

LABOR AGREEMENT  
BETWEEN



CEMEX Construction Materials South LLC  
Yuma, Inside

AND



INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL NO 428, AFL-CIO

July 1, 2017 through June 30, 2021

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## **LABOR AGREEMENT**

THIS AGREEMENT, made and entered into on this, the 1st day of July, 2017, by and between CEMEX Construction Materials South, LLC., hereinafter referred to as the "COMPANY" or "EMPLOYER," and Operators Local 428 of the International Union of Operating Engineers, hereinafter referred to as the "UNION."

### **ARTICLE 1 - PURPOSE**

It is the intent of the parties to set out uniformly standard working conditions for the efficient production of material operations by the Employer, including the mining, production and transport of aggregate, sand and gravel, asphalt, and concrete in Yuma, Arizona, herein to establish and maintain harmonious relations between all parties to the Agreement; to secure optimum productivity; and to eliminate strikes, lockouts or delays in the performance of the work undertaken by the Employer.

### **ARTICLE 2 - SCOPE**

- A. Employees covered. This Agreement shall apply to all employees of the Employer employed out of the Employer's facility located at 2088 East 20th Street, Yuma, Arizona 85365, and any other facility operated in Yuma County by CEMEX Construction Materials South, LLC, as of the effective date of this Agreement, performing work in the Materials operations of the Employer, including the mining, production and transport of aggregate, sand and gravel, asphalt, and concrete.
- B. Compressors, Pumps, and Welding machines. The operation, servicing and maintenance of compressors, pumps and welding machines is recognized as within the jurisdiction of the Operating Engineers' union. When and if an operator is used, he shall be an Operating Engineer operator subject to all of the terms and conditions of this Agreement.

### **ARTICLE 3 - SAVINGS CLAUSE, CHANGE IN LAWS**

- A. Should any part hereof or any provision herein contained be rendered or declared invalid by reason of any existing legislation or by any decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof, and they shall remain in full force and effect.
- B. The parties further agree that this Agreement may be reopened by either party upon thirty (30) days written notice only for negotiations and agreement regarding the provisions invalidated.
- C. In the event that agreement regarding the provisions invalidated cannot be reached, the contract will continue in force without change until the expiration of the Agreement.
- D. Any subsequent changes or amendments to this Agreement shall be in writing and signed by the parties hereto.

#### ARTICLE 4 - MANAGEMENT RIGHTS

- A. All rights customarily and traditionally exercised by the Employer to operate its business and direct its employees are hereby expressly reserved by and to the Employer and all rights expressed herein shall be equal in force to any other provision of this Agreement. These rights include, but are not limited to, the right to determine prices of product, volumes of production and methods of financing, to drop or add a product line, to sell, merge, consolidate or lease the business, or any part thereof, to establish, revise or continue policies, practices, or procedures for the conduct of the business, and from time to time re-determine, the number, location, relocation, and types of its operations, and the methods, processes and materials to be employed; to discontinue processes and materials to be employed; to discontinue processes or operations or to discontinue their performance by employees of the Employer and/or to subcontract same; to determine the number of hours per day and per week operations shall be carried on; to select and assign work to such employees in accordance with the requirements determined by Management; to require physical examinations and substance abuse screening of employees under conditions established by the employer in its sole discretion; to determine the existence or the lack of work; to make and enforce reasonable rules for the maintenance of discipline for efficiency; to suspend, discharge or otherwise discipline employees; and to take such measures as Management of the Employer may determine to be necessary for the orderly, efficient, and profitable operations of the business. The listing of specific rights in this Agreement is not intended to be, nor shall it be considered restrictive or a waiver of any rights of management not listed and not specifically surrendered herein, whether or not such rights have been exercised by the Employer in the past.
- B. The Employer shall not be required to employ more than the minimum number of employees necessary to safely and efficiently operate the business and it is recognized that in order to accomplish this end it will be necessary from time to time to create, modify, consolidate, or eliminate existing or future classifications and duties.
- C. Any changes in work rules or policies will not be implemented without twenty (20) calendar days prior written notice being given to the Union and written notice posted at each plant within the same twenty (20) days.

#### ARTICLE 5 - GRIEVANCE

- A. A grievance shall be defined to mean any dispute, controversy or disagreement as to the application or interpretation of any of the terms and provisions set forth in this Agreement.
- 1) Step 1. Any employee having a grievance shall; with or without the aid of a Union Representative, first meet with the employee's immediate supervisor, who shall attempt to resolve it. If a resolution satisfactory to the employee is not reached, a grievance shall be submitted in writing (containing details of the nature of the grievance and the Articles of Agreement allegedly violated and the remedy sought) as promptly as possible, and in no case in excess of fourteen (14) calendar days from the date of the occurrence of the incident and or knowledge

which led to the grievance.

- 2 ) Step 2. The Employer shall call an authorized Union Representative within five (5) calendar days of the receipt of the written grievance. All time limits hereinafter may be extended by mutual consent. Participants in this step shall be the Union Representative and an Employer Representative who shall have ten (10) calendar days to settle the grievance.
  - 3 ) Step 3. If the grievance remains unsettled, the parties within fifteen (15) calendar days shall engage in non-binding mediation. The mediator will be one of the Commissioners from the Arizona office of the Federal Mediation and Conciliation Service.
  - 4 ) Step 4. If no settlement or agreement is reached in Step 3, then within ten (10) working days of the Step 3 mediation meeting, the matter may be referred to arbitration. A request for arbitration shall be presented to the Employer in writing and shall contain a complete outline of the nature of the complaint. Within ten (10) working days of receipt of a request for arbitration, the parties shall:
    - i) Meet to mutually select an arbitrator.
    - ii) If unable to select an arbitrator at the meeting, then the moving party shall within five (5) working days, request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service.
    - iii) Upon receipt of the panel of seven (7) arbitrators, each party shall strike three (3) names alternately with the remaining arbitrator authorized to hear the case.
- B. No grievance shall be submitted to arbitration under Step 4 unless the time limits in Steps 1, 2 and 3 have been complied with. Any grievance submitted after the time limits have expired shall be forfeited and waived.
- C. The arbitrator may not change, modify or alter any of the terms and provisions of the Agreement. The findings of the arbitrator shall be rendered within thirty (30) days of the date of hearing and shall be binding and enforceable on all parties. The expenses of the arbitrator and the hearing room shall be borne equally by both parties. It is the intention of the parties that this Article shall provide a peaceful method of adjusting grievances and there shall be no suspension or interruption of normal operations as a result of any grievance.

#### ARTICLE 6 - NO STRIKE, NO LOCK OUT

- A. During the term of this Agreement or any extension of this Agreement, the Employer shall not lock out the employees covered by this Agreement; and no strike, for any reason, whether or not contemplated by the parties at the time of this contract, shall be caused or sanctioned by the Union or its members; and neither the Union nor any of its members or representatives, or any employee shall call, ratify, or engage in, any strike, picketing, sympathy strike, slowdown, or any other interference with production or stoppage of work, or publicize by any means whatsoever to any person that the Employer is unfair or that there is a dispute between the Employer and any labor organization; or prevent or attempt to prevent the access of persons to the Employer's

premises, equipment or products for any reason whatsoever.

