

THIS INSTRUMENT WAS PREPARED
WITHOUT A TITLE SEARCH OR SURVEY BY:

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STATE OF ALABAMA §
 § ss.
SHELBY COUNTY §

NONRECOURSE MORTGAGE

THIS MORTGAGE ("Mortgage") is made and entered into as of May 5, 2004, by The Industrial Development Board of The Town of Calera, a public corporation organized and existing under the laws of the State of Alabama (the "Board"), in favor of American Concrete Pumping, LLC, a limited liability company (the "Company"). Certain capitalized terms not herein defined shall have the same meaning ascribed to them in the Lease (hereinafter defined).

WHEREAS, the Board is justly indebted to the Company in the principal sum of Two Hundred Fifty Thousand and No/100 (\$250,000) Dollars, without interest, as evidenced by a certain promissory note in said amount, of even date herewith (the "Note"); and

WHEREAS, the Board and the Company have entered into that certain Lease Agreement (the "Lease") dated effective of even date herewith, pursuant to which the Company has an option (the "Option") to purchase certain real property situated in Shelby County, Alabama, more specifically described as follows (the "Site"):

Lot 12, according to the survey of Calera South Industrial Park, as recorded in Map Book 26, Page 57, in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama.

NOW, THEREFORE, in consideration of the premises, and to secure (i) the payment of the debt evidenced by the Note, and any and all extensions and renewals thereof, (ii) the performance by the Board of the Option, and (iii) the compliance with all the stipulations herein contained (hereinafter collectively called "Obligations"), the Board does hereby grant, bargain, sell, and convey unto the Company the Site, together with all the rights, privileges, tenements, appurtenances, and fixtures appertaining to the Site, all of which shall be deemed the Site and shall be conveyed by this Mortgage,

TO HAVE AND TO HOLD, the Site, and such tenements, hereditaments, easements, rights of way, and appurtenances as are thereunto appertaining unto and to the use of the Company forever upon the terms, conditions, and limitations set forth herein.

(1) PAYMENT: This Mortgage is payable solely from the revenues and receipts derived by the Board from the leasing, foreclosure, or sale of the Site or any other amounts realized under the terms of the Note (the "Revenues"), all of which are hereby pledged to the payment and satisfaction of this Mortgage. This Mortgage shall never constitute a general liability or charge against the general credit of the Board. Neither the State of Alabama nor Shelby County nor the City of Calera nor any other political subdivision of said State shall in any manner be liable for payment of this Mortgage.

At any time that the Company owes an amount equal to the amount owed by the Board on this Mortgage, the Board may pay and satisfy this Mortgage by setting off the amount owed on this Mortgage against the amount owed by the Company to the Board, whether or not then due.

(2) REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY:

(a) The Board warrants and represents that the pledge of the Revenues herein made is a first and exclusive lien on the Revenues. The Board shall grant no lien on the Revenues to any other person. The Board shall cause all Revenues to be paid directly to the Company for credit against this Mortgage or shall hold all Revenues in a separate bank account, designated "American Concrete Pumping, LLC Trust Account," uninvested, in trust for the benefit of Company. The balance held in such account shall at all times be payable to Company on demand.

(b) The Board has taken all actions and proceedings necessary to the due approval, execution, and delivery of this Mortgage and hereby certifies that all conditions, actions, and things required by the Constitution and laws of the State of Alabama to exist, be performed, and happen precedent to or in the delivery of this Mortgage do exist, have been performed, and have happened in due and legal form.

(3) SUBORDINATION: This Mortgage is junior and subordinate and subject to any future or current mortgage providing security for the issuance of any debt issued to finance the improvements to the Site.

(4) EVENTS OF DEFAULT: If any event of default under this Mortgage, the Lease, or the Note shall occur and be continuing, the Company may, at the Company's option, exercise any one or more or all of the following remedies:

(a) ACCELERATION: Declare the unpaid portion of the Obligations to be immediately due and payable, without further notice or demand, which hereby is expressly waived by the Board, whereupon the same shall become immediately due and payable.

(b) FORECLOSURE: Immediately commence foreclosure proceedings against the Site and sell the Site, or any portion thereof, after first giving the notice provided in

this subparagraph, at public outcry at the front door of the courthouse of the Shelby County, Alabama, for cash to the highest bidder and to apply the proceeds thereof as provided herein. The Company shall give notice of the time, place, and terms of such sale by publication in a newspaper published in Shelby County, once a week for three consecutive weeks, without further notice or demand to the Board, which is hereby expressly waived by the Board. The commencement by the Company of foreclosure proceedings by advertisement or in equity shall be deemed an exercise by the Company of the Company's option set forth in this paragraph to accelerate the due date of all sums secured hereby. The Board hereby grants to the Company, in the event of the occurrence of an event of default hereunder, the power to grant, bargain, sell, release, and convey the Site at public auction as described above, and upon such sale, to execute and deliver to the purchaser, instruments of conveyance, vesting in such purchaser all rights, title, and interests of the Board in the Site.

