

TEXMIX

Post Office Box 830 • Leander, Texas 78646-0830 • 512-759-1438 • fax 512-759-2160

August 4, 2017

Secretary of Labor
Top Hat Plan Exemption
Employee Benefits Security Administration
Room N 1513
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

2520172650039

2017 AUG 14 PM 3:14

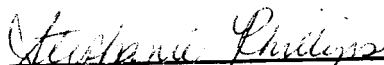
Dear Sir or Madam:

In accordance with Department of Labor regulation section 2520.104-23, the information set forth below is intended to satisfy the reporting and disclosure requirements set forth therein:

1. Name of Employer: Tex-Mix Partners, Ltd.
2. Address of Employer: Post Office Box 830
Leander, Texas 78646
3. Employer Identification Number: 74-2794534
4. The Employer maintains the Chief Operating Officer Deferred Bonus Benefit ("Plan") primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.
5. Number of employees in the Plan: 1
6. In addition to the Plan, the Employer maintains 2 other excess benefit plans with 1 employee in each plan.

Please acknowledge receipt of this letter by stamping the extra copy enclosed and returning it in the envelope provided.

Sincerely yours,


Stephanie Phillips, CFO

Execution Version

TEXMIX CONCRETE

Post Office 830, Leander, TX 78646

Main Office: 512-759-1438

Fax: 512-759-2160

July 13, 2017

Via Hand Delivery

Mr. Eric D. Bailey
161 Rock House Drive
Liberty Hill, Texas 78642

Re: Terms of Employment (the "Agreement") between Tex-Mix Partners, Ltd., d/b/a Tex-Mix Concrete (the "Company"), and Eric D. Bailey (the "Employee") (referred to individually as a "Party" and collectively as the "Parties").

Dear Eric:

It is my pleasure to provide you the terms of employment with Tex-Mix Partners, Ltd., d/b/a Tex-Mix Concrete (the "Company"). This Agreement supersedes and replaces all other agreements, either oral or written, between you and the Company with respect to your employment with the Company.

Employee's Title:	Chief Operating Officer.
Reporting to:	Robert Logan Owens, Chief Executive Officer, or his designee (hereinafter "Supervisor(s)").
Duties:	Commensurate with title and as may be assigned by Employee's Supervisor(s), including, but not limited to, directing the Company's operations of its, or investments in any, ready-mix concrete, aggregates and transportation businesses, and providing input on Company management issues at the request of Employee's Supervisors.
Annual Base Salary:	\$165,000 (U.S. DOLLARS) for calendar years 2017 (prorated) and 2018, with a 3% annual increase beginning January 1, 2019.
Term of Employment:	Commencing on July 13, 2017 and terminating December 31, 2022, with an option to extend such Term of Employment for five years at the election of the Company, subject to earlier termination from employment as follows:

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(a) termination by the Company for “Cause”¹ or by the Employee without “Good Reason”²; in which case the Company will pay the Employee his salary earned through the employment termination date; or

(b) termination by the Company without Cause or by Employee with Good Reason; in which case, subject to the Employee’s signing (and not thereafter revoking) within 45 days of Employee’s termination date a general release of claims in a form acceptable to the Company, the Company will pay Employee as severance the greater of the following: (i) the remainder of the Employee’s Annual Base Salary for the current Term of Employment (payable in a lump sum within 60 days of the termination date); or (ii) if eligible, the Additional Bonus, calculated as set forth below.

(c) termination upon the sale of all or substantially all the assets of the Company; in which case, subject to the Employee’s signing (and not thereafter revoking) within 45 days of Employee’s termination date a general release of claims in a form acceptable to the Company, the Company will pay Employee as severance the greater of the following: (i) an amount based on a percentage of value generated during Employee’s employment with the Company according to the following formula: (“Value of the Company at the Time of Sale”³ minus the “Initial Value of the Company”⁴) times 5%, payable in a lump sum within 60 days of the closing on the sale of all or substantially all the assets of the Company; or (ii) the remainder of the Employee’s Annual Base Salary for the

¹ “Cause” means (a) the failure to perform material duties or comply with written Company policies, all as determined in the discretion of Employee’s Supervisor(s), provided that the Company has given the Employee thirty (30) days’ prior written notice describing the failure to perform and Employee’s failure to perform remains uncured by Employee by the conclusion of the notice period. (b) committing any fraud or other act of dishonesty, (c) pleading guilty to or being convicted of any felony, or (d) committing a breach of confidentiality or non-competition obligations.

