STERLING CONSTRUCTION CO INC
Form S-3
November 21, 2007

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As filed with the Securities and Exchange Commission on November 21, 2007
Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Sterling Construction Company, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**1600**	**25-1655321**
(State or other jurisdiction of incorporation or organization)	(Primary standard industrial classification code number)	(I.R.S. employer identification number)

20810 Fernbush Lane
Houston, Texas 77073
(281) 821-9091
(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)

Patrick T. Manning
Chief Executive Officer
20810 Fernbush Lane
Houston, Texas 77073
(281) 821-9091
(Name, address, including zip code, and telephone number, including area code, of agent for service)

With a copy to:

Geoffrey K. Walker
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Seattle, Washington 98101
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. o

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. þ

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. o

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. o

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	**Amount to be Registered**	**Proposed Maximum Offering Price per Share(1)**	**Proposed maximum aggregate offering price(1)**	**Amount of registration fee**
Common Stock	1,840,000	$24.37	$44,840,800	$1,377

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933. The calculation of the registration fee is based on the average of the high and low price for the Common Stock on November 20, 2007 as reported by The Nasdaq Global Select Market.

The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED NOVEMBER 21, 2007

PRELIMINARY PROSPECTUS

1,600,000 Shares

Sterling Construction Company, Inc.

Common Stock

We are offering to sell 1,600,000 shares of our common stock. Our common stock is listed on The NASDAQ Global Select Market, or Nasdaq, under the symbol STRL. The last reported sale price on Nasdaq on November 20, 2007 was $24.05.

We have granted the underwriter the right to purchase up to 240,000 additional shares of common stock to cover any over-allotments. The underwriter can exercise this right at any time within 30 days after the offering.

Investing in our common stock involves risks, including those incorporated by reference herein as described under Risk Factors on page 8 of this prospectus.

	Per Share	Total
Offering price	$	$
Discounts and commissions to underwriter	$	$
Offering proceeds to us, before expenses	$	$

The underwriter expects to deliver the shares of common stock to investors on or about .

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or has determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

D.A. Davidson & Co.

The date of this prospectus is

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You should rely only on the information contained or incorporated by reference in this prospectus or in any related free writing prospectus filed with the Securities and Exchange Commission and used or referred to in an offering to you of these securities. We have not authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

MARKET DATA AND FORECASTS

Unless otherwise indicated, information in this prospectus concerning economic conditions and our industry is based on information from independent industry analysts and publications, as well as our estimates. Our estimates are derived from publicly available information released by third-party sources, as well as data from our internal research, and are based on such data and our knowledge of our industry. None of the independent industry publications used in this prospectus were prepared on our or our affiliates behalf and none of the sources cited in this prospectus have consented to the inclusion of any data from its reports, nor have we sought their consent. These industry publications

generally indicate that they have obtained their information from sources believed to be reliable, but the sources do not guarantee the accuracy and completeness of their information.

SUMMARY

This summary highlights information contained elsewhere in this prospectus. This summary does not contain all of the information that may be important to you. You should read this entire prospectus carefully, including the risks discussed under Risk Factors and the consolidated financial statements and notes thereto included elsewhere in this prospectus. In this prospectus, all references to Sterling, Sterling Construction, we, us and our refer to Sterling Construction Company, Inc. and its subsidiaries, unless otherwise stated or indicated by context.

Our Company

We are a leading heavy civil construction company that specializes in the building, reconstruction and repair of transportation and water infrastructure. Our transportation infrastructure projects include highways, roads, bridges and light rail, and our water infrastructure projects include water, wastewater and storm drainage systems. We provide general contracting services primarily to public sector clients utilizing our own employees and equipment for activities, including excavating, concrete and asphalt paving, installation of large-diameter water and wastewater distribution systems, construction of bridges and similar large structures, construction of light rail infrastructure, concrete batch plant operations, concrete crushing and aggregates and asphalt paving operations. We perform the majority of the work required by our contracts with our own crews, and generally engage subcontractors only for ancillary services.

