

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

SUFFOLK READY MIX, LLC,

Debtor.

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Chapter 11

Case No. 09-75473-reg

**ORDER TO SHOW CAUSE FOR AN ORDER:
(i) PURSUANT TO 11 U.S.C. § 363(c)(2)
AUTHORIZING CHAPTER 11 DEBTOR-IN-POSSESSION TO
USE CASH COLLATERAL, AND (ii) FIXING PRELIMINARY
AND FINAL HEARINGS AND NOTICE REQUIREMENTS**

Upon the annexed Application (the "Application") of SUFFOLK READY MIX, LLC, Debtor and Debtor-in-Possession in the captioned Chapter 11 case (hereinafter the "Debtor"), dated July 27, 2009, seeking entry of an order: (a) pursuant to Section 363(c) of Title 11, United States Code, 11 U.S.C. Sections 101 *et seq.* (the "Bankruptcy Code"), authorizing the Debtor, to the extent requested in the Application on an emergency basis to avoid immediate and irreparable harm to the Debtor's business pending a preliminary and final hearing, to use certain cash on hand and accounts receivable generated in the ordinary course of the Debtor's business or otherwise (the "Cash Collateral"), with respect to which Financial Federal Credit, Inc. ("FFCI") asserts a security interest; (b) scheduling interim and final hearings on the Application and fixing notice requirements with respect thereto, pursuant to Section 363(c) of the Bankruptcy Code and Bankruptcy Rule 4001(b); and (c) granting such other and further relief as may be just and proper; and upon the Affidavit of Michael G. Mc Auliffe, Esq., dated July 27, 2009, pursuant to EDNY LBR 9077-1; and upon due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that FFCI, the Office of the United States Trustee, the Debtors twenty (20) largest unsecured creditors, and all other persons having an interest in these proceedings, show cause before the Honorable _____, United States Bankruptcy Judge, at the United States Bankruptcy Court, 290 Federal Plaza, Central Islip, New York 11722, at a preliminary hearing (as such term is used in Bankruptcy Rule 4001[b]) on the ____ day of _____, 2009 at _____ in the _____ noon of that day or as soon thereafter as counsel may be heard (the "Preliminary Hearing"), and at a final hearing (as such term is used in Bankruptcy Rule 4001(b) on the _____ day of July, 2009 at _____ in the _____ noon of that day or as soon thereafter as counsel may be heard, why an order substantially in the form annexed to the Application (the "Interim Order") should not be entered: (a) authorizing the Debtor to use, pursuant to Section 363(c)(2)(B) of the Bankruptcy Code, the Cash Collateral, constituting certain cash collateral as such term is defined in Section 363(a) of the Bankruptcy Code in which FFCI claims a security interest, such use conditioned to the extent and on the terms and provisions set forth in the Application and Interim Order; and (b) for such other and further relief as may be just and proper, and it is further

ORDERED, that pending a hearing and determination of the Debtor's request to use Cash Collateral at the Preliminary Hearing but in no event beyond August ____, 2009, the Debtor is hereby authorized to utilize Cash Collateral solely for the purposes and up to the specific amounts set forth in the Budget annexed to the Application for the week ending August ____, 2009, and it is further

ORDERED, that as adequate protection for the Debtor's use of cash collateral as authorized by this Order, the Order of this Court dated July ___, 2009 authorizing the payment of certain pre-petition wages (the "Wage Order"), and actually used by the Debtor from the Filing Date through and including the date of entry of the Interim Order, FFCI is hereby granted a valid, fully enforceable and perfected post-petition lien and security interest in all of the Debtor's assets to the same extent and in the same priority as its pre-petition security interest, *nunc pro tunc* to the Filing Date; and it is further

ORDERED, that nothing in the preceding paragraph shall be deemed to be consent by SCNB to the Debtor's use of cash collateral for purposes or in amounts other than what is set forth in the budget annexed to the Application for the week ending August ___, 2009; and it is further

ORDERED, that as further adequate protection pending entry of the Interim Order, beginning July ___, 2009, the Debtor shall pay to FFCI the sum of \$_____ per week; and it is further

ORDERED, that FFCI shall have the right, during ordinary business hours and upon twenty four (24) hours prior written notice to the Debtor, to inspect the Debtor's pre-petition and post-petition collateral securing its obligations to FFCI, and the Debtor shall cooperate with FFCI to provide full access to all such collateral and all related documents, books and records, as well as provide copies of purchase orders supporting inventory expenses; and it is further

ORDERED, that service upon the Office of the United States Trustee and Robert T. Bonsignore, Esq. Counsel for FFCI, 733 Third Ave, 24th Floor, New York, NY 10017, of this Order to Show Cause and the Application on or before July ___, 2009, by fax, e-mail or overnight

or express mail, shall constitute good and sufficient service and notice hereof.

Dated: Central Islip, New York
July , 2009

UNITED STATES BANKRUPTCY JUDGE

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

SUFFOLK READY MIX, LLC,

Debtor

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Chapter 11

Case No. 09-75473-reg

**APPLICATION OF CHAPTER 11 DEBTOR-IN-POSSESSION
FOR ORDER AUTHORIZING THE USE OF CASH COLLATERAL
PURSUANT TO 11 U.S.C. §363(c)(2) AND RELATED RELIEF**

**TO: THE HONORABLE ROBERT E. GROSSMAN
UNITED STATES BANKRUPTCY JUDGE:**

BANKRUPTCY RULE 4001(b)(1)(B) STATEMENT

- (i) A summary of the relief requested by the Motion is set forth immediately below.
- (ii) The entity holding an interest in the Cash Collateral (as defined below) is Financial Federal Credit, Inc. (“FFCI”), fully described in paragraphs 14-17;
- (iii) The purpose for the use of the Cash Collateral are set forth in paragraphs 18;
- (iv) The material terms of the use of the Cash Collateral are set forth in paragraphs 22-28 and the Budget (as defined herein);
- (v) The adequate protection proposed to be given is set forth in paragraphs 22-28.

Pursuant to LBR 4001-5, the instant application does not contain any provision: (i) creating a “carve- out” for professional fees; (ii) a provision requiring the Debtor to pay the secured creditor’s expenses and attorney’s fees, without notice; or (iii) excluding from any “carve-out” a request for professional fees related to investigation of the validity of the secured creditor’s lien.

SUFFOLK READY MIX, LLC, debtor and debtor-in-possession ("Debtor") herein, makes this motion (the "Motion") for an Order or Orders pursuant to 11 U.S.C. Section 363(c)(2) and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure ("FRBP") substantially in the form annexed hereto at Exhibit "A" (the "Proposed Order"): (1) granting the Debtor use of the cash collateral on an emergency basis in accordance with the budget annexed hereto as Exhibit "B" (the "Budget"); (2) granting FFCI adequate protection pursuant to 11 U.S.C. Section 361; (3) scheduling an interim and final hearing on the Motion and establishing notice requirements therefor; and (4) granting related relief.