² “Good Reason” means, without Employee’s consent. (a) a material reduction by the Company of Employee’s Annual Base Salary, (b) the requirement by the Company that Employee relocate Employee’s office more than 50 miles from its current location, or (c) the Company’s material breach of this Agreement; provided that Employee has, within 90 days of the event, given the Company written notice describing the reason and the reason remains uncured by the Company within 30 days of receiving the Employee’s written notice. An event that is or would constitute Good Reason shall cease to be Good Reason if Employee does not terminate Employee’s employment within ninety (90) days after the end of the Company’s cure period, provided that the reason remains uncured.

³ The “Value of the Company at the Time of Sale” will be calculated as follows: the sales price of the Company (or all or substantially all of the Company’s assets) minus any debt retained by the Company (or any of its owners) plus the present value of any leases retained after, or negotiated during, the sale by the Company (or any of its owners). The Value of the Company at the Time of Sale will be determined by the Company’s accountant in accordance with Generally-Accepted Accounting Principles (“GAAP”), which determination shall be conclusive for all purposes under this Agreement.

⁴ For purposes of this Agreement, the “Initial Value of the Company” is agreed to be \$94,056,241.00.

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current Term of Employment, payable in a lump sum within 60 days of the termination date.

This Agreement may not be renewed or extended automatically, orally or by conduct of the Parties. Any extension of the Term of Employment, including the option to extend such Term of Employment referred to above, shall be in writing and must be signed by the Supervisor(s) to be effective.

Paid Time Off: 21 days each calendar year.

Benefits: Employee will be eligible to participate in any one of the Company's standard benefit plans pursuant to the Company's policies and procedures, except that the Company will pay the costs of health insurance as chosen by Employee to include coverage for Employee, his spouse and his children, subject to continuation of the plan and any applicable changes in the law. In addition, Employee will receive a car allowance in the amount of \$800 per month during the Term of Employment, subject to earlier termination and/or extension as provided herein, and subject to all applicable taxes.

Formula Bonus: In addition to the Annual Base Salary, for each completed calendar year of employment and for 2017, prorated to correspond to the actual amount of time worked by Employee at the Company in 2017, and subject to forfeiture as described below, Employee shall be eligible to receive as additional incentive compensation hereunder (the "*Formula Bonus*") an amount equal to the year-end net profit (or income) of the Company, less the year-end current portion of the long-term liabilities of the Company, as set forth in its year-end audited financial statements, multiplied by 5%.

The actual total amount of the Employee's Formula Bonus will be based on the audited financial statements of the Company, prepared by the Company's accountant. The Formula Bonus will be determined by the Company's accountant in accordance with Generally-Accepted Accounting Principles ("*GAAP*"), which determination shall be conclusive for all purposes under this Agreement.

Formula Bonus Payout Structure:

(a) Except as set forth in clause (b) below, the Company will pay the Employee a portion of his Formula Bonus by April 15th immediately following the Bonus Year ("*Initial Formula Bonus*"). The Initial Formula Bonus will be calculated using the Company's preliminary, unaudited balances. The Initial Formula Bonus will be determined by the following formula:

Formula Bonus (based on unaudited, preliminary financials for the Bonus Year)
MULTIPLIED BY 80%
Initial Formula Bonus

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After the Company's financial statements are audited for the Bonus Year, the actual total amount of the Employee's Formula Bonus will be determined. The remaining balance of the Employee's Formula Bonus, if any, will be determined by the following formula:

$$\begin{array}{l} \text{Formula Bonus (based on audited financials for the Bonus} \\ \text{Year)} \\ \text{LESS Initial Formula Bonus} \\ \hline \text{Remaining Formula Bonus} \end{array}$$

Except as set forth in clause (b) below, the remaining balance of the Employee's Formula Bonus ("Remaining Formula Bonus"), if any, will be paid within 15 days of completion of the annual audit for a Bonus Year.