Our company was founded in 1955 and has a history of profitable growth, which we have achieved by expanding both our service profile and our market areas. This involves adding services, such as our concrete operations, in order to capture a greater percentage of available work in our current and potential markets. It also involves strategically expanding our operations, either by establishing a branch office in a new market, often after having successfully bid on and completed a project in that market, or by acquiring a company that gives us an immediate entry into a market. We extended both our service profile and our geographic market reach with our recent acquisition of Road and Highway Builders, LLC, which we refer to as RHB, discussed below.

We operate in Texas and Nevada, two states that we believe benefit from both positive long-term demographic trends as well as an historical commitment to funding transportation and water infrastructure projects. From 2000 to 2006, the population grew 12.6% in Texas and 24.9% in Nevada. Budgeted net expenditures for transportation in 2007 totaled more than $7.6 billion in Texas, an increase of 4% from 2006. In the recent November election, Texas voters approved a $5 billion issuance of bonds for highway improvements. In Nevada, highway improvement bonds in 2006 reached $294 million, up 5% from 2005, and several large jobs are scheduled to be let over the next year, including the $102 million Carson City freeway project and the $152 million Boulder City freeway expansion project. We anticipate that continued population growth and increased spending for infrastructure in these markets will positively affect our business opportunities over the coming years.

For the nine months ended September 30, 2007, we had revenues of $217.9 million, 17.7% higher than the same period in 2006. Over the same period, we had net income from continuing operations of $9.8 million, modestly higher than results for the same period in 2006. As of September 30, 2007, after giving effect to the RHB acquisition, we had a backlog of approximately $494 million.

Road and Highway Builders Acquisition

On October 31, 2007, we completed the acquisition of privately-owned RHB, which is headquartered in Reno, Nevada. RHB is a heavy civil construction business focused on the construction of roads and highways throughout the state of Nevada. We paid $53 million to acquire approximately 91.67% of the equity interest in RHB. The remaining

8.33% interest is owned by Mr. Richard Buenting, the chief executive officer of RHB, who continues to run RHB as part of our senior management team.

RHB s largest customer is the Nevada Department of Transportation, which is responsible for planning, construction, operation and maintenance of the 5,400 miles of highway and over 1,000 bridges that make up the state highway system. RHB is focused on providing timely and profitable execution of construction

projects along with high-value deployment of construction materials such as aggregates and oil mixes for asphalt paving. RHB has concentrated its business in suburban and rural highway and road system projects requiring high-volume production and materials handling, and has not historically pursued municipal work such as water or storm water systems or high density urban projects. Since its founding in 1999, RHB has experienced profitable growth, capitalizing on strong market conditions and solid long-term demographics in Nevada.

For the nine months ended September 30, 2007, RHB generated revenue and earnings before income, taxes, depreciation and amortization, or EBITDA, of $64.9 million and $21.5 million, respectively. This high level of EBITDA in 2007 resulted from the exceptional profitability of specific ongoing RHB projects, and we do not expect this high level of profitability to be normal for RHB going forward. We purchased RHB based on an assumed sustainable trailing twelve month EBITDA of approximately $12 million and with the expectation of further future growth. As of September 30, 2007, RHB had a backlog of approximately $127 million based on our methodology of calculating backlog. See Selected Historical Financial and Operating Data for information regarding our calculation of backlog and a reconciliation of EBITDA to net income.

We acquired RHB for a number of reasons, including those listed below:

- expansion into growing western U.S. construction markets;
- strong management team with a shared corporate culture;
- expansion of our service lines into aggregates and asphalt paving materials;
- opportunities to extend our municipal and structural capabilities into Nevada; and
- RHB s strong financial results and immediate accretion to our earnings and earnings per share.

Our Competitive Strengths

We believe our competitive strengths include:

Comprehensive Infrastructure Construction Capabilities. We provide comprehensive construction services to our customers, which allows us to capture additional profit margin and to more aggressively bid on contracts as compared to some competitors more reliant upon subcontractors.

