	ea	\$1,630.00	\$3,260
19	3' Wide Rock Lined Ditch - Backing #3	1,485	If	\$14.50	\$21,533
20	4' Wide Rock Lined Ditch - Backing #2	133	lf	\$19.30	\$2,567
21	Vegetative Swale	252	lf	\$25.00	\$6,300
22	RSP Light	67	су	\$93.30	\$6,251
23	RSP Backing No. 1	1.5	су	\$93.30	\$140
24	RSP Backing No. 2	7	су	\$93.30	\$653
25	RSP Backing No. 3	4	су	\$93.30	\$373
				Subtotal	\$70,237

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Summerbrook, El Dorado, Inc.

AGMT 22-55005 Exhibit B

# SUMMER BROOK - TM07-1440R ENGINEER'S BOND ESTIMATE - UNIT 2 (Phase 3 and Phase 4) MARCH 31, 2021

Item No.	Description	Quantity	Unit	Unit Price	Total Amount
	WATER				
26	8" Line Ind. Fittings-water	1,699	If	\$61.00	\$103,639
27	8" Gate Valve-water	1	ea	\$2,187.00	\$2,187
28	Fire Hydrant	4	ea	\$6,708.00	\$26,832
29	2" BOV-water	1	ea	\$2,189.00	\$2,189
30	2" ARV-water	2	ea	\$6,097.00	\$12,194
31	1" Services-water	14	ea	\$3,099.00	\$43,386
32	Connect to E Water Line	2	ea	\$2,500.00	\$5,000
				Subtotal	\$195,427
	DRY UTILITIES				
33	Includes - Joint Utility Trench, Utilities Services, Conduit & Service Boxes and Wiring & Transformer	14	lot	\$8,050.00	\$112,700
				Subtotal	\$112,700
	Subtotal Est	timated Dire	ct Cons	struction Cost	\$840,642
			Mol	bilization (5%)	\$42,032
	Total Es	timated Dire	ct Cons	struction Cost	\$882,674
	SOFT COST				
Α	Bond Enforcement Costs	2%			\$17,653
В	Construction Staking	4%			\$35,307
С	Contingency	10%			\$88,267
D	Construction Management and Inspection	10%			\$88,267
			To	tal Soft Costs	\$229,495
	To	tal Estimate	ed Cons	struction Cost	\$1,112,170
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### Exhibit C

## Certificate of Partial Completion of Subdivision Improvements

I hereby certify that the following improvements for Summer Brook Unit I (Phase I & 2) and Unit 2 (Phase 3 & 4) TM 07-1440-R-2 have been completed, to wit

	Total Amount		Percent Completed		Remaining Amount
Unit 1 (Phase 1 & Phase 2) Improvements	-		Completed		AMOUNT
Streets & Miscellaneous	\$	600,171.00	0%	\$	600,171.00
Erosion Control and Fugitive Dust	\$	45,000.00	0%	\$	45,000.00
Storm Drain	\$	256,993.00	0%	\$	256,993.00
Water	5	449,815.00	0%	\$	449,815.00
Dry Utilities	5	120,750.00	0%	S	120,750.00
Mobilization (5%)	\$	73,636.00		\$	73,636.00
Bond Enforcement (2%)	\$	30,927.00		\$	30,927.00
Construction Staking (4%)	\$	61,855.00		\$	61,855.00
Construction Management & Inspection (10%)	\$	154,637.00		S	154,637.00
Contingency (10%)	\$	154,637.00		\$	154,637.00
Total Unit 1 (Phase 1 & Phase 2) Estimated Costs	5	1,948,420.00		S	1,948,420.00
Unit 2 (Phase 3 & Phase 4) Improvements	Г				
Streets & Miscellaneous	\$	421,259.00	0%	\$	421,259.00
Erosion Control and Fugitive Dust	\$	41,020.00	0%	S	41,020.00
Storm Drain	\$	70,237.00	0%	\$	70,237.00
Water	\$	195,427.00	0%	\$	195,427.00
Dry Utilities	\$	112,700.00	0%	\$	112,700.00
Mobilization (5%)	\$	42,032.00		\$	42,032.00
Bond Enforcement (2%)	\$	17,653.00		\$	17,653.00
Construction Staking (4%)	S	35,307.00		\$	35,307.00
Construction Management & Inspection (10%)	\$	88,267.00		\$	88,267.00
Contingency (10%)	\$	88,267.00		S	88,267.00
Total Unit 2 (Phase 3 & Phase 4) Estimated Costs	\$	1,112,170.00		\$	1,112,170.00
Total	S	3,060,590.00		\$	3,060,590.00

I estimate the total cost of completing the improvements agreed to be performed by the Owner to be Three Million Sixty Thousand Five Hundred Ninety Dollars and Zero Cents (\$3,060,590.00).

The amount of the Performance Bond is Three Million Sixty Thousand Five Hundred Ninety Dollars and Zero Cents (\$3,060,590.00), representing 100% of the Total Remaining Amount.

The amount of the Laborers and Materialmens Bond is One Million Five Hundred Thirty Thousand Two Hundred Ninety-Five Dollars and Zero Cents (\$1,530,295.00), which is 50% of the Total Cost of the Improvements.

DATED: 1/3/22

David Crosariol, P.F. 34520 CTA Engineering & Surveying 3233 Monier Circle

Rancho Cordova, CA 95742

ACCEPTED BY THE COUNTY OF EL DORADO

DATED 1/18/22

Natalie Porter, P.E., T.E. Supervising Civil Engineer

Transportation Planning & Land Development

Agreement to Make Subdivision Improvements for Class 1 Subdivision Between County and Owner Summer Brook Unit 1 (Phase 1.2) and Unit 2 (Phase 3.4) TM 07.1440 R.2.

AGM1 22 55005 Certificate of Partial Completion