

Board of Adjustment of the City of McKinney, Texas

In the Matter of §
TXI Operations, LP/ § **Board of Adjustment**
Martin Marietta § **Case Number 20-02**
§

Subpoena Duces Tecum

To: TXI Operations, LP/Martin Marietta ("TXI"), 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234:

Greetings:

You are commanded to appear, through your authorized representative, on or before the _____ day of _____, 2020, at __:__.m., at the office of the City Secretary of the City of McKinney, Texas, located at 222 North Tennessee Street, McKinney, Texas 75069, and to bring and produce at said time and place the documentation and records listed in Exhibit A attached hereto, for inspection and copying,¹ in connection with determining an amortization period and establishing a compliance date for a nonconforming use in the following matter now pending before the Board of Adjustment of the City of McKinney, Texas ("Board") under Case Number 20-02:

Conduct a Public Hearing to consider/discuss/act on determining an amortization period and establishing a compliance date for the Nonconforming Concrete Batch Plant Use (TXI Operations, LP/Martin Marietta Redi-Mix), for property located at 2005 South McDonald Street, McKinney, Texas.

Said public hearing will be held on the _____ day of _____, 2020, at __:__.m., at _____, _____, McKinney, Texas 75069.

FAILURE TO OBEY THIS SUBPOENA DUCES TECUM WITHOUT ADEQUATE EXCUSE MAY BE TREATED AS CONTEMPT AND PUNISHED AS PROVIDED BY LAW, INCLUDING SECTION 146-40(g)(3)d OF THE MCKINNEY, TEXAS CODE OF ORDINANCES.

This Subpoena Duces Tecum is issued under the authority of the Board of Adjustment of the City of McKinney, Texas, as provided by Section 146-40(g)(3)b of the McKinney, Texas Code of Ordinances.

¹ In lieu of producing original documents, you may bring and produce copies of the documentation and records listed in Exhibit A, in either paper or electronic format, to be retained by the Board.

Date of Issuance: _____, 2020.

By:

Louise Holubar
Chair, Board of Adjustment
City of McKinney, Texas
222 North Tennessee Street
McKinney, Texas 75069

Exhibit A

All of the following financial documentation and records in the care, custody, or control of TXI or any individual or entity affiliated with TXI, relating to the use of the property located at 2005 South McDonald Street, McKinney, Texas 75069 (“Property”) as a concrete batch plant, for consideration and use by the Board in determining a compliance date for the nonconforming use of the Property:

1. TXI’s or any individual’s or affiliated entity’s capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the Property before April 16, 2019, the time the use as a concrete batch plant became nonconforming;
2. Any costs that are directly attributable to the establishment of a compliance date for cessation of the nonconforming use of the Property, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;
3. Any return on investment since inception of the use as a concrete batch plant, including net income and depreciation;
4. The anticipated annual recovery of investment for use of the Property as a concrete batch plant, including net income and depreciation; and
5. A reasonable wind-up period for the nonconforming use.

Return of Service

I served the foregoing Subpoena Duces Tecum by hand-delivery on [name]_____, [position]_____ of TXI Operations, LP/Martin Marietta, at 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234, on _____, 2020.

Printed name: _____