In no event will either the Initial Formula Bonus or the Remaining Formula Bonus be paid later than March 15th of the year following the year after the Bonus Year. The Bonus Year is the calendar year.

(b) To receive the Initial Formula Bonus, the Employee must be employed on the date the Initial Formula Bonus is paid, and to receive the Remaining Formula Bonus, the Employee must be employed on the date the Remaining Formula Bonus is paid. If the Employee is not employed on the applicable date, the Employee will forfeit that portion of the Formula Bonus. If, however, after the end of the Bonus Year, but before the applicable Formula Bonus segment is actually paid, either (i) the Employee terminates his employment for Good Reason or due to his death, or (ii) the Company terminates Employee without Cause, or (iii) the Employee is no longer employed by the Company because the Term of Employment has concluded, the Employee will retain his right to receive that segment of the Formula Bonus. If the Employee's employment is terminated for any reason during the Bonus Year, no Formula Bonus shall be payable.

To the extent the Formula Bonus will be paid after the Employee's death, the payment will be made to the Employee's designated beneficiary, and if there is no designated beneficiary on file with the Company, to the Employee's estate.

Additional Bonus:

Employee is eligible for an Additional Bonus provided that Employee is employed by the Company on December 31, 2025 and has not been terminated by the Company for Cause prior to the date that the Additional Bonus is paid. If, however, the Employee's employment with the Company is terminated either by the Company without Cause, by Employee with Good Reason, or on account of the Employee's death or the Company's decision not to extend the Term of Employment, on or after December 31, 2018, Employee will still be eligible for the Additional Bonus as calculated below. If eligible, Employee will receive the Additional Bonus in a lump sum within 60 days of the last day of the Employee's employment with the Company, in an amount determined by the following formula:

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The “Then-Current Value of the Company” minus the “Initial Value of the Company” (as set forth above), multiplied by 5%.

For purposes of this Agreement, the “Then-Current Value of the Company” shall be calculated as follows:

Running 12 months EBITDA of the Company (excluding aggregate operations and aggregate land holdings owned by the Company) preceding the Employee’s termination;
Multiplied by 6;
Minus funded debt (interest bearing liabilities).

Plus

Running 12 months EBITDA for the aggregate operations and aggregate land holdings owned by the Company preceding the Employee’s termination;
Multiplied by 10;
Minus funded debt (interest bearing liabilities).

By way of example only, assume Employee’s employment is terminated for reasons other than Cause in January 2026:

Running 12 months EBITDA, ending December 31, 2025, of the Company (excluding aggregate operations and aggregate land holdings owned by the Company) preceding the Employee’s termination = \$23,300,000
Multiplied by 6 = \$139,800,000
Minus \$23,000,000 (funded debt) = \$116,800,000

Running 12 months EBITDA, ending December 31, 2025, for the aggregate operations and aggregate land holdings owned by the Company preceding the Employee’s termination = \$3,300,000
Multiplied by 10 = \$33,000,000
Minus \$4,000,000 (funded debt) = \$29,000,000

Then-Current Value of the Company = \$145,800,000
Initial Value of the Company = \$94,000,000

$\$142,500,000 - \$94,000,000 = \$51,800,000 * .05 = \$2,590,000$
Additional Bonus = \$2,590,000.

The actual total amount of the Employee’s Additional Bonus will be based on the Company’s audited financial statements prepared by its accountant. The Additional Bonus will be determined by the Company’s accountant in accordance with Generally-Accepted Accounting Principles (“GAAP”), which determination shall be conclusive for all purposes under this Agreement.

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To the extent the Additional Bonus will be paid after the Employee's death, the payment will be made to the Employee's designated beneficiary, and if there is no designated beneficiary on file with the Company, to the Employee's estate.

Company Policies:

The employment relationship between the Parties shall be governed by the general employment policies and practices of the Company, including but not limited to those relating to protecting confidential information and assignment of inventions; provided, however, that when the terms of this Agreement differ from or are in conflict with the Company's general employment policies or practices, this Agreement shall control.