- B. In the event of a breach of this no strike commitment, the Union shall immediately instruct the involved employees in writing that their conduct is in violation of the contract, that they may be disciplined, up to and including discharge, by the Employer, that the Union also may take disciplinary action against them and shall instruct such persons in writing to quit the offending conduct and take all reasonable means to end the breach. A copy of the Union's written notice shall be delivered to the Employer simultaneously with the distribution to the involved employees.
- C. If the Employer elects to pursue any remedies it may have as a result of a breach of this no strike commitment in any court of competent jurisdiction, the court and not the arbitrator shall determine whether or not this Article has been breached.
- D. The Union agrees that injunctive relief may be granted by a court of competent jurisdiction for a violation of this Article.
- E. It shall not be a violation of this Article if the Union withdraws the employees of the Employer because of failure to pay contractually agreed fringe benefits.

#### ARTICLE 7 - JURISDICTIONAL DISPUTES

There shall be no work stoppage on account of jurisdictional disputes. All questions, complaints or disputes dealing with craft jurisdiction shall be referred to the business representative(s) of the union(s) involved in the jurisdictional dispute who shall meet at a location off the job site acceptable to all parties. If no agreement can be reached between the local business agents(s) of the respective union(s) within five (5) days the dispute shall be referred to the international union(s) involved for review and appropriate disposition. All work is to proceed while differences are being thus adjusted.

#### ARTICLE 8 - STAFFING OF WORK FORCE

- A. When it is necessary to reduce the work force, length of service, qualifications, skills and abilities shall be the main factors in determining the order of layoff
- B. It is agreed that the Employer is the sole and exclusive agent to determine the qualifications, skills and abilities of all employees and may lay off or discharge any employee and will not discriminate against any employee on the basis of Union membership or Union activity.

#### ARTICLE 9 - HIRING PROVISIONS

- A. Hiring Hall Provisions. In order to provide the Employer with a means of securing an efficient and competent working force, and in order to minimize the evils of casual employment by securing a fair distribution of work among the workers represented by the Union, the Employer and the Union agree as follows:
  - 1) The Employer shall requisition all workers who are to be employed in the bargaining unit from the Union from the local hiring hall nearest the job or project on which the worker

(or workers) is to be employed.

- 2) Hiring Hall violations. If the Employer violates the provisions of this Article as to proper referral it shall not be entitled to protection of the provisions of Article 5 of this Agreement. Such cases shall be settled by the Union business representative and the highest available top management and in no case shall such settlement be delayed longer than twenty-four (24) hours after said grievance arises, Saturdays, Sundays, and other nonworking days excepted. During such period, no work stoppage shall occur.
  - 3) The Employer shall give the Union forty-eight (48) hours' notice (excluding Sundays and holidays) of its need for workers and within such 48-hour period shall not hire persons not referred by the Union. The Union shall dispatch such workers as soon as possible. If, however, the Union fails to refer workers within such 48-hour period after having been notified to do so, the Employer shall have the right to hire persons not referred by the Union. However, in such event, the Employer will notify the Union immediately when such workers are hired, and shall make arrangements for proper referral.
  - 4) In notifying the Union of its need for workers, the Employer shall specify to the Union: (a) the number of workers required, (b) the location of the project, (c) the nature and type of construction involved, (d) the specific classification of work to be performed, and (e) such other information as may be necessary to enable the Union to make proper referral of applicants.
  - 5) It is understood and agreed that all dispatching of workers, and the operation of any hiring halls by the Union shall be subject to, and shall be governed by the following conditions:
  - 6) Selection and employment of applicants for referral to jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, Union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies or requirements, nor upon race, color, creed, national origin, age, sex or political affiliation.
  - 7) The Employer retains the right to reject any job applicant referred by the Union.
  - 8) The Parties to this Agreement shall post in places where notices to employees and applicants for employment are customarily posted, all provisions relating to the functioning of the hiring arrangement.
- B. Dispatching Procedures. The following procedures shall be forthwith placed in effect at all Union dispatching offices, pursuant to the provisions of this Agreement:
- 1) The Employer has agreed that it will first call the Union dispatching office for all men. If Union agents are asked to supply men, they shall promptly relay such request to the appropriate Union dispatch office for servicing the request.
  - 2) A written referral will be given to each worker dispatched to a job. This is not a Union "clearance," but rather, written evidence in worker's possession that he has been dispatched in accordance with this Agreement.
  - 3) Each Union dispatching office shall maintain appropriate registration list of cards, kept current from day to day, and referrals will be made on the following order or preference.
    - i) GROUP "A. Workers who are properly qualified as follows:
      - (1) Whose names are properly and currently registered with the Union

dispatching office. (Currently shall mean registration or renewal thereof at least once every thirty (30) days).

- (2) Who have completed at least 1,000 hours of work, within the State of Arizona, for any signatory Contractor in classifications of work specified in Schedule A of this Agreement, within the two (2) year period next preceding the date of the applicant's registration.
  - (3) Who have resided in the State of Arizona for at least a one-year period next preceding the date of the applicant's registration.
  - (4) The Employer may requisition a worker specifically by name from Group "A" provided said worker is qualified as set out above, and available for such employment. It is mutually agreed, however, that the Employer will requisition such workers specifically by name from Group "A" ONLY because of its knowledge of said individual worker's skill, qualifications, and ability to perform the work involved by reasons of (a) said employee having worked for the Employer before, or (b) the Employer having been advised on the worker's skill, qualifications and ability, by another Contractor for whom he has worked, or by the superintendent, master mechanic, or foreman, currently employed by Employer, under whose supervision said employee has performed the work involved.
- ii) Group "B". When Group "A" is exhausted, workers who are qualified as follows:
- (1) Whose names are properly and currently registered. (Currently shall mean registration or renewal thereof at least once every thirty-(30) days).
  - (2) Who have previously been dispatched under terms of this Agreement to the employer in classifications of work specified in Schedule A of this Agreement, within the three (3) year period next preceding the date of the applicant's registration, but who do not qualify for Group "A".
  - (3) Who have resided in the State of Arizona for a period of at least six (6) months immediately preceding the date of the applicant's registration.
- iii) Group "C". When Group "B" is exhausted, all other workers who are properly qualified, (as hereinafter provided) whose names are properly registered and who are available for employment.
- iv) The Union reserves the right to refer employees from the "C" list, if not called by name, on the basis of most experienced for the position to be filled. If disputes arise as to application of this paragraph iv, such disputes will be handled according to the provisions herein.
- v) When the Employer has four (4) workers currently employed on any specific job or project, who have been dispatched from Group "A" or "B" (or "C" if not called by name) he may then requisition by name one (1) worker from Group "C". After the employer has fourteen (14) workers currently employed on any specific job or project, who have been dispatched from Group "A" or "B" (or "C" if not called by name) he may then requisition by name one (1) additional worker from Group "C". Employer may thereafter requisition by name from Group "C" one (1) additional worker for each additional ten (10) workers who are currently employed by him,

and who have been dispatched from Group "A", "B" (or "C" if not called by name) provided however, that the total number workers requisitioned from Group "C" by name shall at no time exceed five (5) for any one (1) established shift on any specific job or project; and, provided further, that this ratio, as shown in Example 1, up to a maximum number of five (5) workers from Group "C" shall not be exceeded throughout the specific job or project, regardless of whether the employer is increasing or decreasing his work force.