PROCEDURE AND JURISDICTION

1. On July 24, 2009 (the "Filing Date"), the Debtor filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of New York and an order for relief was simultaneously entered. Voluntary petitions for relief were also filed on July 24, 2009 by two (2) related entities, Antonio Enterprises, LLC. (Case No.: 09-75485) and Anthony T. Persico (Case No.: 09-75484).

2. The Debtor has been authorized to continue in possession of its property and in the operation and management of its business as a debtor in possession pursuant to §§ 1107 and 1108 of the Code.

3. No trustee or examiner has been appointed in this case, nor has an official committee of unsecured creditors been formed.

4. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. Sections 157 and 1334.

5. This matter is a core proceeding pursuant to 28 U.S.C. Sections 157(b). Venue is

proper before this Court pursuant to 28 U.S.C. Sections 1408 and 1409. The statutory and other predicates for the relief sought herein are 11 U.S.C. Sections 361 and 363(c)(2), FRBP 4001(b), and Local Rule 4001-5.

BACKGROUND

6. The Debtor is engaged in the business of concrete production/manufacture.

7. The Debtor is presently experiencing serious cash flow difficulties resulting from the current severe economic crisis that is gripping the nation. At the onset of this crisis, many of the Debtor's customers either canceled jobs that they had previously scheduled, or failed to pay for services that had already been performed by the Debtor.

8. The Debtor was therefore faced with an immediate and severe cash flow crisis, rendering it unable to meet its monthly obligations.

9. The Debtor determined that downsizing operations would enable it to operate profitably on a smaller scale. Thus, the Debtor took quick and decisive action in order to dramatically reduce its operation costs. For example, the Debtor laid off several of its employees.

10. However, as the Debtor's is a seasonal business (with the peak of its season being April through September), the reduction in costs of overhead has not served to alleviate all of its financial problems as its income during the off-season period was typically low.

11. The Debtor believes that it will be able to generate sufficient funds to enable it to operate profitably with its reduced overhead costs.

12. However, several of the Debtor's creditors have initiated lawsuits against the Debtor and are pursuing collection efforts. Thus, the Debtor requires the breathing room

afforded by Chapter 11 to enable it to continue operations wherein it believes that it will be able to generate sufficient funds to promulgate a viable chapter 11 plan.

13. As a result, the Debtor filed the instant chapter 11 case.

FFCI'S ASSERTED INTEREST IN CASH COLLATERAL

14. FFCI, with offices at 733 Third Ave, 24th Floor, New York, NY 10017 has a claim against the Debtor in the sum of \$175,311.00 inclusive of interest through July 24, 2009. FFCI holds a blanket lien on all or substantially all of the Debtor's assets. The Debtor believes that FFCI is fully secured in that the value of the collateral substantially exceeds the outstanding debt. The claim and the lien are undisputed.

15. Pursuant to a certain promissory note and security agreement dated January 30, 2009 (the "Loan Documents", copies of which are collectively annexed hereto at Exhibit "C"), FFCI provided the Debtor with a loan in the initial principal amount of \$194,790.00 (the "Loan"). To secure the payment thereof, FFCI was granted a security interest in substantially all of the Debtor's assets the Debtor's present and future equipment, accounts, contract rights, proceeds, accounts receivable and inventory.

16. Pursuant to the terms of the Loan, the Debtor has been paying FFCI the sum of \$6,493.00 per month including principal and interest. The Loan presently bears interest at approximately 15.2% per annum. As of the Filing Date, the Debtor was two months behind on its obligations to FFCI.

17. FFCI is the only secured creditor in the Debtor's case with an interest in "cash collateral."

RELIEF REQUESTED

The Debtor Must Be Granted Use of Cash Collateral

18. The Debtor requires the use of FFCI's Cash Collateral on an emergency, interim and final basis to: (1) operate its business and (ii) fund working capital needs. Absent the use of Cash Collateral, the Debtor will be forced to cease business operations.

19. 11 U.S.C. Section 363(c)(2) provides, in pertinent part:

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless——

(A) each entity that has an interest in such cash collateral consents; or
(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

20. Furthermore, Section 363(e) provides that “on request of an entity that has an interest in property...proposed to be used...the court...shall prohibit or condition such use, sale or lease as is necessary to provide adequate protection of such interest.” 11 U.S.C. Section 363(e).

21. Adequate protection is defined at 11 U.S.C. Section 361, which specifically states:

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by——

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503 (b)(1) of this title as an administrative expense, as will result in the realization by such

entity of the indubitable equivalent of such entity's interest in such property.

22. While the Debtor believes that FFCI's interest in the Cash Collateral is substantially over-secured, the Debtor proposes to provide additional adequate protection to FFCI in the form of monthly payments to FFCI in the sum of \$2,000.00 per month.

23. Additionally, while the Debtor believes that FFCI's interest in the Cash Collateral is substantially over-secured, the Debtor proposes to provide additional adequate protection to FFCI by granting to FFCI, pursuant to and in accordance with Sections 361 and 363 of the Bankruptcy Code, replacement liens and security interests in the Debtor's accounts receivable, goods, inventory, machinery, equipment, furniture, tools, implements, general intangibles and contract rights acquired by the Debtor post-petition up to the amount of FFCI's lien (collectively, the "Replacement Liens").

24. The Debtor proposes that the Replacement Liens shall be deemed perfected as of the commencement of the Debtor's chapter 11 case to the same extent, validity and priority as FFCI's security interest existed pre-petition.

25. The Debtor believes that its disbursements for the 30-day period following the Filing Date will be approximately \$157,155.00, exclusive of payments to FFCI, as set forth in the Budget, a copy of which is annexed hereto at Exhibit "B". Under the Debtor's projections, the Debtor requires approximately \$157,000.00 for the period July 24, 2009 through August 24, 2009 to cover its ordinary monthly operating expenses. The Debtor believes that these projections, which are based upon historical costs, will serve to be true and accurate projections of its operating expenses during the initial stages of the Chapter 11 case.

26. The Debtor believes that the value of the Bank's collateral is approximately \$753,896.32, comprised as follows:

- a. Accounts Receivable: \$503,647.47
- b. Cash: \$23,248.85
- c. Inventory: \$0.00
- d. Fixed Assets (Net): \$227,000.00

27. The Debtor submits that the use of cash collateral will maintain, preserve and enhance the Debtor's business and, at the very least, will maintain, preserve and enhance the value of the Collateral. The use of Cash Collateral will ensure that the Debtor's operations are sufficiently funded, thereby stabilizing such operations and providing the Debtor's vendors and customers with necessary assurance that the Debtor has adequate funds to maintain its business operations.

28. Based upon the foregoing, the Debtor respectfully submits that FFCI is adequately protected pursuant to 11 U.S.C. Section 361, and this Court should grant the Motion.