(c) **WAIVER:** By conferring the power of sale upon the Company as described in subparagraph (b) above, the Board, for itself, its successors, and assigns, after having had an opportunity for consultation with its legal counsel, hereby voluntarily, knowingly and intelligently waives all rights under the Constitution and laws of the United States and under the Constitution and laws of the State of Alabama, both to a hearing on the right to exercise and the exercise of the power of sale.

(d) **APPOINTMENT OF RECEIVER:** Upon, or at any time after, the commencement of proceedings to sell the Site at public auction or the commencement of any judicial proceedings to enforce its rights, the Company, to the extent permitted by law, may, without notice or demand and without regard to the adequacy of any security for the Obligations or the solvency or insolvency of any person liable for the payment thereof, have appointed a receiver or receivers of the Site, with such powers as the court making such appointment shall confer.

(e) **OTHER REMEDIES:** Exercise any other remedy now or hereafter existing in equity, at law, by virtue of statute or otherwise.

(f) **STRICT PERFORMANCE:** Any failure by the Company to insist upon strict performance by the Board of any of the terms and provisions of the Note, the Option, the Lease, or this Mortgage shall not be deemed to be a waiver or any of the terms or provisions thereof, and the Company may thereafter insist upon strict performance by the Board or any and all of them.

(g) **DISCONTINUANCE OF PROCEEDINGS:** In case the Company shall have proceeded to enforce any right under the Note, the Lease, the Option, or this Mortgage and such proceedings shall have been discontinued or abandoned for any reason, then in every such case the Board shall be restored to their former positions and the rights, remedies and powers of the Company shall continue as if no such proceedings had been taken.

(h) APPLICATION OF PROCEEDS: The proceeds of any sale of all or any portion of the Site and the earnings of any holding, leasing, operation or other use of the Site shall be applied by the Company in the following order:

(i) first, to the payment of the costs and expenses, including, without limitation, reasonable attorneys' fees and other legal expenses of the Company in exercising or enforcing any right or remedy under this Mortgage or otherwise provided under Alabama law;

(ii) second, to the payment of the balance of the Obligations whether such Obligations shall then be matured or unmatured (without assessment of any prepayment charge or premium); and

(iii) third, to the extent required by law, to the payment of any debt or obligation secured by a subordinate mortgage on or security interest in the Site, or any portion thereof, to the extent known and approved by the Company.

Thereafter, the Company shall distribute any surplus to the Board.

(5) WAIVER OF DEFAULT: No waiver by the Company of any default, breach, or violation of any term, condition, or provision of this Mortgage shall be deemed to be a waiver of any other default, breach, or violation of the same or any other term, condition, or provision contained herein.

(6) ASSIGNMENT: The Company may assign this Mortgage and the pledge and rights herein granted.

(7) ADDITIONAL DOCUMENTS: The Board, upon the request of the Company, will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of the Note and to subject to the liens thereof any property intended by the terms thereof, to be covered thereby and any renewals, additions, substitutions, replacements or betterments thereto.

(8) BINDING EFFECT: This Mortgage shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns.

(9) GOVERNING LAWS: The laws of the State of Alabama shall govern the validity of this Mortgage, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Mortgage.

IN WITNESS WHEREOF, the Board has caused this Mortgage to be executed in its corporate name by its duly authorized officers effective as of the date first written above.

THE INDUSTRIAL DEVELOPMENT BOARD OF
THE TOWN OF CALERA

By: E. M. Sprue
W. M. Schroeder
 Its Chairman

ATTEST:

By James L. Carden
JAMES L. CARDEN
Its Secretary

STATE OF ALABAMA §
SHELBY COUNTY §

I, the undersigned, a notary public in and for the State of Alabama at Large, hereby certify that W.M. Schroeder and James L. Carden, whose names as Chairman and Secretary, respectively, of The Industrial Development Board of The Town of Calera, a public corporation and instrumentality under the laws of the State of Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand this 22 day of April, 2004.


 Notary Public
 My Commission Expires: **MY COMMISSION EXPIRES MARCH 4, 2008**