**Example 1**

# of Group "A" or "B" employees (or "C" if not called by name) on a specific job or project	# of Group "C" employees who may be called by
From 1 to 3. Employers may request by name	None
From 4 to 13. Employers may request by	1 for a max of 1
From 14 to 23. Employers may request by name	1 for a max of 2
From 24 to 33. Employers may request by name	1 for a max of 3
From 34 to 43. Employers may request by name	1 for a max of 4
From 44. Employers may request by name	1 for a max of 5

- vi) Within forty-eight (48) hours after requesting a worker from Group "C" by name, the Employer shall cause to be delivered to the appropriate Union office a letter (or form letter agreed to between parties) setting forth the specific reason for such request as specified in Article 9B,3,(4) hereof. Gross violation of this provision shall result in the Employer being denied, for a six (6) months period, the right to call the worker specifically by name.
  - vii) Notwithstanding the above-stated order of preference in referrals, and notwithstanding any other provision in this agreement, a dispatching office may give first priority preference to any classes protected by the Civil Rights Act, who are properly registered, where reasonably necessary to comply with "Affirmative action plans" which are conditions of federal or state assisted construction or which are established from time to time by the Union and Employer, in concert with each other, as part of the community action or industry plan.
- 4) The transferring of workers and the hiring of key workers by an employer signatory to the National Pipeline Agreement for work performed under said agreement shall be done according to the provisions of said Agreement. However, such workers shall be allowed to remain on the job or project in the classification for which they are dispatched, only for project's duration. Such Workers shall not be transferred to another project, acquire Group "A" status and/or any recall privileges by virtue of such employment.
  - 5) All Officers and Business Representatives of the Union, who have had experience in any one or more of the occupational classifications of work contained in Schedule A of this Agreement, and all foremen and superintendents employed by signatory contractors, who have previously had work experience in the State of Arizona, in one or more of the occupational classifications contained in Schedule A of this Agreement, shall be deemed

to be employed at the trade, and it is the intent of this section to provide that upon return to the employment of the Employer as an employee at the Trade, he does so with the same preference as if he had continually worked for the Employer.

- 6) The period of years in Group "A" and Group "B" above will be extended for any period of incapacity due to sickness or injury, or for military service, and to workers employed by signatory contractors, on work outside the State of Arizona, provided workers so affected become properly registered with the Union dispatching office within thirty (30) days after recovery from such said disability, discharge, or return to Arizona for such work outside the State.
- 7) It is further agreed that the Employer, or his agent, shall not contact individual workers, nor shall the individual workers contact the Employer or his agent, for the purpose of discussing potential employment under terms less favorable than those set forth in this Agreement. In the event the Employer, or his agent, or an individual worker, violates this section of the Agreement, then he shall be subject to discipline as determined by the following procedure:

- C. Should the Employer, or his agent and/or an individual worker, be found guilty of attempting to arrange for working conditions less favorable to the worker or more favorable to the employer than those set forth in this Agreement, the employer shall be denied, for a six-month period, the right to call an individual worker specifically by name, and/or the individual worker shall be denied the right of registration in Group "A" for a period of six months.
- D. Dispatching Rules. Dispatching Rules shall be posted in the Union Hall in a place conspicuous to Registrants.
- E. Position on List. If Registrants inquire, they shall be informed of their position on the out-of-work list.
- F. Available for work. "Available for Work" means that the registrant must be present at the time and place uniformly required for dispatchment and be ready, able and willing to go to the job site and perform the work for which he is being dispatched. The practice of each dispatching office shall be uniform as to all registrants with respect to physical presence in the office at given hours, or telephoning in, being available at a telephone, etc., and registrants shall be informed of the practice.
- G. Notations. Appropriate notations shall be made opposite the registrant's name reached for dispatch, showing the job and classification to which he is dispatched, his lack of availability, or other reason that he has been passed over. If inquiry is made by the registrant, he shall be given exactly the same information as to reasons, etc., as appears on the notation, in such cases, or any other cases which may lead to a dispute, the dispatcher should immediately make notes of the facts upon which he or she based his or her decision to dispatch or not to dispatch the employee.
- H. In the event Federal Legislation, any Federal Court of Appeals decision, or a

decision of the NLRB determines or establishes that any portion of this Article is illegal, such portion shall be immediately reopened for the purpose of negotiation, upon notice in writing from either party to the other.

- 1) In the event the parties cannot reach an agreement with thirty (30) days from the date of said reopening, then the parties shall mutually delegate authority to the Dean of the Law College at the University of Arizona, or his nominee, to revise and modify, after opportunity has been afforded to each party to make argument and present pertinent evidence, said portion of Article in such a manner that it will:
  - i) Conform with the then existing law or decision, and
  - ii) Conform as nearly as is legally possible to the present language, meaning, and intent of this Article, as the same has been initially negotiated in this contract.
  - iii) All expenses incurred in the administration of this Article shall be borne equally by the Parties hereto, except that the individual legal fees shall be borne by the respective parties incurring such fees.
- 2) Should any portion of this Article be declared illegal (as outlined in this Article above) then, upon exhaustion of the 30-day negotiation period, the Union agrees to accept from that date forward all responsibility and to save the Employer harmless for any back pay liability incurred by the Employer signatory hereto as a result of the operation of the hiring hall until revision has been made in the manner above provided.
- 3) If after such a revision, the original language of this Article is again indicted to be legal, then this Article shall immediately and automatically revert to such original language upon written notice by the Union.

#### ARTICLE 10 - SAFETY

- A. The Employer and the Union will comply with all applicable health and safety laws and regulations and agree to cooperate toward the objective of eliminating accidents and health hazards. The Employer will continue to make reasonable provisions for the safety and health of its employees during the hours of their employment.
- B. The Company and the Union agree to continue to cooperate in administering the current rules for substance abuse testing. Guidelines for the substance abuse drug screen will be those as specified in the Company's "Alcohol and Drug Abuse Corporate Policy," a copy of which is attached hereto as Appendix A.
- C. The guidelines for administering the physical qualifications and examination will be those as outlined in Subpart E (Physical Qualifications and Examinations) of the "Federal Motor Carrier Safety Regulations". The

- examination will also include a substance abuse drug screen.
- D. Equipment for Safety and Health. The Employer shall furnish equipment necessary for protection of health and safety including sanitary facilities and potable drinking water (cold water in hot weather) pursuant to state and federal law.
  - E. An employee who is disciplined or discharged for refusing to perform work which would unduly endanger his health or safety (or the health or safety of other employees) shall have recourse through the grievance procedure.
  - F. Employees who are subject to DOT qualifications shall be required to submit to a DOT physical and drug screen administered by the Company. The employee will be compensated one hour for this activity. The Employer reserves the right to select its own medical examiner or doctor and the Union may, if it believes an injustice has been done an employee, have said employee reexamined at the employee's expense. If the two (2) doctors disagree, the Employer and the Union shall mutually agree upon a third (3<sup>rd</sup>) doctor within ten (10) working days, whose decision shall be final and binding on the Employer, the Union and the employee. Neither the Employer nor the Union will attempt to circumvent the decision of the third (3<sup>rd</sup>) doctor and the expense of the third (3<sup>rd</sup>) doctor shall be equally divided between the Employer and the employee. This provision applies to employees who return to work from an off the job injury.
  - G. If the third (3<sup>rd</sup>) doctor agrees that the employee should be returned to work at his current job classification, the employee shall be reimbursed at his/her current rate multiplied by eight (8) hours for each lost day of work not to exceed fifteen (15) working days, less any other monies received back to the date of the examination by the Company doctor. It shall exclude any time the employee was not available for examination or work.
  - H. The third (3<sup>rd</sup>) doctor procedure contained in this section shall also be applicable to personal injuries.
  - I. It is understood and agreed that the Company has developed and initiated a "zero tolerance" Lock-out, Tag-out (LOTO) safety policy.

