

FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN BROWARD COUNTY AND CEMEX
CONSTRUCTION MATERIALS FLORIDA, LLC

This First Amendment is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and Cemex Construction Materials Florida, LLC, a Delaware limited liability company authorized to transact business in the state of Florida ("Lessee").

RECITALS

A. County owns and has jurisdiction over the development, operation, and maintenance of Port Everglades in Broward County, Florida.

B. County and Lessee ("the Parties") entered into a Lease Agreement dated March 23, 2010, referred to herein as the "Lease."

C. Lessee has elected to extend the Lease Term for an additional five (5) year period (the "Option Term"), and the Parties have negotiated and agreed to the annual rental rates and minimum annual guarantee payments to be paid to County during the Option Term.

Now, therefore, in consideration of the mutual terms, conditions, promises, and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Lease as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.
2. Amendments made to the Lease by this First Amendment are indicated by use of strikethroughs to indicate deletions and underlining to indicate additions, unless otherwise stated.
3. Article 3, entitled RENTAL, FEES AND CHARGES, is hereby amended as follows (original underlining omitted):

3. RENTAL, FEES AND CHARGES

~~A.~~ RENTAL PAYMENTS.

...

(6) COUNTY and LESSEE agree that the annual rental amount, scheduled to begin on April 1, 2015, established in subparagraph (5) hereinabove, shall be adjusted on

April 1, 2016, and each and every April 1, thereafter ~~over~~ during the Lease Term, and each Option Term exercised (each such date being referred to as an "Adjustment Date") as set forth in subparagraph (7) below, and such adjusted annual rental amount (together with applicable sales taxes thereon) shall be the new annual rental for the Premises (subject to adjustment as hereinafter provided) together with all applicable sales taxes thereon, and shall be payable in twelve (12) equal monthly installments in advance and without demand, setoff or deduction, together with all applicable sales taxes thereon; provided, however, such adjustment and the provisions of subparagraphs (7) through (12) below shall not apply during Contract Years eleven (11) through and including fifteen (15). Effective April 1, 2020, the annual rental amounts payable for Contract Years eleven (11), twelve (12), thirteen (13), fourteen (14), and fifteen (15) are set forth in Exhibit "E" attached hereto. All the annual rental amounts for Contract Years eleven (11) through and including fifteen (15) shall be paid in twelve (12) equal monthly installments in advance and without demand, setoff or deduction, together with all applicable sales taxes thereon.

...

4. Article 4, entitled MINIMUM DRY BULK CARGO WHARFAGE GUARANTEES, is hereby amended as follows (underlining omitted):

4. MINIMUM DRY BULK CARGO WHARFAGE GUARANTEES ANNUAL GUARANTEE PAYMENTS TO COUNTY

A. LESSEE shall, in addition to LESSEE's annual rental obligation, pay to COUNTY for each Contract Year during the Lease Term (other than for Contract Years eleven (11) through and including fifteen (15) for which subparagraphs B. and C. below shall apply) as an annual minimum guarantee of dry bulk cargo wharfage based on cargo tons for total imports and exports as outlined set forth in Exhibit "B" attached hereto. LESSEE shall pay to COUNTY within sixty (60) calendar days after the conclusion of each Contract Year during the Lease Term (other than for Contract Years eleven (11) through and including fifteen (15) for which subparagraphs B. and C. below shall apply) the minimum guarantee shortfall amount, if any, calculated by taking the difference between the applicable Contract Year's minimum guaranteed wharfage payment for dry bulk cargo tonnage and the actual wharfage paid for dry bulk cargo tonnage during the same Contract Year. Any shortfall amount shall be paid at the Tariff wharfage rate for dry bulk cargo then in effect.

B. ~~LESSEE shall pay to COUNTY within sixty (60) days from the conclusion of any Contract Year, any shortfall (difference between minimum guarantee volumes and actual volumes billed) in minimum dry bulk cargo wharfage guarantees. Any shortfall shall be paid at the published Tariff wharfage rate then in effect. Commencing on April 1, 2020, LESSEE shall, in addition to LESSEE's annual rental obligation, pay to COUNTY a Minimum Annual Guarantee Payment (the~~

"MAG") for each Contract Year during the Option Term as provided in Exhibit "B-1" attached hereto.

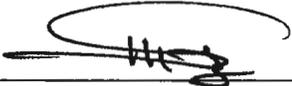
C. LESSEE shall pay to COUNTY within sixty (60) calendar days after the conclusion of each Contract Year during the Option Term, the shortfall in the MAG, if any, calculated by taking the difference between the applicable Contract Year's MAG and the total amount of Tariff charges paid by LESSEE to COUNTY for dockage, wharfage, harbormaster, linehandler, and security fees during the same Contract Year.

5. Exhibits "B-1" and "E" attached hereto are incorporated into and made a part of the Lease.
6. Preparation of this First Amendment has been a joint effort of County and Lessee, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.
7. Except as expressly modified herein, all other terms and conditions of the Lease remain in full force and effect.
8. This First Amendment may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, will constitute one and the same document.
9. This First Amendment is effective upon complete execution by the Parties.

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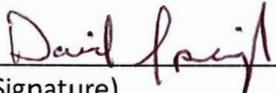
FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN BROWARD COUNTY AND CEMEX
CONSTRUCTION MATERIALS FLORIDA, LLC

WITNESSES:



(Signature)

HUMBERTO GARZA
(Print Name)

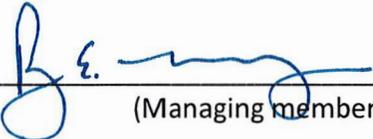


(Signature)

DAVID SPEIGH
(Print Name)

Lessee:

CEMEX CONSTRUCTION MATERIALS
FLORIDA, LLC, a Delaware limited liability
company authorized to transact business in
the state of Florida

By: 

(Managing member)

RYAN E. MAHONEY, VICE PRESIDENT
(Print Name and Title)

23rd day of JANUARY, 20 20

EXHIBIT B-1

MINIMUM ANNUAL GUARANTEE PAYMENTS TO COUNTY

Contract Year		Minimum Annual Guarantee Payments in U.S. Dollars
(11)	2020	\$497,000
(12)	2021	\$628,000
(13)	2022	\$671,000
(14)	2023	\$740,000
(15)	2024	\$826,000

EXHIBIT E

FIRST OPTION TERM ANNUAL RENT SCHEDULE

Contract Year		Annual Rent Amount in U.S. Dollars
(11)	2020	\$972,950
(12)	2021	\$1,002,139
(13)	2022	\$1,032,203
(14)	2023	\$1,063,169
(15)	2024	\$1,095,064