Long and Successful Track Record of Infrastructure Construction. We have over 50 years of experience in the construction industry and have developed the processes and controls that allow us to provide high-quality contracting services.

Leadership Position in Our Markets. We are an established leader in our markets based on our longevity, our management expertise and our reputation, as well as our in-depth knowledge of construction conditions in our market areas.

Consistent History of Managing Construction Projects and Contract Risk. Our significant experience and longevity in our markets provides us with an understanding of the many risks of infrastructure construction, which we monitor and manage from bidding through completion of a contract.

Track Record of Sourcing and Completing Acquisitions. We have successfully completed several acquisition transactions over the past five years, which have materially augmented our organic growth.

Experienced Management Team and Skilled Workforce. With over 30 years of industry experience at the CEO and President level, five senior managers averaging over 25 years of industry experience, and 15 project managers with over 15 years of industry experience each, we believe that our management team and employees are key factors to our success.

Our Business Strategy

Key features of our business strategy include:

Continue to Add Construction Capabilities. By adding capabilities that are complementary to our core construction competencies, we are able to improve gross margin opportunities, more effectively compete for contracts and compete for contracts that might not otherwise be available to us.

Increase Our Market Leadership in Our Core Markets. We have a strong presence in a number of attractive growing markets in Texas and Nevada, in which we intend to continue to expand our presence.

Apply Core Competencies Across Our Markets. We intend to capitalize on opportunities to export our Texas experience constructing bridges and water and sewer systems into RHB s Nevada markets. Similarly, we believe RHB s experience in aggregates and asphalt paving materials will open new opportunities for us in our Texas markets.

Expand into Attractive New Markets and Selectively Pursue Strategic Acquisitions. We will continue to seek to identify attractive new markets and opportunities in select western and southeastern U.S. markets. We will also continue to assess opportunities to extend our service capabilities and expand our markets through acquisitions.

Position Our Business for Future Infrastructure Spending. We believe there is a growing awareness of the need to build, reconstruct and repair our country s infrastructure, including water, wastewater and storm drainage systems, and our transportation infrastructure such as bridges, highways and mass transit systems. We will continue to build our expertise to capture this infrastructure spending.

Continue to Develop Our Employees. We believe that our employees are a key to the successful implementation of our business strategy, and we will continue allocating significant resources in order to attract and retain talented managers and supervisory and field personnel.

Risks Related to Our Business and Strategy

You should carefully read and consider the information set forth below under Risk Factors, together with all of the other information set forth in this prospectus, before deciding to invest in shares of our common stock.

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The Offering

Nasdaq symbol	STRL
Common stock offered by us	1,600,000 shares
Common stock to be outstanding after the offering	12,761,652 shares
Use of proceeds	We will use the net proceeds of approximately $ million from the offering, after deducting underwriting discounts and fees of approximately $ million in the aggregate and estimated offering expenses of approximately $ million: to repay all indebtedness outstanding under our new $75 million revolving credit facility, which we refer to as our credit facility; and to strengthen our balance sheet, including our working capital, in order to fund our business operations and provide liquidity for future growth.

Each $1.00 change in the actual per share offering price from the price assumed in this prospectus would change by approximately $ the amount of our net proceeds available to strengthen our balance sheet after funding the repayment of indebtedness referenced above. A 10% decrease in the number of shares of common stock sold in this offering would decrease the net proceeds to us from this offering by $ million, after deducting estimated underwriting discounts and commissions and offering expenses.

The number of shares of common stock outstanding before and after this offering is based on the number of shares outstanding as of November 16, 2007 and excludes:

553,806 shares of common stock reserved for issuance upon the exercise of outstanding stock options at a weighted average exercise price per share of $7.785; and

356,266 shares of common stock reserved for issuance upon the exercise of outstanding warrants at an exercise price per share of $1.50.