#### ARTICLE 11 - MILITARY CLAUSE

Employees enlisting or entering the military service of the United States, pursuant to the provisions of the Uniformed Service Employment and Reemployment Rights Act (USERRA), shall be granted all rights and privileges provided by the act.

#### ARTICLE 12 - UNION STEWARD

- A. The Union may designate one or more of the employees in the bargaining unit to act as Steward. The Union shall notify the Employer in writing as to the identity of the designated Steward. The Steward shall be on the job at all times during working hours as far as is practical. In performing his duties, the Steward shall not hinder

- or delay the performance of his or another employee's work.
- B. The Steward shall not receive, nor solicit, grievances.
  - C. The Steward shall be a working employee appointed by the Union who shall perform his steward duties without unduly stopping the productivity of other employees or himself. He shall not be discriminated against in any manner on the basis of his Union activities by the Employer or its representatives. No job steward shall be terminated without just cause. If the Employer or his representatives feels he has just cause to terminate a steward, he shall notify the Union Business Representative.
  - D. Recognizing the importance of the role of the Union Steward in resolving problems or disputes between the Company and its employees, the Company reaffirms its commitment to the active involvement in such processes in accordance with the terms of this Article.

### ARTICLE 13 - UNION ACCESS

The authorized agent of the Union shall have access to the Employer's establishment during working hours where such visits are necessary to consult with an employee provided such Union Representative "logs in" his presence with the Operations Manager or his designee prior to any such visit and abides by all Safety and Security requirements of the job/operations. There will be no interruption of any employee's work activities during such visits.

### ARTICLE 14 - HOURS OF WORK AND WAGES

- A. The payroll week shall begin on Sundays and end on Saturdays. The workweek will begin on Monday and will end on Saturday. All hours worked in excess of forty (40) hours in one week shall be paid for at one and one-half (1 1/2) times the regular basic hourly rate.
- B. Each employee shall be paid the hourly wage set forth in Schedule A.
- C. All work performed on Sundays shall be on a voluntary basis and shall be paid for at the rate of time and one-half (1-1/2) the employee's straight time hourly wage rate; however, work that must be done on Sunday due to contractual requirements or specifications is exempt from time and one-half (1-1/2) pay and will be treated as a normal work day.
- D. All hours worked in excess of ten (10) hours per day shall be paid for at the rate of time and one-half (1-1/2) times the employee's straight time hourly wage rate.
- E. There shall be no pyramiding of overtime and/or premium pay.
- F. Employees injured on the job and unable to return to work as a result of such injury shall receive wages for the full day on the day injured. If transportation is needed on said day to transport an injured worker to the doctor or hospital and/or to his home from the doctor or hospital, transportation shall be furnished by the Employer. In the event of a serious accident or death on the job, the Employer will immediately notify the worker's family and the Union.
- G. An employee off work due to injury on the job, or illness aggregating not in excess of six (6) months leave of absence, certified by a physician, and who, as a result of his injury,

has received benefits from the Industrial commission, shall be entitled to return to his regular job when he is released by the company physician to return to work, providing that employee has been employed by this Employer for at least three (3) months at time of injury.

- H. The Employer shall furnish to each employee along with each paycheck, a detachable statement showing the employee's name or identification number, date of payroll period, straight time hours worked, overtime hours worked, straight time pay, overtime pay, gross pay, all deductions itemized and net pay.
- I. The Employer shall furnish and complete termination slips for any employee who is terminated, showing the reason therefore, giving one to the employee, sending one to the Union at the time of termination, and retaining one for the Company's records. In those instances where a termination notice is marked "NOT FOR REHIRE" that employee shall not be eligible for rehire for one (1) year from such termination date.
- J. Employees shall be at a pre-designated starting point, at a pre-designated time, ready, willing and able to work in the capacity for which he/she was hired.
- K. The Employer may schedule a one-half (1/2) hour lunch break between 3 and 5-1/2 hours after the individual's starting time and if the employee is required to work straight through, then the employee will be paid one-half (1/2) hour for the lunch period at straight time.
- L. Accessible sanitary toilet facilities, sanitary drinking facilities and good drinking water, ice and adequate shade for equipment operators, heavy-duty mechanics and welders shall be furnished by the Employer on the job.
- M. All craftsmen shall be furnished all hand tools over one and one-half inch (1 1/2") opening, including all special power tools required on the job and lenses for welding hoods and goggles. These will be charged to the employees, who are to guarantee their return in like condition, normal wear and tear excepted.
- N. The Employer shall be held responsible for overweight, over height, and defective equipment citations, unless the employee has acted contrary to the instruction of the Employer, and the Employer shall pay all fines levied for such violations or citations. If the Employer fails to pay said fines, and the employee is arrested and/or incarcerated because of said failure, the employee shall receive his applicable hourly rate for the first eight (8) hours and the applicable overtime rate for all hours over eight (8) hours, until released from custody. The Employer is not responsible for any fines or for arrest or incarceration for failure to pay said fines if those fines were levied as a result of violations not the responsibility of the Employer.
- O. In the event that Employer contracts for work specifying payment of specific wage rates, such as Federal Davis-Bacon prevailing rates, the determination of wage rates to be paid by Employer for the work involved under such contract shall be in accordance with those contract provisions.
- P. It is understood by the Parties hereto that employees required to drive a company vehicle to the job site will be afforded return transportation, and that provisions will be made to assure that such workers are able to get to and from