**REQUEST FOR ENTRY OF EMERGENCY, INTERIM AND FINAL ORDERS
TO AVOID IRREPARABLE HARM**

29. Pursuant to FRBP 4001(b)(2), a minimum of fifteen (15) days notice is required before a final hearing on this Motion may commence. However, such Rule provides that the Court "may conduct a preliminary hearing before such 15 day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing." FRBP 4001(b)(2).

30. As noted above, it is essential to the continued operation of the Debtor's business that it be authorized by this Court to use Cash Collateral on an emergency, interim and final basis. Funds are urgently needed to meet the Debtor's immediate working capital and other

liquidity needs and to pursue the Chapter 11 case in an orderly manner. In the absence of immediate use of the Cash Collateral, the Debtor's chapter 11 efforts would be immediately and irreparably jeopardized.

CONCLUSION

31. No trustee, examiner, or creditors' committee has been appointed in the Debtor's case. Subject to the directions of the Court, the Debtor proposed to give notice of the instant application as follows: (a) the Office of the United States Trustee; (b) FFCI and its counsel; and (c) the Debtor's twenty (20) largest unsecured creditors. The Debtor respectfully submits that no further notice is necessary under the facts and circumstances of this matter.

32. Since no novel or complex issues of law are raised by the instant Application, it is respectfully submitted that the requirement of a memorandum of law pursuant to EDNY LBR 9013-1(a) be dispensed with.

33. No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that this Court enter an order granting the instant Application in all respects, together with such other and further relief as may be just and proper.

Dated: Melville, New York
July 27, 2009

Law Offices of Michael G. Mc Auliffe
Counsel to the Debtor

By: /s/ Michael G. Mc Auliffe
Michael G. Mc Auliffe, Esq. (mgm3024)
48 South Service Road
Suite 102
Melville, NY 11747
(631) 465-0044

Exhibit “B”

SUFFOLK READY MIX, LLC, CHAPTER 11 DEBTOR
ESTIMATED RECEIPTS AND DISBURSEMENTS FIRST 30 DAYS

RECEIPTS

On Account customers:	\$140,000.00
Credit Card customers:	<u>\$15,000.00</u>
Total Receipts	\$155,000.00

DISBURSEMENTS

Payroll:	\$37,800.00
Workman's Comp:	\$2,000.00
Secured Obligations	
Financial First Federal:	\$6,817.00
Caterpillar:	\$1,419.00
Key Equipment:	\$1,685.00
Insurance	
Truck:	\$9,830.00
Health:	\$6,287.00
Cement:	\$58,000.00
Fuel:	\$16,000.00
Truck parts & supplies:	\$1,000.00
Materials (sand, gravel, etc.)	\$20,000.00
Refuse removal:	\$220.00
Highway use:	\$400.00
Office expenses:	\$50.00
Utilities:	\$1,500.00
Telephone:	\$440.00
Uniforms:	<u>\$200.00</u>
Total Disbursements:	\$163,648.00

Exhibit “A”

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

SUFFOLK READY MIX, LLC.

Case No. 09-75473 (REG)

Debtor.

-----X

**INTERIM ORDER AUTHORIZING DEBTOR'S USE
OF COLLATERAL OF FINANCIAL FEDERAL CREDIT, INC.
AND GRANTING ADEQUATE PROTECTION CLAIM AND LIEN**

WHEREAS, on July 24, 2009 (the "Petition Date"), Suffolk Ready Mix, as debtor and debtor-in-possession (the "Debtor") filed a voluntary petition for reorganization pursuant to Chapter 11 of Title 11, United States Code (the "Bankruptcy Code"); and

WHEREAS, the Debtor has continued in the management and operation of its business pursuant to Bankruptcy Code §§ 1107 and 1108, and no trustee or examiner has been appointed in this Chapter 11 case (the "Chapter 11 Case"); and

WHEREAS, the Debtor has moved the Court (the "Motion") for authority, pursuant to Bankruptcy Code §§ 105(a), 361 and 363, to use the Pre-Petition Collateral (as such term is defined herein) and Cash Collateral (as such term is defined in Bankruptcy Code § 363(a)), of Financial Federal Credit Inc. ("FFCI") in accordance with the budget annexed as Exhibit "A" hereto (the "Budget") subject to the terms and conditions of this Order; and

WHEREAS, the Debtor has admitted, represented and stipulated to the Court, without prejudice to the rights of third parties, the following (collectively, the "Debtor's Admissions"):

(a) pursuant to an Agreement ("Loan Agreement") dated January 30, 2009, secured by valid, enforceable, unavoidable and properly perfected priority liens on and security interests (the "Pre-Petition Lien") in substantially all of the Debtor's assets, including without limitation

accounts receivable, inventory, machinery, equipment, furniture, fixtures, tools, implements, contract rights and general intangibles, (collectively, the “Pre-Petition Collateral”);

(b) as of July 24, 2009, in accordance with the Loan Agreement, (1) the Debtor was indebted to FFCI, without defense, counterclaim, recoupment or offset of any kind, in the aggregate amount of \$175,311.00 in respect of loans, advances and other financial accommodations made by FFCI under the Loan Agreement (the “Pre-Petition Obligations”), and (2) the Pre-Petition Obligations were secured by valid, enforceable and properly perfected priority liens on and security interests in the Pre-Petition;

(c) the Debtor reasonably and in good faith believes that the Budget is sufficient to fund all projected legitimate and allowable expenses of its Chapter 11 case during the period to which the Budget pertains;

and

WHEREAS, the Court held an interim hearing with respect to the Motion on July ____, 2009 (the “Interim Hearing”); and the Court, having considered the Motion and the proceedings before the Court at the Interim Hearing; and said objection having been incorporated into this Order as reflected on the record of the Interim Hearing;

THE COURT HEREBY FINDS AND DETERMINES THAT:¹

(a) notice of the Interim Hearing has been given pursuant to Bankruptcy Rule 4001(c) to the creditors holding the twenty largest unsecured claims against the Debtor’s estate, and the Office of the U.S. Trustee, and no further notice of, or hearing on, the interim relief sought in the Motion is required;

(b) the Court has core jurisdiction over the Debtor’s bankruptcy case, the Motion, and

¹ To the extent any findings of fact constitute conclusions of law, they are adopted as such, and vice versa, pursuant to Fed. R. Bankr. P. 7052.

the parties and property affected by this Order pursuant to 28 U.S.C. §§ 157(b) and 1334, and venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and

(c) good and sufficient cause exists for the issuance of this Order, to prevent immediate and irreparable harm to the Debtor's estate.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Motion is granted on an interim basis on the terms and conditions of this Interim Order. Nothing in this Interim Order shall preclude this Court from entering a final order containing provisions inconsistent with or contrary to the provisions of this Interim Order.

