

**FIRST AMENDMENT
TO
OPERATING COVENANT AGREEMENT
(Robertson's Ready Mix)**

between

**THE CITY OF CORONA,
a California municipal corporation,**

and

**ROBERTSON'S READY MIX, LTD.,
a California limited partnership**

[Dated as of December 16, 2015, for reference purposes only]

**FIRST AMENDMENT
TO
OPERATING COVENANT AGREEMENT
(Robertson's Ready Mix)**

THIS FIRST AMENDMENT TO OPERATING COVENANT AGREEMENT (Robertson's Ready Mix) ("**First Amendment**") is dated as of December 16, 2015, and is entered into by and between THE CITY OF CORONA, a California municipal corporation ("**City**") and ROBERTSON'S READY MIX, LTD., a California limited partnership ("**Robertson's**"). The City and Robertson's are sometimes referred to in this First Amendment individually as a "**Party**" or collectively as the "**Parties.**" The City and Robertson's enter into this First Amendment with reference to the following recited facts (each a "**Recital**"):

RECITALS

WHEREAS, Robertson's owns and operates within the City a commercial business involving the retail sale of the products of Robertson's Ready Mix and its affiliated entities (including without limitation RRM Properties, Ltd., Service Rock Products, and all fictitious business names under which Robertson's Ready Mix and/or its affiliates operates including without limitation Robertson's Ready Mix and Proparts), which products consist of concrete, aggregate, sand, and related materials used in the construction industry, and currently located at 200 South Main Street in the City of Corona, County of Riverside ("**Property**"); and

WHEREAS, Robertson's expects to generate significant sales revenues, which will result in the generation of significant new local sales tax revenues; and

WHEREAS, the City and Robertson's previously entered into that certain Operating Covenant Agreement (Robertson's Ready Mix), dated December 18, 2013, (the "**Agreement**"), which, among other things, sets forth the terms and conditions pursuant to which Robertson's agreed to maintain its sales office operations (the "**Facility**") within the City for a period of twenty-five (25) years from the effective date of the Agreement, in exchange for the City providing certain payments to Robertson's as an incentive for operating the Facility within the City during this period and in consideration of the new and additional local sales tax revenues, property taxes, employment benefits, and other tangible and intangible benefits to be received by the City arising from the operation of the Facility within the City, as further described in the Agreement; and

WHEREAS, the purpose of this First Amendment is to revise the Agreement to provide for additional sixty (60) month extensions to the Term; and

WHEREAS, the incentives provided in this First Amendment are intended to ensure Robertson's maintains the existing Facility within the City and expands its operations within the City as appropriate; and

WHEREAS, entering into this First Amendment will generate substantial revenue for the City, allow for the potential for increased job growth; result in the retention of 1,517 jobs; continue to stimulate the economy in an area of the City which has suffered a loss of jobs and

businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and the mutual benefits to be derived therefrom, the Parties agree as follows:

TERMS

1. **Incorporation of Recitals.** The Recitals set forth above are true and correct and are incorporated into this First Amendment in their entirety by this reference.
2. **Definitions.** All terms with initial capital letters used herein but not otherwise defined shall have the respective meanings set forth in the Agreement.
3. **Amendments.** The Agreement is hereby amended as follows:

3.1 Term of this Agreement. A new Section 1.1.1 is hereby added to the Agreement to read in its entirety as follows:

“1.1.1 Term of this Covenant Agreement. This Covenant Agreement shall commence on the Effective Date and, unless terminated sooner pursuant to the provisions of this Covenant Agreement, shall continue in effect thereafter until the last day of Computation Quarter 100 (which time period is referred to in this Covenant Agreement as the **“Term”**), subject to any rights or remedies available to a Party to earlier terminate this Covenant Agreement as set forth herein.

Upon expiration of the Term, the Term shall automatically renew for subsequent sixty (60) month periods (each an **“Extended Term”**), unless either Party provides written notice indicating its intent to terminate the Covenant Agreement to the other Party no less than one (1) year prior to expiration of the then existing Term or Extended Term, as applicable. (The Term together with any Extended Term shall be referred to herein collectively as the **“Term”**.)”