Confidential Information and Duty of Loyalty:

The Company agrees to give Employee access to some or all of the Company's confidential information that Employee did not have access to or knowledge of before his employment with the Company. This confidential information includes information: (1) disclosed to or known by Employee as a consequence of or through his employment with the Company; (2) not generally known outside the Company; and (3) that relates to any aspect of the Company, or its business, finances, operation plans, budgets, research, or strategic development. Additionally, confidential information includes, without limitation, the Company's trade secrets, proprietary information, financial documents, long range plans, customer lists (which Employee agrees constitute trade secrets under Texas law), employee compensation, marketing strategy, data bases, costing and underwriting, and any information provided to the Company by a third party under restrictions against disclosure or use by the Company.

Employee agrees that during the term of this Agreement, he will devote his undivided loyalty to the Company and devote all of his skill, knowledge, and working time to the conscientious performance of his duties and responsibilities under the Agreement. Employee acknowledges and agrees that he will not engage in the conception, design, development, production, marketing, or servicing of any product or service that is substantially similar to the products or services which the Company provides given his obligation to devote his undivided loyalty to the Company. In view of Employee's duty of loyalty obligation and his access to confidential information, including information that Employee agrees constitutes trade secret information under Texas law, Employee agrees that during the Term of this Agreement, except as otherwise agreed by Supervisor in writing, he will not work for, in any capacity, assist, or become affiliated with as an owner, partner, shareholder, etc., either directly or indirectly, any individual or business which offers or performs services, or offers or provides products substantially similar to the services and products provided by Company; *provided, however*, Employee shall not be prevented from owning no more than one percent (1%) of any company whose stock is publicly traded.

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**Non-Competition
Covenant:**

Employee agrees that in order to protect the Company's confidential information, it is necessary to enter into the following restrictive covenant, which is ancillary to the enforceable promises between the Company and Employee otherwise contained in this Agreement. Employee agrees that Employee shall not, at any time during the Restricted Period (as hereinafter defined), within 25 miles of any of the markets served by the Company (the "Restricted Area"), engage in or contribute Employee's knowledge to any work which is competitive with or similar to a product, process, apparatus, service, or development on which Employee worked while employed by the Company. To avoid any doubt, with this restrictive covenant, Employee agrees that Employee shall not, in the Restricted Area and during the Restricted Period, (i) directly or indirectly own, manage, operate, join, become an employee of, control, participate in, be connected with, loan money to, or sell or lease equipment or real estate to any ready mix batch plant business; and (ii) take any steps to secure or otherwise seek environmental or other permits incident to a ready mix batch plant or aggregate mining operation for any location in the Restricted Area. At the time of this Agreement, the geographical area of the markets to be served by the Company consists of the following counties: Bastrop, Bell, Bexar, Blanco, Burnet, Caldwell, Comal, Coryell, Guadalupe, Hays, Lampasas, Travis and Williamson. It is understood that the geographical area set forth in this covenant is divisible so that if this clause is invalid or unenforceable in an included geographic area, that area is severable and the clause remains in effect for the remaining included geographic areas in which the clause is valid. For the purpose of this Agreement, "*Restricted Period*" means a period of twelve (12) months after termination of employment for any reason whatsoever, whether by Employee or the Company, of Employee's employment with the Company. The Restricted Period shall commence at the time Employee ceases to be a full-time employee of the Company.

The non-competition restrictive covenant defined above shall not apply in the event (i) Employee's employment with the Company is terminated by Employee with Good Reason or by the Company without Cause, and (ii) the amount of Employee's severance or Additional Bonus to be paid by the Company upon such termination is less than \$165,000.

Conflicts of Interest:

Except as otherwise agreed by Supervisor in writing, Employee agrees that during the term of this Agreement, he will not engage, either directly or indirectly, in any activity (a "*Conflict of Interest*") that might adversely affect the Company, including ownership of a material interest in any supplier, contractor, distributor, subcontractor, customer, or other entity with which the Company does business, or accepting any material payment, service, loan, or other favor (other than a gift, trip, or entertainment consistent with industry custom) from a supplier, contractor, distributor,

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subcontractor, customer, or other entity with which the Company does business, and that Employee will promptly inform his Supervisor(s) as to each offer received by Employee to engage in any such activity. Employee further agrees to disclose to the Company any other facts of which Employee becomes aware which in Employee's good faith judgment could reasonably be expected to involve or give rise to a Conflict of Interest or potential Conflict of Interest.