2. The Debtor is hereby authorized to use the Pre-Petition Collateral and Cash Collateral solely in accordance with the terms, provisions and conditions of this Order and the Budget, on an interim basis in aggregate amount not to exceed \$_____ per month as per the Budget annexed. All of the following terms and conditions of this Order, including without limitation the Debtor's covenants memorialized herein, shall constitute adequate protection of the Bank's interests in the Pre-Petition Collateral, whether or not such terms, conditions and covenants are specifically denominated in the decretal paragraphs of this Order as being granted as adequate protection of such interests, and all of such adequate protection granted by this Order shall be without prejudice to FFCI's right to seek additional adequate protection from this Court, or the Debtor's right to oppose same.

3. Pursuant to Bankruptcy Code §§ 361, 362, and 363(e), as adequate protection for any diminution occurring subsequent to the Petition Date in the value of FFCI's interests in the Pre-Petition Collateral ("Diminution in Value"), including without limitation such diminution as may be caused by the imposition of the automatic stay of Bankruptcy Code § 362(a) and by the Debtor's use of the Pre-Petition Collateral and/or Cash Collateral, FFCI is hereby granted a

valid, binding, enforceable and automatically perfected lien, mortgage and/or security interest (collectively, “Liens”, and as so granted to FFCI, the “Adequate Protection Lien”) in all of the Debtor’s presently owned or hereafter acquired property and assets, whether such property and assets were acquired by the Debtor before or after the Petition Date, of any kind or nature, whether real or personal, tangible or intangible, wherever located, and the proceeds and products thereof (collectively, the “Collateral”, and to the extent acquired after the Petition Date, the “Post-Petition Collateral”), *provided, however*, that the Collateral shall not include causes of action brought pursuant to Bankruptcy Code §§ 544, 547, 548, 549, 550 and 553 and recoveries upon such causes of action, but shall include other causes of action of the Debtor that are not within the scope of said statutory provisions and recoveries upon such other causes of action. Notwithstanding the foregoing, the Adequate Protection Lien shall be subject to (a) Liens and other interests in property of the Debtor’s estate existing as of the Petition Date that are (1) valid, enforceable and not subject to avoidance by a trustee under the Bankruptcy Code and (2) senior liens under applicable non-bankruptcy law to assets not encumbered by FFCI’s Lien in the Pre-Petition Collateral as of the Petition Date.

4. In the event that the Adequate Protection Lien is insufficient, for any reason, to adequately protect the Bank against Diminution in Value, FFCI is hereby granted a post-petition administrative expense claim (the “Adequate Protection Claim”) jointly and severally against the Debtor’s Estate. The Adequate Protection Claim shall have priority in payment over any other indebtedness and/or obligations now in existence or incurred hereafter by the Debtor and over all administrative expenses or charges against the Debtor’s property arising in the Chapter 11 Case including without limitation those specified in Bankruptcy Code §§ 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 546(c), 1113 or 1114.

5. The automatic stay provisions of Bankruptcy Code § 362 are hereby modified to permit: (a) the Debtor to implement and perform the terms of this Order, and (b) the Debtor to create, and FFCI to perfect, the Adequate Protection Lien and any other Liens granted hereunder. FFCI shall not be required to file UCC financing statements or other instruments with any other filing authority to perfect the Liens granted by this Order or take any other action to perfect such Liens, which shall be deemed automatically perfected by the docket entry of this Order by the Clerk of this Court, at the time of the commencement of the Debtor's bankruptcy case on the Petition Date. If, however, the Bank shall elect for any reason to file, record or serve any such financing statements or other documents with respect to such Liens, then the Debtor is hereby deemed to authorize FFCI to do so and which shall be deemed to be effective at the time of the commencement of the Chapter 11 Case on the Petition Date.

6. The Debtor is authorized and directed, notwithstanding the provisions of Bankruptcy Code § 362, to make the following mandatory payments to FFCI for application in repayment of the Obligations subject to the provisions of Bankruptcy Code § 506(b) (collectively the "Cash Paydowns"): monthly payments in the amount of \$2,000.00 commencing on the last business day of August 2009 and continuing monthly thereafter until the debt is paid in full. The Cash Paydowns shall be free and clear of any claim, charge, assessment or other liability including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, Bankruptcy Code §§ 506(c) or 552(b).

7. Each of the following shall constitute an "Event of Default" for purposes of this Order:

(a) a Chapter 11 trustee, or an examiner with expanded powers beyond those set forth in Bankruptcy Code §§ 1106(a)(3) and 1106(a)(4), is appointed by order of this Court,

the effect of which has not been stayed, in any of the Chapter 11 Case;

(b) this Court enters an order, the effect of which has not been stayed, granting relief from the automatic stay to third parties with respect to assets of the Debtor's estate having an aggregate and cumulative value in excess of \$50,000;

(c) the Debtor ceases operations of its present business or take any material action for the purpose of effecting the foregoing without the prior written consent of the Bank, except to the extent contemplated by the Budget and the business plan underlying the Budget;

(e) any material and/or intentional misrepresentation by the Debtor following the Petition Date in the financial reporting or certifications to be provided by the Debtor to the Bank under the Loan Agreement and/or this Order; and

(f) non-compliance or default by the Debtor with any of the terms, provisions and conditions of this Order; *provided, however*, that said non-compliance or default shall not be deemed an Event of Default if curable and cured by the Debtor within ten (10) business days after notice of such non-compliance or default is given to the Debtor by FFCI.

8. Each of the following shall constitute a "Termination Event" for purposes of this Order:

(a) the Chapter 11 Case is either dismissed or converted to Chapter 7 case pursuant to an order of this Court, the effect of which has not been stayed; and

(b) the occurrence of the Expiration Date (as such term is defined in Paragraph 29 below).

9. Upon the occurrence of a Termination Event and the giving of written notice thereof by FFCI to the Noticed Parties which shall have ten (10) business days from receipt of the notice to obtain an order of this Court on notice to FFCI enjoining or restraining FFCI from exercising its rights and remedies based upon the Termination Event specified in the notice

(which notice may be given by facsimile or e-mail transmission, the automatic stay being deemed lifted for such purpose), payment of any and all Obligations of the Debtor to FFCI shall be due and payable, the Debtor's use of the Collateral and Cash Collateral pursuant to this Order and the Budget shall cease.

10. The Debtor, at its expense, shall continue to keep the Collateral fully insured against all loss, peril and hazard and make FFCI loss payee as its interests appear under such policies. The Debtor shall pay any and all undisputed post-petition taxes, assessments and governmental charges with respect to the Collateral.

11. The Debtor shall provide FFCI with such written reports, certified by an officer of the Debtor acceptable to FFCI to be accurate to the best of such officer's knowledge, information and belief, as are required under the Loan Agreement.

12. FFCI shall have the right, upon one (1) business day's written notice to the Debtor, at any time during the Debtor's normal business hours, to inspect, audit, examine, check, make copies of or extracts from the books, accounts, checks, orders, invoices, bills of lading, correspondence and other records of the Debtor, and to inspect, audit and monitor all or any part of the Collateral, and the Debtor shall make all of same reasonably available to FFCI and its representatives, for such purposes.

