

**ORDINANCE NO. 1996**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, GRANTING A SPECIFIC USE PERMIT ON PROPERTY DESCRIBED AS 17.241 ACRES OF THE R. MEAD SURVEY, ABSTRACT A-326 AND THE D. DANEWOOD SURVEY, ABSTRACT A-123 OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**SECTION I.**

**WHEREAS**, the City Council of the City of Terrell, held a public hearing at 7:00 p.m. on Tuesday, November 16, 1999, in the Council Chamber of the City Hall in Terrell, Texas to consider a request for a Specific Use Permit to locate a concrete batching plant on property described as 17.241 acres of the R. Mead Survey, Abstract A-326 and the D. Danewood Survey, Abstract A-123, City of Terrell, Kaufman County, Texas; and

**WHEREAS**, the City Council has determined the real property is located in a Light Industrial (LI) zoning district; and

**WHEREAS**, the City Council has determined that it would be in the best interest of the citizens of the City of Terrell to grant the specific use permit subject to certain stipulations.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Terrell, Texas that:

A Specific Use Permit is granted to locate one (1) concrete batching plant on property described as 17.241 acres of the R. Mead Survey, Abstract A-326 and the D. Danewood Survey, Abstract A-123, City of Terrell, Kaufman County, Texas, with the following stipulations:

**Cleanup of Delphine Project:**

1. Remove all old equipment to include all batch plant components.
2. Remove all buildings including the office and all storage units.
3. Remove all concrete reclaiming unit and related ramps and walls.
4. Remove and fill concrete wash pit.
5. Remove stockpile retaining blocks.
6. Remove brush and trees in drainage way from Delphine Street to old rail road.
7. Decrease slope of walls in drainage way from Delphine to old rail road.
8. Grade bottom of drainage way from Delphine to old rail road to prevent ponding of storm water.
9. Remove brush on south and east property boundaries.
10. Fill and level collection pit in northeast corner of lot south of Delphine plant site.
11. Remove temporary culvert from lot south of Delphine plant site to allow free flow of storm water.
12. Remove miscellaneous concrete slabs from site except new entry at main gate totaling approximately 3600 sq. ft.
13. Cover and seed grass on Delphine plant site.

**Special Provisions for Pioneer Concrete Relocation Property – As stated in the Real Estate Contract between Terrell Economic Development Corporation and Pioneer South Central, Inc.**

1. Buyer shall have the right to enter the property for surveying, inspections and for the purposes as Buyer deems necessary.
2. The contract is contingent upon Buyer obtaining a Specific Use Permit from the City of Terrell for operation of a concrete batching plant on the site.
3. The contract is further contingent upon Buyer closing the existing concrete batch plant on Delphine Street in Terrell, Texas, within ninety (90) days and not to

exceed one hundred twenty (120) days of completion of construction of new facility. All improvement shall be removed from the site of the existing concrete batch plant in Terrell including, but not limited to, clearing the site by removing all old equipment, concrete wash pit, stockpile retaining blocks, removing brush along fence line and leveling, covering and grassing the area. Buyer shall remove the fence along the south wise of the concrete batch plant lot on Delphine Street and the drainageway extending from Delphine Street across to the old rail road shall be cleared and reshaped.

4. Buyer shall comply with all TNRCC, EPA, and all other regulatory standards including municipal, state, and federal regulations regarding closure and dismantling of the site on Delphine Street and construction and operation of the new facility.
5. Buyer shall maintain the property on Delphine Street during the period of time it is owned by the Buyer.
6. Buyer shall have a Phase I site investigation performed on the Delphine Street site at Buyer's sole cost and expense. If the results of the Phase I investigation require further action, Buyer shall be responsible for the payment of any and all costs necessary to comply with any regulatory agency, including the costs of a Phase II site evaluation.
7. Buyer shall deposit the sum of Fifty Thousand Dollars (\$50,000) with Seller to be held in escrow in all interest bearing account until such time as Buyer complies with the terms of this contract relating to clean-up and closing of the Delphine Street concrete batch plant site. In the event Buyer fails to comply with any of the provisions of this contract relating to clean up and closure of the Delphine Street plant. Seller shall use such funds deposited in escrow to complete the clean up and closure of the Delphine Street plant. Buyer shall pay any and all costs exceeding such funds in escrow.

This Specific Use Permit shall take effect immediately from and after its passage and upon said facility complying with all terms and conditions set further herein.

## **SECTION II.**

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

## **SECTION III.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION IV.**

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**PASSED AND APPROVED ON THIS 16<sup>th</sup> DAY OF NOVEMBER, 1999.  
PASSED AND ADOPTED ON THIS 7<sup>th</sup> DAY OF DECEMBER, 1999.**

**APPROVED:**

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**HENRY C. MADGWICK, SR., MAYOR**

**ATTEST:**

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**JOHN ROUNSAVALL, CITY SECRETARY**

**APPROVED AS TO FORM:**

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**MARY GAYLE RAMSEY, CITY ATTORNEY**