Protection of Confidential Information:

To protect the Company's confidential information, including the trade secret nature of its customer lists and prospect information, as well as information related to the manufacture, pricing and delivery costs for ready-mix concrete, in the event of Employee's termination of employment for any reason whatsoever, whether by Employee or the Company, Employee covenants and agrees that for a period of twelve (12) months from the date of termination of Employee's employment (the "*Non-Solicitation Period*"), Employee will not, directly or indirectly, either individually or as a principal, partner, agent, consultant, contractor, employee, or as a director or officer of any corporation or association, or in any other manner or capacity whatsoever, except on behalf of the Company, solicit business, or attempt to solicit business, in products or services competitive with products or services sold by the Company, from any of the Company's clients or customers, or those individuals or entities with whom the Company did business as clients or customers, if the solicitation would require the use or disclosure of the Company's confidential information.

Employee agrees that this prohibition applies only to the use or disclosure of confidential information and, therefore, does not preclude Employee from working in any profession or business if Employee separates from employment with the Company for any reason.

Employee agrees and understands that enforcement of this paragraph is necessary for the continued success of legitimate business interests of the Company.

Non-Solicitation of Clients:

Employee further agrees that for a period of twelve (12) months from the date of termination of Employee's employment, Employee will not contact or solicit any prior customer or referral source of the Company for the purpose of selling ready-mix concrete or transportation services for ready-mix concrete. For the purposes of this paragraph, any prior customer shall mean any customer who purchased ready-mix concrete from the Company or with whom Employee personally had contact, within the two years prior to the termination of Employee's employment. For purposes of this paragraph referral source shall mean a person who referred any

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customers to the Company within the two years prior to the termination of Employee's employment.

**Non-Solicitation
of Employees:**

Employee further agrees that for a period of twelve (12) months from the date of termination of Employee's employment, Employee shall not solicit, recruit, or hire any person who is, or at any time during the one (1) year period before the date of Employee's termination of employment with the Company was, an employee of the Company, or entice any such employee of the Company to leave the employ of the Company or to violate any agreement with the Company.

Severability:

If one or more provisions of this Agreement are held to be illegal or unenforceable, such illegal or unenforceable provisions shall be limited or excluded from this Agreement to the extent required so that the Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms.

Cooperation:

Employee agrees that both during and after employment he shall, at the request of the Company, render all assistance and perform all lawful acts that the Company considers necessary or advisable in connection with any litigation involving the Company or any director, officer, employee, shareholder, agent, representative, consultant, client, or vendor of the Company.

**Employee
Representations:**

- a. Employee represents and warrants that Employee has the legal right and authority to enter into this Agreement and perform the obligations under this Agreement.
- b. Employee represents and warrants that he is not now under any contractual or quasi-contractual obligation that is inconsistent or in conflict with this Agreement or that would prevent, limit, or impair Employee's performance of his obligations under this Agreement.
- c. Employee represents and warrants that nothing created by Employee will infringe the rights of any third party or violate any law.
- d. Employee represents and warrants that Employee will and has acted in compliance with all state and federal law.
- e. Employee represents and warrants that Employee is a citizen of the United States of America or has the legal right to work in the United States of America.
- f. Employee represents and warrants that Employee is competent to execute this Agreement.

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- g. Employee represents and warrants that he has carefully read and fully understands all of the provisions of the Agreement.
- h. Employee represents and warrants that Employee understands that it is his choice whether to enter into this Agreement.
- i. Employee represents and warrants that Employee understands that he has the right to seek and obtain independent legal advice with respect to the negotiation, preparation and execution of the Agreement.
- j. Employee represents and warrants that Employee will perform the services required by this Agreement in a professional and workmanlike manner in accordance with the generally accepted professional standards in effect at the time of such performance.
- k. Employee represents and warrants that Employee has not relied on any oral or written representation of Company's employees, agents, partners, attorneys, affiliates or representatives regarding any fact in executing this Agreement.

Assignment:

Employee may not assign this Agreement or his performance, rights, powers, duties or obligations under this Agreement and any such efforts shall be void. This Agreement shall be binding upon and inure to the benefit of Employee and his heirs and legal representatives and the Company and its successors.