Unless we indicate otherwise, the number of shares of common stock shown to be outstanding after the offering, as well as share, per share, holders of record, and financial information in this prospectus:

assumes a public offering price of $ per share, which is the last reported sales price per share of our common stock on the Nasdaq on ;

assumes no exercise by the underwriter of its option to purchase up to 240,000 additional shares of our common stock to cover over-allotments; and

does not give effect to the use of proceeds of this offering.

Our Executive Offices

Our principal executive offices are located at 20810 Fernbush Lane, Houston, Texas 77073, and our telephone number at this address is (281) 821 9091. Our website is www.sterlingconstructionco.com. Information on, or accessible through, this website is not a part of, and is not incorporated into, this prospectus.

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Summary Historical and Pro Forma Financial and Operating Data

The following table sets forth our summary historical and pro forma financial and operating data for the periods indicated. The summary historical condensed consolidated statement of operations and cash flow data for the years ended December 31, 2004, 2005 and 2006, and the summary historical condensed consolidated balance sheet data as of December 31, 2005 and 2006, have been derived from our audited consolidated financial statements, which are included elsewhere in this prospectus. The summary historical condensed consolidated balance sheet data as of December 31, 2004, have been derived from our audited consolidated balance sheet as of December 31, 2004, which is not included in this prospectus. The summary historical condensed consolidated financial data as of and for the nine months ended September 30, 2006 and 2007, are derived from our unaudited condensed consolidated financial statements, which are included elsewhere in this prospectus.

The unaudited condensed consolidated financial statements have been prepared on the same basis as our audited consolidated financial statements and include all adjustments, consisting of normal and recurring adjustments, that we consider necessary for a fair presentation of our financial position and operating results for the unaudited periods. The summary financial and operating data as of and for the nine months ended September 30, 2007, are not necessarily indicative of the results that may be obtained for a full year.

The summary pro forma condensed combined statement of operations data for the year ended December 31, 2006 and nine months ended September 30, 2007, gives effect on a pro forma basis to the RHB acquisition as if it had been consummated on January 1, 2006. The summary pro forma condensed combined balance sheet information gives effect on a pro forma basis to the consummation of the RHB acquisition, as if it had been consummated on September 30, 2007.

The information presented below should be read in conjunction with Selected Historical Financial and Operating Data, Unaudited Pro Forma Condensed Combined Financial Information, Management s Discussion and Analysis of Financial Condition and Results of Operations and the financial statements and the notes thereto included elsewhere in this prospectus.

	Historical					Pro Forma(1)	
	Year Ended December 31,			Nine Months Ended September 30,		Year Ended December 31,	Nine Months Ended September 30,
	2004	2005	2006	2006	2007	2006	2007
				(Unaudited)		(Unaudited)	
	(in thousands, except per share data)						
Statement of Operations Data:							
Revenues	$ 132,478	$ 219,439	$ 249,348	$ 185,233	$ 217,877	$ 286,511	$ 282,797
Cost of revenues	119,217	195,683	220,801	163,358	196,284	252,268	240,399
Gross profit	13,261	23,756	28,547	21,875	21,593	34,243	42,398
General and administrative expenses and other	7,696	9,091	10,549	7,928	8,292	10,462	8,691

Operating income	5,565	14,665	17,998	13,947	13,301	23,781	33,707
Interest expense (income), net	1,456	1,336	(1,206)	(803)	(1,366)	1,576	908
Income from continuing operations before minority interest and income taxes	4,109	13,329	19,204	14,750	14,667	22,205	32,799
Minority interest	(962)					(518)	(1,734)
Income from continuing operations before income taxes	3,147	13,329	19,204	14,750	14,667	21,687	31,065
Income tax (benefit) expense	(2,134)	2,788	6,566	5,027	4,890	7,410	10,465
Net income from continuing operations	5,281	10,541	12,638	9,723	9,777	14,277	20,600
Net income (loss) from discontinued operations	372	559	682	444	(25)	682	(25)
Net income	$ 5,653	$ 11,100	$ 13,320	$ 10,167	$ 9,752	$ 14,959	$ 20,575
Basic income per share:							
Continuing operations	$ 0.99	$ 1.36	$ 1.19	$ 0.93	$ 0.89	$ 1.34	$ 1.87
Discontinued operations	0.07	0.07	0.06	0.04	0.00	0.06	0.00
Net income	$ 1.06	$ 1.43	$ 1.25	$ 0.97	$ 0.89	$ 1.40	$ 1.87