- the job site and their meals and lodging.
- Q. Any employee making an out-of-town round trip shall be reimbursed for all necessary meals after the first meal away from home job site, and shall be reimbursed for lodging if required to layover away from home. The maximum reimbursement amount including tax and tips shall not exceed twenty-five dollars \$25.00 per 24-hour period. The daily maximum reimbursement increases to thirty-five dollars (\$35.00) effective July 1, 2015. The Company will designate the motel. Time off duty shall not exceed fifteen (15) hours for any one layover.
- R. The Employer and the Union recognize and acknowledge that the Employer has made a substantial investment in the training of the Employer's employees. To protect that investment, employees are prohibited from "moonlighting" or working for a competitor while on the Employer's payroll and steady work is being provided by the Employer.
- S. Tool Insurance. The Company shall reimburse mechanics up to fifteen thousand dollars (\$15,000) per occurrence for the of tools due to a theft from Company premises or Company vehicles, or due to fire on Company premises or Company vehicles. The mechanic shall pay the first five hundred dollars (\$500) of such loss. To be eligible for this coverage, the mechanic:
- 1) On or about July 1 of each year must provide his/her supervisor with a complete inventory of his/her personal tools. A new hire mechanic must also provide such inventory at the time of hire.
  - 2) Must properly secure his/her tools at the end of shift, and otherwise exercise reasonable diligence in protecting his/her tools.
- T. Safety Equipment. The Employer must furnish all clothing and equipment necessary for health and safety, including but not limited to hard hats. Asphalt truck drivers shall be furnished special gloves. At the time of hire, and once every calendar year thereafter, an employee shall be entitled to, and the Company shall pay up to, one hundred dollars (\$100) towards the purchase of high-topped, lace-up safety-toed boots. To be eligible for this benefit, employees must purchase a pair of high-topped, 8" lace-up, safety-toed boots, and the Company shall rebate up to one hundred dollars (\$100) upon presentation of the receipt. The annual safety boot allowance is increased to one hundred and ten dollars (\$110.00) effective July 1, 2015. For new hires, if the new hire leaves employment of the Company within one year of his/her date of hire, fifty-dollars (\$50) shall be deducted from his/her final paycheck. This benefit may, or may not, be utilized at the sole discretion of the employee.
- U. Funeral Leave. In the event of the death of an employee's immediate family member, a reasonable period of leave will be granted to the employee. Immediate family includes the employee's spouse, child, stepchild, sibling, parent, parents-in-law, grandparents, grandparents-in-law or grandchild. To offset the expense associated with arranging for, or attending, a funeral, regular full-time employees will be paid eight (8) hours at their current straight time-time hourly rate of pay for

- (50) percent of the employee's annual vacation pay in lieu of time off.
- B. After one year's continuous service in the employ of the Employer covered by this Agreement, each employee, on his anniversary date shall be entitled to one week's annual paid vacation. Vacation pay shall be computed based on the formula of the employee's straight time hourly rate at the time vacation is taken times forty (40) hours.
  - C. After three years continuous service in the employ of the Employer covered by this Agreement, each employee, on his anniversary date, shall be entitled to two (2) weeks annual paid vacation.
  - D. After fifteen (15) years continuous service in the employ of the Employer covered by this Agreement, each employee, on his anniversary date, shall be entitled to three (3) weeks annual paid vacation.
  - E. After twenty (20) years of continuous service in the employ of the Employer at a plant covered by this Agreement, each employee, on his anniversary date, shall be entitled to four (4) weeks of annual paid vacation. Vacation pay for employees with 4 weeks of vacation shall be calculated as one hundred sixty (160) hours at the classification rate at which he/she worked for the majority of hours in the week prior to the vacation.
  - F. It is understood that continuous service for the purpose of qualifying for vacation shall not be interrupted by a lay off by the Employer for a period not to exceed one hundred and twenty (120) days in the case of an employee who would, at his next anniversary date, qualify for a one week vacation, or one hundred and twenty (120) days in the case of an employee who would, at his next anniversary date, qualify for a two week or three week vacation, provided employee reports to work when called.
  - G. Vacations shall be scheduled by the employer and the employee at mutually satisfactory dates. This first week of paid vacation shall be taken between the employee's anniversary date and the end of the calendar year vested provided said employee meets all the eligibility requirements. Thereafter, on January 1 of each succeeding year, the qualified employee may schedule his next year's vacation throughout the entire next calendar year. Subsequent vested weeks shall be earned and scheduled similarly.
  - H. Employees are required to work a minimum of one thousand (1000) hours in the previous calendar year to be eligible for their full vacation entitlement. Employees working less than one thousand (1000) hours in the previous calendar year will receive their vacation entitlement pro-rated. Pro-rated vacations are calculated based on one twelfth (1/12) of their vacation entitlement for every eighty-three (83) hours worked in the previous calendar year.

## ARTICLE 17 - PENSIONS

- A. Employees subject to this Collective Bargaining Agreement are covered by the terms and conditions of the United Metro Collectively Bargained Pension Plan. Under that Plan, benefits are as follows:
  - 1) For years of service after 10/1/1997 the benefit is calculated at

- \$30.00 per month for each full year of pension credit;
- 2) For years of service after 10/1/1999 the benefit is calculated at \$31.00 per month for each full year of pension credit;
  - 3) For years of service after 10/01/2002 the benefit is calculated at \$39.00 per month for each full year of pension credit;
  - 4) For years of service after 10/1/05 the benefit is calculated at \$40.00 per month for each full year of pension credit;
  - 5) For years of service after 10/1/06 the benefit is calculated at \$41.00 per month for each year of pension credit; and
  - 6) For years of service after 10/1/07 the benefit is calculated at \$42.00 per month for each year of pension credit.

B. The Pension will be frozen effective December 31, 2010.

- 1) Employees with less than five years of service as of December 31, 2010, who continue to work for the Company after that date will continue to accrue years of service for pension vesting purposes. However, those employees will not accrue additional benefits under the Pension.
- 2) Employees hired after the ratification of this agreement will not be eligible for the Pension.
- 3) Effective January 1, 2012 and for the term of this agreement, the Company will provide the employees with participation in the CEMEX, Inc. 401(k) Retirement Savings Plan including all amendments and modifications, and discontinuance to said plan during the life of this Agreement on the same basis as the benefits and eligibility requirements that are provided to CEMEX, Inc.'s salaried employees except as specified below.

The terms and conditions of this benefit are controlled by a specific plan document. Summary plan description is available through the Company's website on the internet to all employees. The Company's contribution rate for said plan is subject to change periodically as determined by the Company. It is understood and agreed that any of this benefit may be amended, modified or deleted during the term of this Agreement if such amendments, modifications or deletions are made for salaried employees of the Company.

- C. The Company shall provide for \$50,000 term life insurance for active employees while the Company employs them. This includes a 1-year extension of benefits for employees diagnosed with terminal illness at time of leaving the Company.
- D. The Company shall provide the options of both short-term and long-term disability plans for all employees covered under this Collective bargaining Agreement. These options, if utilized, shall be paid for by the employee.

## ARTICLE 18 - HEALTH AND WELFARE

- A. On the effective date of this Agreement, and monthly in accordance with the provisions of the Trust Agreement, the Employer shall pay the sum indicated for each hour worked by the employees covered under the provisions of this Agreement to the

Trustees of the Operating Engineers Local 428 Welfare Trust Fund:

<b>Effective Date</b>	<b>Company Hourly Contribution</b>
July 1, 2017	\$4.45 per hour
July 1, 2018	\$4.85 per hour
July 1, 2019	\$4.95 per hour
July 1, 2020	\$5.55 per hour

In the event the trust requires additional contributions to sustain the plans, the additional cost will be passed on to the employee.