3.2 Computation Quarter. Section 1.3.3 of the Agreement is hereby repealed and replaced in its entirety with the following:

“1.3.3 “Computation Quarter” means each calendar quarter beginning on January 1, April 1, July 1, or October 1, as applicable, and ending on the succeeding March 31, June 30, September 30, or December 31, as applicable. The Parties agree that the first Computation Quarter within the Eligibility Period commenced July 1, 2014 and is referred to herein as **“Computation Quarter 1”**, with each succeeding Computation Quarter within the Eligibility Period being consecutively numbered, concluding with

“Computation Quarter 100.” During any Extended Term, Computation Quarters shall commence with “Computation Quarter 101”, with each succeeding Computation Quarter within the Eligibility Period being consecutively numbered, concluding upon the Computation Quarter then existing as of expiration of the applicable Extended Term pursuant to Section 1.1.1.”

3.3 Eligibility Period. Section 1.3.7 of the Agreement is hereby repealed and replaced in its entirety with the following:

“1.3.7 “Eligibility Period” means the period commencing as of the first (1st) day of Computation Quarter 1 and ending the last day of Computation Quarter 100 (i.e., June 30, 2039), or the last day of the Computation Quarter if an Extended Term, as applicable.”

3.4 Operating and Covenant Payments. Section 3.1.1 of the Agreement is hereby repealed and replaced in its entirety with the following:

“3.1.1 Operating and Use Covenant. Owner covenants and agrees that, for a period of no less than twenty-five (25) years following the Effective Date (unless terminated sooner pursuant to specific provisions of this Covenant Agreement or extended pursuant to any Extended Term), Owner shall operate, or cause to be operated upon the Property, the Sales Office, consistent with all applicable provisions of federal, state and local laws and regulations. Owner’s obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain all federal, state and local licenses and permits required for the operation of the Sales Office. For the term of this Operating and Use Covenant, the Owner may use the Property only for the purposes of the operation of the Sales Office and related administrative offices purposes in conjunction with the Owner’s business.”

3.5 Jobs Creation Covenant. The following Section 3.1.6 is hereby added to the Original Agreement to read as follows:

“3.1.6 Jobs Creation Covenant and Operational Covenant. Owner covenants and agrees that the continued operation of the Sales Office shall result in retention of not less than 1,517 jobs in the City and Owner shall use its best commercially reasonable efforts to expand the workforce at the Property.”

4. Except as amended by this First Amendment, all provisions of the Agreement, including without limitation the indemnity and insurance provisions, shall remain in full force and effect and shall govern the actions of the Parties under this First Amendment. From and after the date

of this First Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement as amended by this First Amendment.

5. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Second Amendment.

[Signatures on following pages]


**SIGNATURE PAGE
TO
FIRST AMENDMENT
TO
OPERATING COVENANT AGREEMENT
(Robertson's Ready Mix)**

IN WITNESS WHEREOF, City and Robertson's have executed this First Amendment to Operating Covenant Agreement (Robertson's Ready Mix) by and through the signatures of their duly authorized representative(s) set forth below:

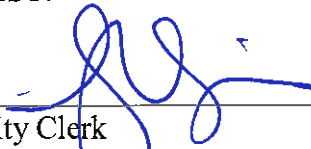
CITY:

CITY OF CORONA, a California municipal corporation

Dated: 12.17.15

By: 
Darrell Talbert
City Manager

ATTEST:

By: 
City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____
Special Counsel

**SIGNATURE PAGE
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CITY:

CITY OF CORONA, a California municipal corporation

Dated: _____

By: _____

Darrell Talbert
City Manager

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: Elizabeth Hull
Special Counsel

**SIGNATURE PAGE
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ROBERTSON'S:

ROBERTSON'S READY MIX, LTD.
a California limited partnership,

Dated: 12-9-15

By: 
Name: Pedro Edwards
Its: President

Dated: _____

By: _____
Name: _____
Its: Secretary _____

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