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	Historical					Pro Forma(1)	
	Year Ended December 31,			Nine Months Ended September 30,		Year Ended December 31,	Nine Months Ended September 30,
	2004	2005	2006	2006	2007	2006	2007
				(Unaudited)		(Unaudited)	
	(in thousands, except per share data)						
Diluted income per share:							
Continuing operations	$ 0.75	$ 1.11	$ 1.08	$ 0.84	$ 0.83	$ 1.21	$ 1.74
Discontinued operations	0.05	0.05	0.06	0.04	0.00	0.06	0.00
Net income	$ 0.80	$ 1.16	$ 1.14	$ 0.88	$ 0.83	$ 1.27	$ 1.74
Weighted average number of shares outstanding used in computing per share amounts:							
Basic	5,343	7,775	10,583	10,455	10,963	10,623	11,002
Diluted	7,028	9,538	11,714	11,640	11,765	11,754	11,805
Balance sheet data (end of period):							
Cash and cash equivalents	$ 3,449	$ 22,267	$ 28,466	$ 18,996	$ 14,894		$ 23,924
Short-term investments			26,169	22,585	32,630		
Working capital	16,052	18,354	62,874	58,369	59,691		31,354
Total assets	89,544	118,455	167,772	171,293	187,107		222,903
Total debt	25,445	23,142	30,782	28,812	30,689		53,257
Total liabilities	54,336	69,843	76,781	83,950	85,172		119,968
Stockholders equity	35,208	48,612	90,991	87,343	101,935		102,935
Cash flow data from continuing operations:							
Net cash provided by operating activities	$ 4,171	$ 31,266	$ 23,089	$ 9,846	$ 14,648		
Net cash used in investing activities	(5,809)	(10,972)	(52,358)	(46,567)	(28,586)		
Net cash provided by (used in) financing activities	2,436	(1,476)	35,468	33,450	366		
Other operating data:							
EBITDA(unaudited) (2)	$ 9,520	$ 20,288	$ 25,691	$ 19,965	$ 20,040	$ 30,626	$ 39,842

Capital expenditures	3,555	11,392	27,055	24,706	23,033	27,268	27,394
Backlog at end of period (unaudited)(3)	232,000	307,000	395,000	418,000	367,000		494,000

(1) The high level of profitability for the nine months ended September 30, 2007 reflects the exceptional profitability of specific ongoing RHB prospects, and we do not expect the high level of profitability to be normal for RHB going forward.

(2) EBITDA is defined as net income before net interest expense, income tax expense, and depreciation and amortization. EBITDA is a non-generally accepted accounting principle, or GAAP, financial measure that we use for our internal budgeting process, which excludes the effects of financing costs, income taxes and non-cash depreciation and amortization. Although EBITDA is a common alternative measure of performance used by investors, financial analysts and rating agencies to assess operating performance for companies in our industry, it is not a substitute for other GAAP financial measures such as net income, operating income or cash flows from operating activities as calculated and presented in accordance with GAAP. We urge you to review the GAAP financial measures included in this prospectus and our consolidated financial statements, including the notes thereto, and the other financial information contained in this prospectus and incorporated herein by reference, and not to rely on any single financial measure to evaluate our business.