- B. The said payments by the Employer shall discharge its obligation hereunder, and any increase in cost is to be deducted from the employee's wage rate. Any dispute arising in the administration of said Fund shall not be deemed to be a dispute hereunder and shall not be subject matter of the grievance procedures contained in Article 5 hereof and shall not be deemed to be a dispute concerning wages, hours and working conditions.
- C. The parties shall cause the said Trustees to execute any and all documents necessary and required to continue in full force and effect the Agreement and Declaration of Trust dated the 29<sup>th</sup> day of September, 1959, and as amended thereafter, creating the said Operating Engineers Local No. 428 Health and Welfare Trust Fund for the duration and term of this Agreement. A copy of the Agreement and Declaration of Trust dated the 29<sup>th</sup> day of September, 1959, as amended, is incorporated herein by reference. The Board of Trustees, as appointed, shall have equal voice in making all decisions concerning the Trust, including amendments of the Trust Plan itself.
- D. The Employer agrees that the Trustees designated by the Contractor Association are its representatives for purposes of the Health and Welfare Trust Fund and further agrees that it shall be bound by all the terms and conditions of said Agreement and Declaration of Trust dated the 29<sup>th</sup> day of September, 1959, and as amended thereafter, and to all amendments thereto during the term hereof.

**ARTICLE 19 – SICK LEAVE**

- A. Effective January 1, 2018, the Company provides a maximum of forty (40) paid hours of sick leave per calendar year to employees who require time off due to personal illness, illness of a child, parent, or domestic partner, or due to domestic violence, sexual violence, abuse, or stalking of the employee or closure of the Cemex facility where an employee reports to work by order of a public official due to a health emergency.

## ARTICLE 21 - REPORTING TIME

A workman shall receive two (2) hours show up time in the event of a breakdown in operations prior to or within the first two (2) hours of his shift. The Employer shall make advance arrangements for exchange of information, including a call-in procedure regarding work reporting in the event of weather that would cause a customer to cancel an order. Employees will be paid only for time worked when sent home for reason of inclement weather. However, nothing contained herein shall require the Employer to pay show up time to workers who report for work and who are not ready, able and willing to go to work in the capacity for which they were hired.

## ARTICLE 22 - SUBCONTRACTING

- A. The Employer shall subcontract work at his discretion subject to the terms contained in paragraph D herein, and, providing the Employer has first solicited bid proposals for such work from the subcontractors who are known to be signatory to a labor agreement with the Union, and, further providing that in the event both signatory and non-signatory entities make proposals to do the work and the proposals are equal in the Employer's judgment in all respects, then the Employer shall subcontract the work to the signatory entity.
- B. The Employer's determination as to suitability and acceptability of a proposal and the award of any subcontract shall be final.
- C. The Employer's duty, described in Paragraph A herein to solicit bid proposals from signatory subcontractors shall be strictly limited to those subcontractors named in writing by the Union. It shall, therefore, be the Union's duty to supply to the Employer on an ongoing basis a list of signatory subcontractors, classified by their work type capabilities.
- D. For any single project, or combination of projects located in the same vicinity, the Employer shall perform work with his own organization amounting to more than 50% of the adjusted total contract amount. The adjusted total contract amount shall be the contract bid price less the bid price as any items designated by the Employer or the Owner of the project as specialty items requiring specialized knowledge, craftsmanship or equipment.

## ARTICLE 23 - VACATION SAVINGS PLAN

- A. On the effective date of this Agreement, Employer shall pay the sum of fifty cents (\$0.50) per hour for each hour worked by employees covered hereunder to the Trustees of the Vacation-Savings Trust Fund. The amount of fifty cents (\$0.50) is incorporated into the wage rates set forth herein. The fifty cents (\$0.50) per hour contribution will be deducted from the employee's pay due, after all applicable taxes have been withheld, and forwarded in the manner established by the signatory parties hereto.

- B. The said payment by Employer shall discharge its obligation hereunder. Any dispute arising in the administration of said fund shall not be deemed to be a dispute hereunder and shall not be the subject matter of the grievance procedures contained herein and shall not be deemed to be a dispute concerning wages, hours or working conditions.
- C. Payments shall be made to the Trustees monthly or in such other manner set forth in the Trust Agreement administering the said Trust.
- D. The parties shall cause the said Trustees to execute any and all documents necessary and required to continue in full force and effect the Agreement and Declaration of Trust dated the 24<sup>th</sup> of May, 1971, and as amended thereafter, creating the said Operating Engineers Local No. 428 Vacation Savings Trust fund, for the duration and term of this Agreement. A copy of the Agreement and Declaration of Trust dated the 24<sup>th</sup> day of May 1971, as amended, is incorporated herein by reference. The Board of Trustees as appointed, shall have equal voice in making all decisions concerning the Trust, including amendments of the Trust Plan itself.
- E. The Employer agrees that the Trustees designated by the Contractor Association are its representatives for purposes of the Vacation Savings Trust Fund, and further agrees to be bound by all terms and conditions of said Trust Agreement and to all amendments thereto during the term hereof.

#### ARTICLE 24 - DUES CHECK OFF

- A. The Employer agrees to deduct from the pay of all employees covered by this Agreement the regular monthly dues and/or initiation fees of the Local Union having jurisdiction over such employees and agrees to remit to the said Local Union all such deductions prior to the end of the month for which the deductions are made. Where laws required written authorization by the employee, the same is to be furnished in the form required. The Local Union shall certify to the Employer in writing each month a list of its members working for the Employer who have furnished to the Employer the required authorization, together with the itemized statement of dues and/or initiation fees (full or installment), owed to be deducted for such month from the pay of such members, and the Employer shall deduct such amount within two (2) weeks following receipt of the statement of certification of the member and remit to the Local Union in one lump sum. Check off shall be on a monthly or quarterly basis at the option of the Union.
- B. When the Employer actually makes a deduction for dues and initiation fees, in accordance with the statement received from an appropriate Local Union, he shall remit same no later than thirty (30) days from the date such deduction was made. All monies required to be checked off shall become the property of the entities for which it was intended at the time that such check off is required to be made. All monies to be checked off and paid over to other entities under this Agreement shall become the property of those entities for which it was intended at the time that such

check off is required to be made.

- C. The Employer will recognize authorization of deductions from wages, if in compliance with state law, to be transmitted to the Local Union or to such other organizations as the Union may request if mutually agreed to. No such authorization shall be recognized if in violation of state or federal law. No deduction shall be made which is prohibited by applicable law.
- D. The Union shall defend, indemnify, and hold the Company harmless against any claim or liability arising out of the administration of the check off provisions of this Agreement.

#### ARTICLE 25 - DURATION OF AGREEMENT

- A. This Agreement and all its terms shall be binding upon the Employer and the Union and shall become effective July 1, 2017 and shall remain in effect until June 30, 2020. Notice to terminate this Agreement or to change certain of its provisions shall be given in writing by either party to the other at least sixty (60) days, and not more than ninety (90) days, prior to the expiration of the contract.
- B. Should either party give notice as aforesaid to the other of an intention to change any of the terms of this Agreement upon the expiration of the term, then within sixty (60) days from said notice, representatives of the Employer and the Union shall meet to discuss and negotiate such changes. This Agreement may be extended by mutual consent of the Company and the Union.