13. For purposes of this Order, "Proceeds" shall mean any and all payments, proceeds or other consideration realized upon the sale, liquidation, collection or disposition of the Collateral, whether in the ordinary course of the Debtor's business (including without limitation accounts and other proceeds arising from the Debtor's sales of inventory and/or performance of services) or other than in the ordinary course of the Debtor's business.

14. This Order shall be binding upon and inure to the benefit of FFCI, the Debtor and its successors and assigns, including, without limitation, any trustee, responsible officer,

examiner, estate administrator or representative, or similar person appointed in the Bankruptcy Case under any chapter of the Bankruptcy Code.

15. The terms and conditions of this Order shall be (a) effective and immediately enforceable upon its entry by the clerk of this Court notwithstanding any potential application of Fed. R. Bankr. P. 6004(g), 7062, 9014 or otherwise, and (b) not be stayed absent (1) an application by a party in interest for such stay in conformance with such Fed. R. Bankr. P. 8005, and (2) a hearing upon notice to the Noticed Parties and the Bank.

16. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any orders which may be entered confirming any plan of reorganization or which may be entered converting the Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code. The terms and provisions of this Order, as well as the Adequate Protection Claim, the Adequate Protection Lien and all other claims and Liens granted by this Order, shall (a) continue in these or any superseding case under the Bankruptcy Code, (b) be valid and binding on all parties in interest, including without limitation any Committee, Chapter 11 Trustee, examiner or Chapter 7 Trustee, and (c) continue notwithstanding any dismissal of the Debtor's Bankruptcy Case (and any such order of dismissal shall so provide), and such claims and Liens shall maintain their priority as provided by this Order until the Obligations are satisfied in full. No Proceeds, Cash Collateral or Carve-Out may be used by any party in interest seeking to modify any of the rights granted to FFCI under this Order in a manner adverse to FFCI.

17. To the extent that any of the provisions of this Order shall conflict with any of the provisions of the Loan Agreement, this Order is deemed to control and shall supersede the conflicting provision(s) in said agreement(s).

18. The Debtor's authorized use of Collateral and Cash Collateral pursuant to this Order, subject to FFCI's right to terminate such use following an Event of Default in accordance with the terms and conditions of this Order, shall be in effect for the period commencing with the Petition Date through and including on August __, 2009.

19. A final hearing with respect to the Motion is scheduled for August __, 2009 at ____ p.m. (the "Final Hearing"). The Debtor shall promptly mail copies of this Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Interim Hearing, and to any other party that has filed a request for notices with the Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have been appointed. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections; which objections shall be served upon (a) the Law Offices of Michael G. Mc Auliffe, Esq., attorneys for the Debtor, 48 South Service Raod, Suite 102, Melville, New York 11747; (b) Robert T. Bonsignore, Esq., Associate Counsel to FFCI, 733 Third Ave, 24th Floor, New York, NY 10017, and

(c) the Office of the United States Trustee for the Eastern District of New York, Attn: Stan Yang, Esq., and which objections shall be filed with the Clerk of the Court, in each case so as to be received no later than three (3) business days before the hearing date for the Final Hearing.

Dated: Central Isip, New York
July ____, 2009

UNITED STATE BANKRUPTCY JUDGE

Exhibit “C”

Suffolk Ready Mix, LLC
131 Old Northport Road
Kings Park, NY 11754

January 30, 2009

Financial Federal Credit Inc.
300 Frank W. Burr Blvd. Suite 50
Teaneck, NJ 07666

Re: Promissory Note in the amount of \$194,790.00 dated January 30, 2009 executed by Suffolk Ready Mix, LLC as Maker and payable to Financial Federal Credit Inc. as Holder

Gentlemen:

With regards to the proceeds due us under the above captioned, we do hereby irrevocably authorize, direct and request that you remit sums as follows:

\$25,000.00	To	Suffolk Ready Mix, LLC
\$1,000.00	To	Financial Federal Credit Inc. in payment of a documentation fee which is agreed to be fully earned as of the date hereof
\$43,512.56	To	Financial Federal Credit Inc. for credit to account no. 22301
\$91,568.10	To	Financial Federal Credit Inc. for credit to account no. 23394

This represents the entire amount due us.

Payment by you as aforesaid, shall be in all respects the equivalent of payment directly to us, and you shall not be obligated to see to the application thereof by the recipient.

Sincerely,

Suffolk Ready Mix, LLC

By:  _____ By: _____

sold in bulk, singly, or in such lots as Secured Party may elect, (iv) whether or not the items sold are in Secured Party's possession and present at the time and place sale; and (v) whether or not Secured Party refurbishes, repairs or prepares the items for sale. Secured Party may be the purchaser at any public sale. In all cases, Debt shall be liable for any deficiency due and owing to Secured Party after any public or private sale, plus all costs, expenses and damages incurred by Secured Party including but not limited to all legal fees whether or not suit is filed, allocable costs of in-house counsel, costs related to the repossession, reconveyance and disposal of the Collateral, and all incidental and consequential damages. No action taken by Secured Party shall release Debtor from any of its obligations to Secured Party. Debtor acknowledges and agrees that in any action or proceeding brought by Secured Party to obtain possession of any Collateral, Secured Party shall be entitled to issuance of a writ or order of possession (or similar legal process) without the necessity of posting a bond, security or other undertaking which is hereby waived. Debtor and if Debtor contests Secured Party's right to possession of any Collateral in any action or proceeding Debtor shall post a bond (issued by a national insurer) authorized to issue such bonds in the jurisdiction of such action or proceeding) in an amount equal to twice the amount in controversy in such action or proceeding twice the amount of Debtor's unpaid obligations to Secured Party, whichever is less. The proceeds of any sale shall first be applied to the costs and expenses of Secured Party including but not limited to recovering, transporting, storing, refurbishing, and/or selling the items sold, attorneys' fees, court costs, bond and insurance premium advertising, postage and publishing costs, and sales commissions. Secured Party may without prior notice to or demand upon Debtor and with or without the exercise of any of Secured Party's other rights or remedies, apply toward the payment of Debtor's obligations (at any time owing to Secured Party) any checks, drafts, note balances, reserves, accounts and sums belonging to or owing to Debtor and coming into Secured Party's possession and for such purpose may endorse Debtor's name on any instrument or document payable to Debtor (whether for deposit, collection, discount or negotiation). Without notice to Debtor, Secured Party may make such applications or change applications of sums previously paid and/or to be paid to Secured Party, to such Obligations as Secured Party may make such The exercise or partial exercise of any remedy shall not be construed as a waiver of any other remedy nor constitute an election of remedies.