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A reconciliation of net income to EBITDA for each of the historical and pro forma fiscal periods indicated is as follows (in thousands):

	Historical					Pro Forma	
	Year Ended December 31,			Nine Months Ended September 30,		Year Ended December 31,	Nine Months Ended September 30,
	2004	2005	2006	2006	2007	2006	2007
Net income	$ 5,653	$ 11,100	$ 13,320	$ 10,167	$ 9,752	$ 14,959	$ 20,575
Depreciation and amortization	4,545	5,064	7,011	5,574	6,764	6,681	7,894
Interest expense (income), net	1,456	1,336	(1,206)	(803)	(1,366)	1,576	908
Income tax (benefit) expense	(2,134)	2,788	6,566	5,027	4,890	7,410	10,465
EBITDA	$ 9,520	$ 20,288	$ 25,691	$ 19,965	$ 20,040	$ 30,626	$ 39,842

Use of non-GAAP financial measures is subject to inherent limitations because they do not include all the expenses that must be included under GAAP and because they involve the exercise of judgment of which charges should properly be excluded from the non-GAAP financial measure. Management accounts for these limitations by not relying exclusively on non-GAAP financial measures, but only using such information to supplement GAAP financial measures. Our non-GAAP financial measures may be different from such measures used by other companies.

(3) Historical information does not include RHB backlog; pro forma backlog does include RHB backlog of approximately $127 million as of September 30, 2007, based on our methodology of calculating backlog. Backlog is our estimate of the billings that we expect to make in future periods on our construction contracts. We add the revenue value of new contracts to our backlog, typically when we are the low bidder on a public sector contract and management determines that there are no apparent impediments to award of the contract. At September 30, 2007, historical and pro forma backlog included approximately $12 million of low bids where the contracts had not been officially awarded. RHB had no such backlog at that date. Historically, subsequent non-awards to us of contracts relating to such low bids have not materially affected our backlog or financial condition. As construction on our contracts progresses, we increase or decrease backlog to take account changes in estimated quantities under fixed unit price contracts, as well as to reflect changed conditions, change orders and other variations from initially anticipated contract revenues and costs, including completion penalties and bonuses. We subtract from backlog the amounts we bill on contracts.

RISK FACTORS

An investment in our common stock involves various risks. Before making an investment in our common stock, you should carefully consider the following risks, as well as the other information contained in this prospectus, including our consolidated financial statements and the notes thereto and Management s Discussion and Analysis of Financial Condition and Results of Operations. The risks described below are those we believe to be the material risks we face. Any of the risk factors described below could significantly and adversely affect our business, prospects, financial condition and results of operations. As a result, the trading price of our common stock could decline, and you could lose a part or all of your investment.

Risks Relating to Our Business

If we are unable to accurately estimate the overall risks or costs when we bid on a contract that is ultimately awarded to us, we may achieve a lower than anticipated profit or incur a loss on the contract.

Substantially all of our revenues and backlog are typically derived from fixed unit price contracts. Fixed unit price contracts require us to perform the contract for a fixed unit price irrespective of our actual costs. As a result, we realize a profit on these contracts only if we successfully estimate our costs and then successfully control actual costs and avoid cost overruns. If our cost estimates for a contract are inaccurate, or if we do not execute the contract within our cost estimates, then cost overruns may cause us to incur losses or cause the contract not to be as profitable as we expected. This, in turn, could negatively affect our cash flow, earnings and financial position.

The costs incurred and gross profit realized on such contracts can vary, sometimes substantially, from the original projections due to a variety of factors, including, but not limited to:

- onsite conditions that differ from those assumed in the original bid;
- delays caused by weather conditions;
- contract modifications creating unanticipated costs not covered by change orders;
- changes in availability, proximity and costs of materials, including steel, concrete, aggregates and other construction materials (such as stone, gravel, sand and oil for asphalt paving), as well as fuel and lubricants for our equipment;
- inability to predict the costs of accessing and producing aggregates, and purchasing oil, required for asphalt paving projects;
- availability and skill level of workers in the geographic location of a project;
- our suppliers or subcontractors failure to perform;
- fraud or theft committed by our employees;
- mechanical problems with our machinery or equipment;
- citations issued by any governmental authority, including the Occupational Safety and Health Administration;

- difficulties in obtaining required governmental permits or approvals;
- changes in applicable laws and regulations; and
- claims or demands from third parties alleging damages arising from our work or from the project of which our work is part.

