

BOARD OF ADJUSTMENT OF THE CITY OF MCKINNEY, TEXAS

IN THE MATTER OF

TXI OPERATIONS, LP/
MARTIN MARIETTA

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Board of Adjustment
Case Number 20-02

AFFIDAVIT OF SERVICE

Came to my hand on **Friday, March 6, 2020 at 11:45 AM,**
Executed at: **1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201**
within the county of **DALLAS** at **12:15 PM,** on **Tuesday, March 10, 2020,**
by delivering to the within named:

TXI OPERATIONS, LP/MARTIN MARIETTA

By delivering to its **Registered Agent, CT CORPORATION SYSTEM**
By personally delivering to its **Authorized Agent, KIMBERLY HIGHTOWER**
a true copy of this

SUBPOENA DUCES TECUM with EXHIBIT A

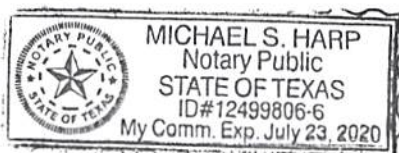
having first endorsed thereon the date of the delivery.

BEFORE ME, the undersigned authority, on this day personally appeared **Brian K. Lewis** who after being duly sworn on oath states: "My name is **Brian K. Lewis**. I am a person not less than eighteen (18) years of age and I am competent to make this oath. I am a resident of the State of Texas. I have personal knowledge of the facts and statements contained herein and aver that each is true and correct. I am not a party to nor related or affiliated with any party to this suit. I have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I am familiar with the Texas Rules of Civil Procedure, and the Texas Civil Practice and Remedies Codes as they apply to service of process. I am certified by the Judicial Branch Certification Commission to deliver citations and other notices from any District, County and Justice Courts in and for the State of Texas in compliance with rule 103 and 501.2 of the TRCP."

By: _____

Brian K. Lewis - PSC 10485 - Exp 08/31/21
served@specialdelivery.com

Subscribed and Sworn to by Brian K. Lewis, Before Me, the undersigned authority, on this 11TH day of March, 2020.



Notary Public in and for the State of Texas

BOARD OF ADJUSTMENT OF THE CITY OF MCKINNEY, TEXAS

IN THE MATTER OF

**TXI OPERATIONS, LP/
MARTIN MARIETTA**

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**Board of Adjustment
Case Number 20-02**

RETURN OF SERVICE

Came to my hand on **Friday, March 6, 2020 at 11:45 AM,**
Executed at: **1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201**
within the county of **DALLAS** at **12:15 PM, on Tuesday, March 10, 2020,**
by delivering to the within named:

TXI OPERATIONS, LP/MARTIN MARIETTA

By delivering to its **Registered Agent, CT CORPORATION SYSTEM**
By personally delivering to its **Authorized Agent, KIMBERLY HIGHTOWER**
a true copy of this

SUBPOENA DUCES TECUM with EXHIBIT A

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Subscribed and Sworn to by Brian K. Lewis, Before Me, the undersigned authority, on this 11TH day of March, 2020.

Notary Public in and for the State of Texas

Board of Adjustment of the City of McKinney, Texas

In the Matter of

TXI Operations, LP/
Martin Marietta

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Board of Adjustment
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 March 27, 2020, at 3:00 p.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 or after April 29, 2020, as determined by the Board and posted by the City Secretary of the City of McKinney.

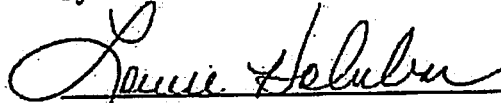
FAILURE TO OBEY THIS SUBPOENA DUCES TECUM WITHOUT ADEQUATE EXCUSE MAY BE TREATED AS CONTEMPT AND PUNISHED AS PROVIDED BY LAW, INCLUDING SECTION 146-40(g)(3)d OF THE MCKINNEY, TEXAS CODE OF ORDINANCES.

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: 3/2, 2020.

By:

A handwritten signature in cursive script, appearing to read "Louise Holubar", written over a horizontal line.

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: _____