

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

Page 1 of 1

ATLANTA District

Project RMC 6232-61-001 (Tree and Stump Removal) was let on October 12, 2011, in the Atlanta District. K & R Contractors was the low bidder but has failed to execute the contract. The second-lowest bidder, HX Farms, Inc., has indicated in writing that they are 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 \$300,000 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.

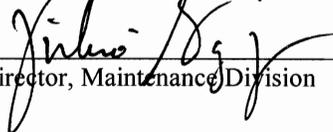
The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second-lowest bidder in accordance with the law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

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

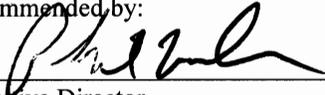
IT IS THEREFORE ORDERED by the commission that K & R Contractors be allowed to withdraw its bid for the contract for Project RMC 6232-61-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6232-61-001 be awarded to HX Farms, Inc., in the low bid amount of \$292,800.

Submitted and reviewed by:

  
\_\_\_\_\_  
Director, Maintenance Division

Recommended by:

  
\_\_\_\_\_  
Executive Director

**112913 NOV 17 11**

Minute Number      Date Passed

EXHIBIT A

# MEMORANDUM



**TO:** Transportation Commission  
**FROM:** Phil Wilson  
**SUBJECT:** Minute Order  
Award to Second-Low Bidder

November 4, 2011

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Contract No.: 10111903  
Project: RMC 623261001  
Highway: US 259  
County: Upshur, etc.

Description: Tree and Stump Removal  
Engineer's Estimate: \$291,500  
Low Bid: \$292,800

Project RMC 623261001 (Tree and Stump Removal) was let on October 12, 2011, in the Atlanta District. The low bidder was K & R Contractors with a bid in the amount of \$292,800. K & R Contractors failed to execute the contract.

The second-lowest bidder, HX Farms, Inc., has indicated that they want the contract and is willing to perform the work at the unit bid prices on K & R Contractor's bid. The original bid from HX Farms, Inc., was \$7,000 higher than K & R Contractors. I find that the unit bid prices of the lowest bidder are reasonable. In addition, there is a specific need to expedite completion of the project to protect the safety of the traveling public.

Based on the above, I recommend that the contract be awarded to HX Farms, Inc.