9. Protest and all demands and notices of any action taken by Secured Party under this Agreement, or in connection with any Collateral, except as otherwise provided in this Agreement, are hereby waived by Debtor, and any indulgence of Secured Party, substitution for, exchange or release of any person liable on the Obligations is hereby consented to. Debtor waives notice of the creation, advance, increase, existence, extension or renewal of, and of any indulgence with respect to, the Obligations; waives presentment, demand, notice of dishonor, and protest; waives notice of the amount of the Obligations outstanding at any time, notice of any change in financial condition or any person liable for the Obligations or any part thereof, notice of any Event of Default, and all other notices respecting the Obligations; and agrees that maturity of the Obligations or any part thereof may be accelerated, extended or renewed one or more times by Secured Party in its sole discretion, without notice to Debtor. In performing an act under this Agreement or any of the Obligations, time shall be of the essence and Secured Party's acceptance of partial or delinquent payments or performance, or failure to delay to exercise any right or remedy, shall not be a waiver of any obligation of Debtor or right of Secured Party not constitute a waiver of any subsequent default.

10. This Agreement, Secured Party's rights hereunder and/or any of the Obligations may be assigned from time to time by Secured Party, and in any such case the assignee shall be entitled to all of the rights, privileges and remedies herein granted to Secured Party; and Debtor hereby waives and agrees not to assert against any assignee a defense, setoff, claim, recoupment or counterclaim Debtor may have against Secured Party or any prior assignee. Debtor shall not assign this Agreement nor any of Debtor's rights or obligations hereunder.

11. Debtor shall be in default hereunder upon the occurrence of any of the following (each an "Event of Default"): (a) Debtor or any endorser, guarantor, surety or accommodation party or other person liable for the payment or performance of any of the Obligations ("Other Liable Party") fails to pay when due any sum due to Secured Party (whether hereunder or under any other obligation to Secured Party) or to timely perform any obligation, covenant, term or provision of this Agreement or any other instrument and/or agreement now or hereafter existing between the parties, or there exists any Event of Default thereunder; (b) any warranty, representation or statement made to Secured Party by or on behalf of Debtor or any Other Liable Party is false in any respect when made or thereafter becomes false or is breached; (c) Debtor's or any Other Liable Party's death, dissolution, termination of existence, insolvency, business failure, assignment for the benefit of creditors, bulk transfer, proceeding under any bankruptcy or insolvency law, being declared judicially incompetent, voluntary or involuntary consent to the appointment of a receiver, trustee, conservator, liquidator or legal guardian to them or any or all of their property; (d) a default under any indebtedness of Debtor or any Other Liable Party or any event permitting the holder of any such indebtedness to accelerate the maturity thereof, whether or not such event is cured; (e) the Collateral becomes, in the sole judgment of Secured Party, unsatisfactory or insufficient in character or value; (f) Secured Party in good faith believes that the prospect of payment or performance of any of the Obligations or this Agreement is impaired; (g) any change in the management, operation, ownership or control of Debtor or any Other Liable Party; (h) any attachment, levy or execution against Debtor and/or any Other Liable Party is not released within 48 hours; (i) Debtor's or any Other Liable Party's affairs so change as to, in Secured Party's sole discretion, increase the credit risk involved and Secured Party thereby becomes insecure as to the performance of this Agreement or any other agreement with Debtor or such Other Liable Party; (j) Debtor shall incur, create, assume, cause or suffer to exist any mortgage, trust, lien, security interest, pledge, hypothecation or other encumbrance (other than Secured Party's interest therein) on attachment or execution of any kind whatsoever upon, affecting or with respect to the Collateral, this Agreement, or any of Secured Party's interests under this Agreement or any of the Obligations; (k) Debtor shall sell, pledge, assign, rent, lease, lend, destroy or otherwise transfer or dispose of any Collateral; (l) failure of Debtor to obtain or maintain insurance on the Collateral satisfactory to Secured Party in its sole discretion; or (m) any of the Obligations, this Agreement, the security interest or any provision hereof for any reason attributable to Debtor ceases to be in full force and effect or shall be declared to be null and void or the validity or enforceability thereof shall be contested by Debtor or Debtor shall deny that it has any further liability or obligation thereunder.

12. The term "Debtor" as used in this Agreement shall be construed as the singular or plural to correspond with the number of persons executing this instrument as Debtor or "Secured Party" and "Debtor" as used in this Agreement include the heirs, executors or administrators, successors, legal representatives, receivers, and assigns of Debtor parties. If more than one person executes this Agreement as Debtor, their obligations under this Agreement shall be joint and several. Unless the context otherwise requires terms used in this Agreement which are defined in the Uniform Commercial Code are used with the meaning as therein defined. **THIS WRITTEN AGREEMENT AND ALL OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.** No termination, modification, waiver or amendment of or to this Agreement shall be effective unless in writing signed by Debtor and an officer (assistant vice president or higher) of Secured Party. If any provision of this Agreement is rendered or declared invalid, illegal or ineffective by an existing or subsequently enacted legislation or decision of a court of competent jurisdiction, such legislation or decision shall only invalidate such provision to the extent so rendered or declared invalid, illegal or ineffective and shall not impair, invalidate or nullify the remainder of this Agreement which shall remain in full force and effect. **THE PARTIES INTEND THAT THIS AGREEMENT AND EACH OF ITS TERMS BE VALID AND ENFORCEABLE AS WRITTEN AND, ACCORDINGLY, AGREE THAT THE VALIDITY AND ENFORCEABILITY OF THIS AGREEMENT AND EACH OF ITS TERMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DEBTOR'S LOCATION AS SET FORTH IN THIS AGREEMENT, OR, IF ONE OR MORE OF THE TERMS OF THIS AGREEMENT WOULD BE INVALID OR UNENFORCEABLE UNDER THE LAWS OF SUCH STATE, THE LAWS OF THE STATE OF SECURED PARTY'S LOCATION AS SET FORTH IN THIS AGREEMENT.**

