

TEXAS TRANSPORTATION COMMISSION

GRAYSON County

MINUTE ORDER

Page 1 of 1

PARIS District

Project RMC 6109-13-001 (Extending existing travel center service entrance) was let on June 16, 2005, in the Paris District. M & S Concrete Company was the low bidder but failed to provide the required bonds and was declared in default. The second lowest bidder, Rushing Paving Company, LTD., has indicated in writing that it is willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 221.0041 of the Transportation Code allows the Texas Transportation Commission (commission), under certain conditions, to award a maintenance contract of less than \$100,000 to the second lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second lowest bidder on the recommendation of the executive director when the executive director determines that the second lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder, the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

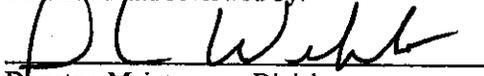
The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second lowest bidder in accordance with the law and the rules.

The commission concurs with the executive director's determinations as set forth in attached Exhibit A.

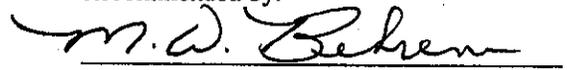
IT IS THEREFORE ORDERED by the commission that M & S Concrete be allowed to withdraw its bid for the contract for Project RMC 6109-13-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6109-13-001 be awarded to Rushing Paving Company, LTD. in the low bid amount of \$34,618.00.

Submitted and reviewed by:


Director, Maintenance Division

Recommended by:


Executive Director

110154 JUL 28 05

Minute Number Date Passed

EXHIBIT A



MEMORANDUM

TO: Transportation Commission

DATE: July 14, 2005

FROM: Michael W. Behrens, P. E. *M. W. B.*

SUBJECT: Minute Order
Award to Second Low Bidder

Contract No.: 06050102
Project: RMC 6109-13-001
Highway: US 0075
County: Grayson

Description: Extend Existing Service Entrance
Engineer's Estimate: \$33,938.10
Low Bid: \$34,618.00

Project RMC 6109-13-001 (Extend Existing Service Entrance) was let on June 16, 2005, in the Paris District. The low bidder was M & S Concrete Company with a bid in the amount of \$34,618.00. M & S Concrete Company did not provide required bonds within the 15 day deadline or one week extension of deadline, nor did they return phone calls regarding this matter.

The second lowest bidder, Rushing Paving Company, LTD., has indicated in writing that it wants the contract and is willing to perform the work at the unit bid prices on M & S Concrete Company's bid. Rushing Paving Company, LTD.'s original bid was \$2,849.50 higher than M & S Concrete Company. I find that the unit bid prices of the lowest bidder are reasonable and that delaying the award of this contract may result in significantly higher unit prices.

Based on the above, I recommend that the contract be awarded to Rushing Paving Company, LTD.



MEMORANDUM

TO: Zane Webb, MNT

July 13, 2005

FROM: B. G. Littlefield, Jr., P.E.
District Engineer

SUBJECT: Award to Second Low Bidder

Contract No.: 06050102
Project: RMC 6109-13-001
Highway: US 0075
County: Grayson

Description: Extend Existing Service Entrance
Engineer's Estimate: \$33,938.10
Low Bid: \$34,618.00

Project RMC 6109-13-001 (Extend Existing Service Entrance) was let on June 16, 2005, in the Paris District. The low bidder was M & S Concrete Co. with a bid in the amount of \$34,618.00. M & S Concrete Co. did not provide required bonds within 15 day deadline or one week extension of deadline, nor did they return phone calls regarding this matter.

The second lowest bidder, Rushing Paving Company, LTD. has indicated in writing that it wants the contract and is willing to perform the work at the unit bid prices on M & S Concrete Co. bid. Rushing Paving Company, LTD. original bid was \$2,849.50 higher than M & S Concrete Co. I find that the unit bid prices of the lowest bidder are reasonable and that delaying the award of this contract may result in significantly higher unit prices.

Based on the above, I recommend that the contract be awarded to Rushing Paving Company, LTD.



P.O. BOX 365 • DENISON, TEXAS 75021-0365 • PHONE 903/465-3872

July 13, 2005

Bobby Littlefield Jr. P.E.
TxDOT – Paris District Engineer
1365 North Main
Paris, Texas 75460

Contract No.: 06050102
Project: RMC 6109-13-001
Highway: US 75
County: Grayson

Dear Mr. Littlefield:

Rushing Paving will perform the work at the bid prices originally submitted by M&S Concrete for the above-mentioned project. The total bid amount was \$34,618.00.

Your consideration of this request is greatly appreciated. Should you have any questions please feel free to contact me at my office.

Sincerely,

A handwritten signature in black ink that reads "Richard J. Rushing". The signature is written in a cursive, flowing style.

Richard J. Rushing
President



Texas Department of Transportation

1365 N. MAIN • PARIS TEXAS 75460 • (903) 737-9300

Contract No. 06050102
 Control 610913001
 Project RMC - 610913001
 Highway US0075
 County GRAYSON

July 12, 2005

M & S CONCRETE CO.
 P O BOX 8241
 LEVELLAND, TX 79338-0000

PARIS District
 903/737-9292

Subject: FAILURE TO ENTER CONTRACT

In accordance with the provisions of the reference project, specific contract execution requirements were to be completed within the allotted time. Your company failed to execute the contracts within the specified time. As result, the proposal guaranty becomes the property of the State.

In addition, your company is subject to the following restrictions:

- 1) Your company will not be allowed to re-bid this project at a future date in accordance with Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter B, Rule 9.13 'Notice of Letting and Issuance of Proposals'; and
- 2) Your company may be sanctioned in accordance with Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G, Rule 9.107 'Failure to Honor Bid Guaranty'

Should you have any questions concerning this matter, please call 512-416-2425.

Sincerely,

Linda Jan Barnes
 Dist. Maint. Adm.

CC: MNT, Contract Section
 CST, Letting and Processing Branch
 FIN

U.S. Postal Service [™]	
CERTIFIED MAIL [™] RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	.39
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42
<div style="text-align: right;"> </div>	
Sent To <u>M & S Concrete Co.</u> Street, Apt. No., or PO Box No. <u>PO Box 8241</u> City, State, ZIP+4 <u>Levelland TX 79338</u>	
PS Form 3800, June 2002 See Reverse for Instructions	