**CONTRACT SIGNATURE PAGE - INSIDE OPERATORS**

Term of Agreement: July 1, 2017 – June 30, 2021

Cemex Construction Materials South LLC  
Yuma – Inside

Operating Engineers Local 428  
of the International Union of Operating  
Engineers AFL-CIO

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Signature

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Signature

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Date

## SCHEDULE A - INSIDE OPERATORS

### Hourly Wage Rates and Classifications

#### 1. Hourly Wage Rates

Group	July 1, 2017	July 1, 2018	July 1, 2019	July 1, 2020
1	\$21.65	\$21.65	\$22.15	\$22.15
2	\$22.41	\$22.41	\$22.91	\$22.91
3	\$23.67	\$23.67	\$24.17	\$24.17
Special (Plant Mechanic /Welder)	\$21.97	\$21.97	\$22.47	\$22.27

#### 2. Hourly Job Classifications

Grade	Job/Classification
1	A Frame Boom, Winch Truck
1	Pump Operator
1	Generator Operator (all)
1	Power Grizzly Operator
1	Welding Machine Operator
1	Oiler
1	Forklift & Ross Carrier Operator
1	Skiploader (3-1/2 c.y.& less)
1	Wheel type Tractor Operator (Ford Ferguson type with attachments, BeeGee, etc.)
1	Power Sweeper
1	Machine Conveyor Operator
1	Dinky Operator (under 20 tons)
1	D5 and under Tractor Operator
1	Oiler Driver
1	Aggregate, Plant Operator (including crushing, screening and sand plants, etc.)
1	Asphalt Plant Mixer Operator
1	Concrete Batch Plant Operator (all types and sizes)
1	Drilling Machine Operator (including water wells)
1	Elevating Grader Operator (all types and sizes except as otherwise classified)
1	Field Equipment Serviceman
1	Pneumatic Tire Scraper Operator (all sizes and types)
1	Skip Loader Operator (all types with a rated capacity over 3-1/2 but less than 6 c.y.)
1	Tractor Operator (dozer, pusher all)
1	Backhoe Operator (Rubber tire or Track less than 1 c.y. MRC)
1	Concrete Mixer Operator (paving type and mobile mixers)
1	Crane Operator (crawler and pneumatic less than 15 tons capacity MRC)
1	Motor Grader Operator (any type power blade rough)
2	Asphalt or Concrete Planing, Rotomill and Milling Machine Operator
2	Auto Grade Machine Operator (CMI or similar equipment)
2	Crane Operator (crawler and pneumatic over 15 tons & less than 100 ton capacity)
2	Crawler Type Tractor Operator (with boom attachment and slope bar)
2	Gradall Operator
2	Heavy Duty Shop Mechanic/Welder
2	Mass Excavator Operator (150 Bucyrus, Erie and similar type)
2	Motor Grader Operator (any type power blade finish)
2	Mucking Machine Operator
2	Operating Engineers Electrician (including lineman, tower erector, cable splicer, etc.)

2	Overhead Crane Operator
2	Remote Control Earth Moving Machine Operator
2	Skip Loader Operator (all types with rated capacity 6 c.y. but less than 10 c.y.)
2	Universal Equipment Operator (shovel, backhoe, dragline, clamshell etc.)
3	Crane Operator (pneumatic or crawler 100 ton hoisting capacity and over MRC rating)
3	Skip Loader Operator (all types with rated capacity of 10 c.y or more)
3	Universal Equipment Operator (shovel, backhoe, dragline, clamshell, etc., 10 c.y. or more)
Special	Plant Mechanic/Welder

The Company will make available to Plant employees covered under the collective bargaining agreement incentive pay as set forth in the Company's Plant Mechanic/Welder Incentive Pay Policy, which is attached hereto as Appendix B.

Engineer Craft Foreman - not less than \$.50 per hour more than the highest paid foreman under his supervision.

All operators on equipment with booms, except concrete pumping truck booms, including jibs, shall receive one cent (\$.01) per foot per hour pay for every foot over eighty (80) feet in addition to his regular rate of pay.

New Hires: New Hire Journeyman shall initially be paid \$2.00 below the classification rate, and shall receive a \$1.00 increase every six months until he or she reaches the full contract amount. The Employer has the discretion to accelerate increases. This provision shall apply to an applicant found by the Employer after the 48 hour period required in Article 9(A)(3) and/or the Memorandum of Understanding. It does not apply to operators dispatched off the out-of-work list maintained by the Union hall.

Trainees: Trainees, meaning an employee having no experience performing the type of work in the classification for which he/she is hired, shall initially be paid \$3.00 below the classification rate, and shall receive a \$1.00 increase every twelve months until he or she reaches the full contract amount. The Employer has the discretion to accelerate increases. This provision shall apply to an applicant found by the Employer after the 48 hour period required in Article 9(A)(3) and/or the Memorandum of Understanding. It does not apply to operators dispatched off the out-of-work list maintained by the Union hall.

Probationary Period: All new hires shall be employed on a trial basis of ninety (90) calendar days, during which period the probationary employee may be discharged without further recourse.

The Company will make reasonable efforts to provide training opportunities to employees desiring to learn more jobs and skills.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Memorandum") will supplement and modify Article 9 of the Agreement. Wherever there are conflicts between Article 9 and this Memorandum, the Memorandum will prevail.

Whenever the Company needs employees to perform work covered under this Agreement, it shall contact the hiring hall. The Union will, wherever possible, maintain a list of qualified residents of Yuma County who will first be dispatched to the Company. If no qualified Yuma County residents are available, the Union will dispatch qualified individuals from the out of work list. If the Union cannot fill an order for workers within 48 hours of the call, the Company is free to hire from any source. The Company will require any such employee to secure a referral from the Union's hiring hall, which consists of filling out a Work History/Registration Referral form and paying a fee. The referral may be secured by phone or fax if the employee otherwise complies with the referral requirements established by the Union. Should the candidate satisfy the stated referral requirements set forth in this Memorandum, the Union shall provide the candidate with a referral.

## APPENDIX A - DRUG SCREEN POLICY

Policy Number: 640

# CEMEX

Date: November 1, 1996

### **Corporate Policy**

**Revised: January 1, 2008**

SUBJECT: Drug and Alcohol  
Abuse

APPROVAL: Previously Signed

### PURPOSE

CEMEX, Inc. has a strong commitment to the health, safety, and welfare of its employees, their families, and its customers. Our commitment to maintaining a safe and secure workplace requires a clear policy and supportive programs relating to the detection, treatment, and prevention of drug and alcohol abuse by employees.

### II SCOPE

Except where restricted by law, this policy applies to all employees of the Company. It is also intended to apply to contractors and employees of firms doing business with the Company while on our premises. References to "CEMEX, Inc." or the "Company" include CEMEX, Inc. and all CEMEX, Inc. subsidiaries and affiliates.