13. Any notice or demand to Debtor hereunder or in connection herewith may be given and shall conclusively be deemed and considered to have been given and received upon the deposit thereof in the U.S. Mail, in writing, duly stamped and addressed to Debtor at the address set forth in this Agreement or at such other address of Debtor as Debtor shall have designated by notice in writing delivered to Secured Party. Actual notice to Debtor, however given or received, shall always be effective. **DEBTOR, AS A MATERIAL INDUCEMENT FOR SECURED PARTY TO MAKE LOANS OR OTHER FINANCIAL ACCOMMODATIONS AVAILABLE TO DEBTOR, HEREBY IRREVOCABLY DESIGNATES AND APPOINTS THE TEXAS SECRETARY OF STATE AS ATTORNEY-IN-FACT AND AGENT FOR DEBTOR AND IN DEBTOR'S NAME, PLACE AND STEAD TO ACCEPT SERVICE OF ANY PROCESS WITHIN THE STATE OF TEXAS; AGREES TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY COURT LOCATED IN HARRIS COUNTY, TEXAS, REGARDING ANY DISPUTE WITH SECURED PARTY OR ANY OF SECURED PARTY'S OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, INCLUDING WITHOUT LIMITATION ANY MATTER RELATING TO OR ARISING UNDER THIS OR ANY OTHER EXISTING OR FUTURE AGREEMENT WITH SECURED PARTY, PROVIDED THAT SECURED PARTY MAY BRING SUIT IN ANY OTHER COURT HAVING JURISDICTION; WAIVES ANY OBJECTION TO SUCH ACTION OR PROCEEDING; AND ANY OBJECTION TO VENUE OF ANY SUCH ACTION OR PROCEEDING; WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS AND ANY OBJECTION TO THAT SERVICE OF PROCESS IN ANY ACTION OR PROCEEDING BROUGHT IN ACCORDANCE HERewith SHALL BE GOOD AND SUFFICIENT IF SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO DEBTOR AT DEBTOR'S ADDRESS AS PROVIDED HEREIN. THE PARTIES HEREBY WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL OF ANY CLAIM, CAUSE OF ACTION, COUNTERCLAIM, CROSS-CLAIM, DEFENSE OR OFFSET INVOLVING DEBTOR, SECURED PARTY OR ANY OF SECURED PARTY'S OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, OR ANY PERSON CLAIMING ANY RIGHT OR INTEREST ACQUIRED FROM, THROUGH OR UNDER ANY OF THEM; AND DEBTOR FURTHER HEREBY WAIVES ANY AND ALL SPECIAL, EXEMPLARY, PUNITIVE AND CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND/OR THE ACTS OR OMISSIONS OF SECURED PARTY OR ANY ASSIGNEE.**

14. If Secured Party is for any reason compelled to surrender any payment received pursuant to any of the Obligations, because such payment is determined to be void or voidable as a preference, fraudulent transfer, impermissible set off or recoupment, a diversion of trust funds, or for any other reason, then such Obligation(s) shall be reinstated, if necessary and shall continue in full force notwithstanding any contrary action which Secured Party or Debtor may have taken in reliance upon such payment. Upon such contrary action so taken shall be without prejudice to Secured Party's rights under the Obligations and hereunder and shall be deemed to have been conditioned upon such payment having become final and irrevocable. The terms of paragraphs 1, 7, 10, 12, 13, 14 and 15 shall survive termination of this Agreement.

15. All agreements between Debtor and Secured Party, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand for payment or acceleration of maturity or otherwise, shall any interest contracted for, charged or received by Secured Party exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to Secured Party in excess of the maximum lawful amount, the interest payable to Secured Party shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance Secured Party shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of any principal and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of any principal, such excess shall be applied to Debtor. All interest paid or agreed to be paid to Secured Party shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of any principal (including the period of any renewal or extension) so that the interest for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between Debtor and Secured Party.

SCHEDULE "A"

This schedule is attached to and becomes part of a certain Security Agreement dated January 30, 2009.

<u>QUANTITY</u>	<u>YEAR</u>	<u>MODEL</u>	<u>DESCRIPTION OF COLLATERAL</u>	<u>SERIAL NUMBER</u>
One (1)	2005		Advance Front End Mixer ✓	5DG8AC4T250010248
One (1)	2005		Advance Front End Mixer ✓	5DG8AC4T850010285
One (1)	2005	379	Peterbilt Tractor ✓	1XP5DB0X35N860552
One (1)	2005		East Tri-Axle Dump Trailer ✓	1E1D1N38X5RHH35390
One (1)	1996		Advance 4-Axle Mixer ✓	1A9TAC4S9T0007366
One (1)	1996		Advance 4-Axle Mixer ✓	1A9TAC4S2T0007368
One (1)	2001		Advance Mixer ✓	5DG8AC4T810008319
One (1)	1999		Advance Mixer ✓	1A9TAC4S0X0007343
One (1)	1999		Advance Mixer ✓	1A9TAC4S7X0007064
One (1)	1999		Advance Mixer ✓	1A9TAC4S1X0007206

Including all attachments, accessions and accessories to, and all proceeds of, all of the foregoing, including without limitation all insurance proceeds and all rental proceeds, accounts and chattel paper arising out of or related to the sale, lease, rental or other disposition thereof.

This schedule is hereby verified correct and the undersigned acknowledge receipt of a copy.

Secured Party :
Financial Federal Credit Inc.

Debtor :
Suffolk Ready Mix, LLC

PROMISSORY NOTE

\$194,790.00

Kings Park

NY

January 30, 2009

(Total of Note)

(City)

(State)

(Date)

FOR VALUE RECEIVED, Suffolk Ready Mix, LLC ("Maker") promises to pay to the order of Financial Federal Credit Inc. ("Holder"), at 300 Frank W. Burr Blvd. Suite 50, Teaneck, NJ 07666, or such other place as Holder may from time to time designate in writing, the amount of One Hundred Ninety-Four Thousand Seven Hundred Ninety Dollars and No Cents (\$194,790.00), payable in consecutive monthly installments, as follows:

30	installments, each in the amount of	\$ 6,493.00	; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
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	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then
	installments, each in the amount of	\$; then

Said consecutive **monthly** installments shall commence on the **1st day of March, 2009**, and continue on **April 1, 2009** and on the same day of each **month** thereafter until the indebtedness evidenced hereby is paid in full. The Total of Note includes precomputed interest (at the "non-default interest rate") from the date hereof on the unpaid principal amount outstanding from time to time through the maturity of each installment (assuming that each installment will be received on its respective due date) (but in no event shall the rate of interest exceed any maximum permitted by applicable law). Maker shall also pay to Holder on demand, on each installment (of principal and/or interest) not fully paid prior to the fifth day (or such longer period as required by law) after its due date, a late charge equal to the maximum percentage of such overdue installment legally permitted as a late charge, not to exceed five percent (5%); and after maturity of the entire indebtedness (whether by acceleration or otherwise), Maker shall pay, on demand, interest on the unpaid indebtedness (excluding accrued and unpaid interest and late charges) at the maximum lawful daily rate, but not to exceed 0.0666% per day, until paid in full. Unless prohibited by applicable law, during any period of time when Maker is in default under the terms of this Note, Maker shall pay interest on the unpaid principal amount outstanding from time to time at the maximum lawful daily rate, not to exceed 0.0666% per day, in place of the non-default interest rate set forth or implied in this Note, until the default is cured. Interest shall be calculated on the basis of a 360 day year and for the actual number of days elapsed, unless such calculation would cause the effective interest rate to exceed the maximum rate allowed by applicable law, in which case such calculation shall be on the basis of a 365 day year. Maker agrees to an effective rate of interest which is the rate stated or implied in this Note plus any additional sums or charges provided for herein or incident to the transaction of which this Note forms a part which are or may be deemed to be interest under applicable law, but not more than the maximum amount permissible under applicable law.