No Waiver:

A valid waiver hereunder shall not be interpreted to be a waiver of that obligation in the future or any other obligation under this Agreement. Any waiver or consent from the Company with respect to any term or provision of this Agreement or any other aspect of Employee's conduct or employment shall be effective only in the specific instance and for the specific purpose for which given and shall not be deemed, regardless of frequency given, to be a further or continuing waiver or consent. The failure or delay of the Company at any time or times to require performance of, or to exercise any of its powers, rights or remedies with respect to any term or provision of this Agreement or any other aspect of Employee's conduct or employment in no manner (except as otherwise expressly provided herein) shall affect the Company's right at a later time to enforce any such term or provision.

Mediation:

IT IS THE POLICY OF THE STATE OF TEXAS TO ENCOURAGE RESOLUTION OF DISPUTES THROUGH ALTERNATIVE DISPUTE RESOLUTION PROCEDURES SUCH AS MEDIATION. SUBJECT TO APPLICABLE LAW, ANY DISPUTE BETWEEN THE EMPLOYEE AND COMPANY RELATED TO THIS AGREEMENT OR BREACH THEREOF WHICH IS NOT RESOLVED THROUGH INFORMAL DISCUSSION OR NEGOTIATION WILL BE SUBMITTED TO A MUTUALLY

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ACCEPTABLE MEDIATION SERVICE OR PROVIDER, PRIOR TO EITHER THE EMPLOYEE OR COMPANY FILING A LAWSUIT OR LEGAL PROCEEDING. THE EMPLOYEE AND COMPANY AGREE TO ATTEMPT IN GOOD FAITH TO SETTLE THE DISPUTE BY MEDIATION WITHIN A REASONABLE AMOUNT OF TIME. THE PARTIES TO THE MEDIATION SHALL BEAR THE MEDIATION COSTS EQUALLY. THIS PARAGRAPH DOES NOT PRECLUDE THE EMPLOYEE OR COMPANY FROM SEEKING EQUITABLE RELIEF FROM A COURT OF COMPETENT JURISDICTION.

**Forum Selection,
Personal Jurisdiction
And Governing Law:**

THIS AGREEMENT AND ANY DISPUTE ARISING HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. THE PARTIES CONSENT EXCLUSIVELY TO THE FORUM AND VENUE OF THE STATE AND FEDERAL COURTS LOCATED IN TRAVIS COUNTY, TEXAS AND THE PARTIES SUBMIT TO THE PERSONAL JURISDICTION OF SUCH COURTS IN CONNECTION WITH ANY SUIT, ACTION, OR OTHER PROCEEDING CONCERNING THE INTERPRETATION OF THIS AGREEMENT OR ENFORCEMENT OF THIS AGREEMENT. THE PARTIES WAIVE ANY OBJECTION THEY MAY HAVE NOW OR HEREAFTER TO THE VENUE OF ANY SUCH SUITS, ACTIONS OR PROCEEDINGS.

Injunctive Relief:

The Parties agree that damages would be an inadequate remedy for Company in the event of a breach or threatened breach of the paragraphs in this Agreement regarding Confidential Information and Duty of Loyalty, Non-Competition Covenant, Conflicts of Interest, Protection of Confidential Information, Non-Solicitation of Clients, Non-Solicitation of Employees, Employee's Representations by Employee, and in the event of any such breach or threatened breach, Company may, either with or without pursuing any potential damage remedies, obtain and enforce an injunction prohibiting Employee from violating this Agreement and requiring Employee to comply with its terms.

Interpretation:

The Company and Employee agree that ambiguities or uncertainties in the wording of this Agreement will not be construed for or against any party, and there shall be no presumption that this Agreement or any provision hereof be construed against the party that drafted this Agreement.