### III. POLICY

- A. The company will not tolerate or condone substance abuse. It is the policy of CEMEX, Inc. to maintain a workplace free from the effects of alcohol and other drug abuse.
- B. CEMEX, Inc. policy is that employees who have any unlawfully-used drugs present in their systems, or who engage in the use, sale, possession, manufacture, distribution of unlawful drugs, or who offer to buy, sell, or distribute such drugs, whether on or off duty will be subject to immediate termination.
- C. Consistent with our policy regarding employees terminated for gross misconduct, any employee who has been terminated for violating this policy will not be eligible for re-hire within any Division of CEMEX, Inc.
- D. It is the policy of CEMEX, Inc. to commit the resources necessary to achieve and maintain an environment free from the effects of drugs and alcohol.
- E. Alcoholic beverages will not be provided at Company sponsored functions unless approved in advance by the Business Unit Owner's Team member.
- F. Employees of CEMEX, Inc. will have five (5) business days to challenge and appeal the results of a positive drug or alcohol screen by requesting, in writing, a retest of the original specimen at the expense of the employee. If the retest is negative the cost of the test will be paid for by the Company.

CEMEX, Inc. expects the full support of this policy by all employees and all persons doing business with the Company.

#### IV. PROCEDURE

To provide this environment, the Company will:

- A. Establish definitive rules and regulations to address violations of this policy (as outlined herein).
- B. Provide increased awareness through training, education, and communication on the subject of alcohol and other drug abuse.
- C. Recognize that there may be employees who have an alcohol or other drug problem and stand willing to assist in the resolution of that problem by encouraging employees to come forward and seek help through employee assistance programs.

In addition, the Company may take any or all of the following actions:

- 1. Conduct alcohol and other drug screening tests including but not limited to the following:
  - Pre-employment
  - Post vehicle accident
  - Post On the job injury
  - Post rehabilitation
  - CDL random
  - Discretionary /Random
  - Reasonable suspicion
- 2. Inspect persons and their property in our employ or doing business with the Company.
- 3. Cooperate with outside law enforcement agencies.
- 4. Take any other actions deemed necessary and appropriate by the Company.

#### V. COMPANY RESPONSIBILITY

As a responsible employer and member of the community, the Company will:

- A. Create an awareness in employees of the impact of substance abuse.
- B. Administer programs which consider employee rights, are positive in their intent, and are within legal boundaries.
- C. Testing will be conducted by certified laboratories and the Company and its medical providers will maintain procedures to protect the security of specimens.
- D. Support the establishment of programs to assist employees with alcohol and other drug abuse or dependency problems.
- E. Utilize all channels and resources available to it to educate and increase the awareness of employees and the general public.

Any positive reading on a drug test will result in immediate termination of employment for the affected employee. If the drug test results indicate an adulterated sample (as determined by the lab and/or MRO) then the employee will be treated as refusing to test and will be considered the same as a positive test result. Employees who come forward voluntarily (before the day of testing) and admit to a substance problem prior to being requested to submit to a test or being suspected of violating the policy will receive counseling and/or a prescribed treatment program after which they will be subject to regular testing on an on-going basis.

## VI. EMPLOYEE RESPONSIBILITY

As conditions for initial, as well as continued employment, CEMEX, Inc. requires all employees to:

- A. Report to work and perform their duties at all times without any unlawful drugs or alcohol present in their systems.
- B. Participate in and support Company-sponsored drug and alcohol education programs.
- C. Seek and accept assistance for alcohol and other drug abuse-related problems before job performance is affected or testing is requested.
- D. Support Company efforts to eliminate alcohol and other drug abuse among employees where it exists.
- E. Testing guidelines for non-operational and non-safety sensitive positions:
  - 1. An employee showing an alcohol level of .04 to .0799 will be taken off duty until the next shift, provided at least 24 hours has elapsed. Such employee will be subject to Company directed random testing for a period of six (6) months. A second positive test (.02 or above) during or after that period will result in termination.
  - 2. An employee testing .08 or above will be terminated.
- F. Submit to random testing as requested. Employees who refuse to take the test or who leave the premises/building to avoid testing will be subject to immediate termination. Employees whose test result indicates an adulterated sample will also be subject to immediate termination.

## VII. DOT REQUIREMENTS

Driver drug and alcohol testing will be conducted in accordance with the Federal Motor Carrier Safety Administration (FMCSA) Regulations and the Federal Department of Transportation (DOT) Procedures for Transportation Workplace Drug and Alcohol programs.

Department of Transportation (DOT) regulations allow no more than .04 blood alcohol content for holders of a commercial drivers' license (CDL). An operational employee, a driver or other employee in a "safety sensitive" position and testing .04 and above will be terminated. Pursuant to DOT regulations, an alcohol level of .02 to .0399 will result in the employee being taken off duty without pay until the next shift, provided at least 24 hours has elapsed. Such employee will be subject to Company directed random testing for a period of six (6) months. A second positive test will result

in immediate termination.

As required by law, any employee subject to Department of Transportation (DOT) regulations whose duties may include the operation of Company vehicles or the operation of a vehicle for the Company business who is cited for DUI or DWI, (even in a personal vehicle on his own time), will be subject to discipline, including suspension. Upon conviction, or a plea of 'guilty' or a plea of 'no contest', the driver will be disqualified from operating Company vehicles and may be subject to termination.

#### VIII. CONFIDENTIALITY

Information received regarding drug and alcohol testing will be maintained on a confidential basis. While information regarding testing will not generally be provided to law enforcement authorities unless compelled by law, this information may be used wherever necessary for the Company to defend itself or, where the information is relevant to a safety or Workers' Compensation claim, or in administrative or court proceedings.

#### IX. EXCEPTIONS

All exceptions to the Drug and Alcohol Abuse policy must have the prior written approval of the Chief Executive Officer of CEMEX, Inc.

## APPENDIX B - PLANT MECHANIC/WELDER INCENTIVE PAY

Policy Number: YUM PN- 004

Date: July 1, 2017

# **CEMEX**

## **Area Policy**

SUBJECT: Plant Mechanic/Welder Incentive Pay

### **I. PURPOSE**

To increase employee retention and cut costs by increasing the diagnostic and mechanical skill sets of the area's Plant Mechanic/Welders, the Company will monetarily reward Plant Mechanic/Welders that pass TPC Training Systems tests.

### **II. SCOPE**

This policy applies to all journeyman employees covered under the collective bargaining agreement of CEMEX in Yuma (Inside) at all Plant shop locations.

### **III. POLICY**

Any journeyman plant employees covered under this collective bargaining agreement that has reached the full contract rate for his classification is encouraged to take and pass tests provided by TPC Training Systems to increase his skill set. Upon passing at least one exam and after providing 2 years of relevant work experience (with current Plant Mechanic/Welders being credited for their prior years of service with the Company in the Plant Mechanic/Welder classification), the test taker becomes incentive eligible. The tests are available online at the TPC website, <http://www.TPCtraining.com>

If the employee becomes incentive eligible in any one of the areas shown below, he will be reimbursed for the registration, course materials and test fees upon presenting the original test certification to his supervisor and the receipt for such fees. The employee will not be reimbursed for such fees for tests he takes and does not pass.

The employee will receive an additional amount per hour of incentive pay for each test passed (defined as an 80% passing score) as provided in the schedule below. The employee will become eligible for this pay upon the date he submits his original certification to his supervisor. The supervisor will make a copy of the test results, and return the original to the employee. The supervisor will then sign and date the certification copy and forward it to the local human resources department for further processing.