Upon nonpayment when due of any amount owing hereunder, or if default occurs under any other obligation of Maker to Holder or under any security agreement, pledge, assignment, deed of trust, or any other instrument or document executed to evidence, secure, guarantee, govern or in any way pertain to the loan evidenced by this Note or any other obligation of Maker to Holder, Holder may, at its option, without notice or demand, accelerate the maturity of the accrued and unpaid indebtedness then outstanding under this Note and declare same to be at once due and payable whereupon it shall be and become immediately due and payable. Maker, all endorsers, guarantors and any other party liable on this Note also promise and agree to pay Holder's costs, expenses and reasonable attorneys' fees incurred in enforcing and/or collecting this Note. Maker, all endorsers, guarantors and any other party liable on this Note waive presentment for payment, demand, protest, notice of protest and notice of nonpayment, default and dishonor, notice of intent to accelerate, notice of acceleration, and further, to the extent allowed by law, waive all benefits of valuation, appraisal and exemption laws. Holder may, without notice, extend the time of payment of this Note, postpone the enforcement hereof, grant any other indulgence, add or release any party primarily or secondarily liable hereon and/or release or change any collateral securing this Note without affecting or diminishing Holder's right of recourse against Maker, all endorsers, guarantors and other parties liable on this Note, which right is hereby expressly reserved. As used in this Note, the term "Holder" includes any future holder of this Note. If more than one party signs this Note as Maker, the obligations of each of them shall be joint and several.


As a material inducement to Holder to advance funds or otherwise provide financial accommodations to or for the benefit of Maker and/or in consideration of Holder having previously done so, Maker agrees that in the event of any prepayment of any of Maker's indebtedness for borrowed money now or hereafter owing to Holder (whether evidenced hereby or otherwise), whether voluntary or involuntary, Maker shall simultaneously pay a prepayment premium equal to the sum of (a) two tenths percent (0.2%) of the principal amount then being prepaid multiplied by the number of calendar months between the date of such prepayment and the scheduled final maturity date of the indebtedness being prepaid, plus (b) three percent (3%) of the principal amount of the indebtedness then being prepaid, but not more than the maximum amount permitted by law. Any partial

receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of the principal, such excess shall be refunded to Maker. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any extension or renewal hereof) so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between Maker and Holder.

The proceeds from the loan evidenced by this Note are to be used for business purposes only, and no part thereof is to be used for primarily consumer, personal, family or household purposes. Maker acknowledges and agrees that Maker's obligations hereunder shall be secured by any security agreement, mortgage, deed of trust or pledge executed by Maker in favor of Holder, whether now existing or hereafter executed.

THIS WRITTEN AGREEMENT AND ALL OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES. THIS NOTE MAY NOT BE CHANGED OR TERMINATED ORALLY.

MAKER _____ MAKER Suffolk Ready Mix, LLC

By: _____ By:  Name: _____ Title _____

(Witness for all Makers)

ENDORSEMENT

The undersigned do each (jointly and severally) unconditionally guarantee the prompt payment of the within Note at maturity or any time thereafter, or on default prior thereto, hereby waiving presentment for payment, demand, protest, notice of dishonor, notice of acceleration, notice of intent to accelerate, and notice of every kind and nature, and accepting all of its provisions and authorizing Holder, without notice to any one or more or all of us, to substitute debtors, and/or to grant one or more extensions in whole or in part, and/or to receive security or additional security for the payment hereof and/or to surrender, release or substitute any such security.

If any payment on this Note is not paid when due, then the remaining unpaid indebtedness shall, without notice or demand, become immediately due and payable, at the option of Holder, and may be recovered in any suit brought by the Holder of this Note against any one or more or all of us, at the option of Holder, whether such suit has been commenced against Maker or not, and in any such suit Maker may be joined with one or more or all of us, at the option of Holder.

The Holder of this Note shall not be required to look to any security given or held for the payment of this Note, but may proceed against any one or more or all of us immediately upon a default in payment or otherwise. Any execution may be immediately levied upon any real or personal property of the undersigned, all rights of the undersigned to have personal property last taken and sold under such execution being hereby expressly waived.

(Endorser)

(Endorser)

GENERAL RELEASE

This General Release ("Release") is executed by Suffolk Ready Mix, LLC ("Obligor") and Anthony Persico ("Guarantors", whether one or more) in favor of Financial Federal Credit Inc. ("FFCI"). At times each of the foregoing is individually referred to herein as a "Party," and at times all of the foregoing are collectively referred to herein as the "Parties."

1. In consideration of good and valuable consideration, including without limitation the agreement by FFCI to modify, amend, extend, renew or restructure one or more of the obligations owed by Obligor to FFCI under the following described instruments and/or agreements executed by Obligor:

Account No. Description
22301 Security Agreement and Promissory Note

Date Executed
10/1/04

23394 Security Agreement and Promissory Note

11/19/04

which obligations are unconditionally guaranteed by the Guarantors in favor of FFCI, the receipt and sufficiency of which consideration is hereby acknowledged, Obligor and the Guarantors, each individually and collectively, hereby FOREVER, FINALLY, FULLY AND COMPLETELY RELEASE, RELIEVE, ACQUIT, REMISE, AND DISCHARGE FFCI and its successors, predecessors and assigns, affiliated companies, subsidiary companies, parent companies, past and present employees, agents, partners, representatives, attorneys, accountants, directors, shareholders, officers, and any other person acting in his or her individual or representative capacities (the "Releasees") from any and all liens, losses, claims, debts, liabilities, demands, obligations, acts, agreements, litigation, reports, costs and expenses (including, without limitation, attorneys' fees), damages, injuries, suits, actions or causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, contingent or fixed, from the beginning of time until the date of this Release.

2. Obligor and the Guarantors, each individually and collectively, represent and warrant that none of them has sold, assigned, or otherwise transferred to any third party any of their rights, title, or interest in or to any claims, warranty claims, controversies, disputes, demands, damages, actions, causes of action, lawsuits, judgments, liens, liabilities, or rights whatsoever that they, both individually and collectively, have, may have or may have had against any of the Releasees.
3. Obligor and the Guarantors, each individually and collectively, understand and agree that this is a final release, that no further consideration is to be paid in connection herewith, and that this Release is made in compromise of any disputed claims and is not to be construed as an admission of liability by any Party hereto. Obligor and the Guarantors, each individually and collectively, acknowledge that she, he and/or it has entered into this Release voluntarily, knowingly and as her, his and/or its own act and deed, and only after reviewing the entire Release and having had an opportunity to consult with an attorney of her, his and/or its own choosing. Obligor and the Guarantors, each individually and collectively, expressly warrant and represent that no promise or agreement which is not set forth herein was made to her, him or it in connection with the execution of this Release, and that she, he and/or it is/are not relying on any statement or representation of any of the Releasees.

THE PARTIES ACKNOWLEDGE AND AGREE TO THE FOREGOING:

Dated: January 30, 2009

Suffolk Ready Mix, LLC

Anthony Persico

By: 

By: 

Name: _____

Name: Anthony Persico

Title: _____

Title: individually