**Compliance with Code
Section 409A**

Notwithstanding anything herein to the contrary, this Agreement shall be interpreted and applied so that the payments and benefits set forth herein shall either be exempt from or shall comply with the requirements of Section 409A of the Internal Revenue Code of 1986

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(“Section 409A”). To the extent the Company determines that any provision of this Agreement would cause the Employee to incur any additional tax or interest under Section 409A, the Company shall be entitled to reform such provision to attempt to comply with or be exempt from Section 409A. To the extent that any provision hereof is modified in order to comply with Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefits to the Parties without violating the provisions of Section 409A. For purposes of Section 409A, each installment payment provided under this Agreement shall be treated as a separate payment. In no event may the Employee, directly or indirectly, designate the calendar year of any payment to be made under this Agreement or otherwise which constitutes a “deferral of compensation” within the meaning of Section 409A. Any payments to be made under this Agreement in connection with a termination of employment shall only be made if such termination of employment constitutes a “separation from service” under Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Employee on account of non-compliance with Section 409A.

If, as of the Employee’s termination of employment the Employee is considered a Specified Employee (as such term is defined in Section 409A), and only to the extent required under Section 409A, any payments or benefits due upon, or within the six month period following and due to, a termination of the Employee’s employment that constitutes a “deferral of compensation” within the meaning of Section 409A and which do not otherwise qualify under the exemptions under Treas. Reg. Section 1.409A-1, shall be paid or provided to the Employee in a lump sum on the earlier of (i) the first day of the month following the six month anniversary of the Employee’s separation from service (as such term is defined in Section 409A) for any reason other than death, and (ii) the date of the Employee’s death, and any remaining payments and benefits shall be paid or provided in accordance with the normal payment dates specified for such payment.

**Entire
Agreement:**

This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof, supersedes any prior or contemporaneous agreement between the Parties relating to the Employee’s employment with the Company. This Agreement merges with and supersedes all prior discussions, agreements, commitments, or understandings of every kind and nature relating thereto, whether oral or written, between Employee and the Company. Neither party shall be bound by any term or condition other than as is expressly set forth herein.

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Notices: All notices, requests, demands, and other communications hereunder must be in writing and shall be deemed to have been duly given if delivered by hand or mailed within the continental United States by first-class, registered mail, return-receipt requested, postage and registry fees prepaid, to the applicable party and addressed as follows:

Company:

**Tex-Mix Concrete
ATTN: R. Logan Owens
9210 Ranch Road 2243
Leander, Texas 78641**

Employee:

**Eric D. Bailey
161 Rock House Drive
Liberty Hill, Texas 78642**

Addresses may be changed by notice in writing signed by the addressee. The notice shall be deemed to have been received on (a) if delivered personally, the date of actual receipt by the party entitled thereto or (b) if mailed as required above, the date of deposit in the United States mail.

**Multiple
Counterparts:**

This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all Parties hereto, notwithstanding that all such Parties are not signatories to this original or same counterpart. Receipt by telecopy or electronic transmission of any executed signature page to this Agreement shall constitute effective delivery of such signature page.

Please be aware that no employee or agent of the Company other than the Supervisor(s) is authorized to alter, modify, waive, or rescind any provision of this Agreement or to offer benefits or compensation other than that expressly described in this Agreement. Any alteration, modification, waiver, or rescission of the Agreement shall be in writing and must be signed by the Supervisor(s) to be effective.

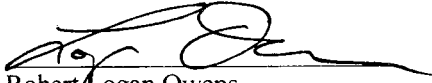
If you agree and accept these terms of employment, please sign where indicated below to evidence your agreement and acceptance, and return this Agreement to me.

[Signatures on Following Page]

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Sincerely,

Tex-Mix Partners, Ltd., d/b/a
Tex-Mix Concrete



Robert Logan Owens
Chief Executive Officer

AGREED AND ACCEPTED:



Eric D. Bailey

7/13/17

Date Agreed and Accepted

TEXMIX

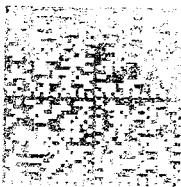
Post Office Box 830 • Leander, TX

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLDED AT DOTTED LINE
CERTIFIED MAIL



7006 1370 0001 9326 3841

Secretary of Labor
Top Hat Plan Exemption
Employee Benefits Security Administration
Room N 1513
US Department of Labor
200 Constitution Avenue, NW
Washington, DC 20301



POSTAGE
PAID
BY ADDRESSEE
FIRST CLASS
PERMIT NO. 1000
LEANDER, TX 78641