Many of our contracts with public sector customers contain provisions that purport to shift some or all of the above risks from the customer to us, even in cases where the customer is partly at fault. Our practice, where feasible, has been to supersede these terms with an agreement to obtain insurance covering both the customer and ourselves. In cases where insurance is not obtained, our experience has often been that public sector customers have been willing to negotiate equitable adjustments in the contract compensation or

completion time provisions if unexpected circumstances arise. If we are unable to obtain insurance, and if public sector customers seek to impose contractual risk-shifting provisions more aggressively, we could face increased risks, which may adversely affect our cash flow, earnings and financial position.

Economic downturns or reductions in government funding of infrastructure projects could reduce our revenues and profits and have a material adverse effect on our results of operations.

Our business is highly dependent on the amount and timing of infrastructure work funded by various governmental entities, which, in turn, depends on the overall condition of the economy, the need for new or replacement infrastructure, the priorities placed on various projects funded by governmental entities and federal, state or local government spending levels. Spending on infrastructure could decline for numerous reasons, including decreased revenues received by state and local governments for spending on such projects, including federal funding. For example, state spending on highway and other projects can be adversely affected by decreases or delays in, or uncertainties regarding, federal highway funding, which could adversely affect us, particularly in Texas. We are reliant upon contracts with the Texas Department of Transportation, or TXDOT, and the Nevada Department of Transportation, or NDOT, for a significant portion of our revenues. Recent public statements by TXDOT officials indicate potential TXDOT funding shortfalls and reductions in spending. In addition, the recent nationwide declines in home sales and increases in foreclosures could adversely affect expenditures by state and local governments, particularly in Nevada. Decreases in government funding of infrastructure projects could decrease the number of civil construction contracts available and limit our ability to obtain new contracts, which could reduce our revenues and profits.

The cancellation of significant contracts could reduce our revenues and profits and have a material adverse effect on our results of operations.

Contracts that we enter into with governmental entities can usually be canceled at any time by them with payment only for the work already completed. In addition, we could be prohibited from bidding on certain governmental contracts if we fail to maintain qualifications required by those entities. A sudden cancellation of a contract or our debarment from the bidding process could cause our equipment and work crews to remain idled for a significant period of time until other comparable work became available, which could have a material adverse effect on our business and results of operations.

We operate in Texas and Nevada, and any adverse change to the economy or business environment in Texas or Nevada could significantly affect our operations, which would lead to lower revenues and reduced profitability.

We operate in Texas and Nevada, and our Texas operations are particularly concentrated in the Houston area. Because of this concentration in specific geographic locations, we are susceptible to fluctuations in our business caused by adverse economic or other conditions in these regions, including natural or other disasters. A stagnant or depressed economy in Texas or Nevada generally, or in Houston specifically, or in any of the other markets that we serve, could adversely affect our business, results of operations and financial condition.

Our acquisition strategy involves a number of risks.

In addition to organic growth of our construction business, we intend to continue pursuing growth through the acquisition of companies or assets that may enable us to expand our project skill-sets and capabilities, enlarge our geographic markets, add experienced management and increase critical mass to enable us to bid on larger contracts. However, we may be unable to implement this growth strategy if we cannot reach agreements for potential acquisitions on acceptable terms or for other reasons. Moreover, our acquisition strategy involves certain risks, including:

difficulties in the integration of operations and systems;

difficulties applying our expertise in one market into another market;

the key personnel and customers of the acquired company may terminate their relationships with the acquired company;

we may experience additional financial and accounting challenges and complexities in areas such as tax planning and financial reporting;

we may assume or be held liable for risks and liabilities (including for environmental-related costs and liabilities) as a result of our acquisitions, some of which we may not discover during our due diligence;

our ongoing business may be disrupted or receive insufficient management attention; and

we may not be able to realize cost savings or other financial benefits we anticipated.

These risks apply to our recent acquisition and integration of RHB.

Future acquisitions may require us to obtain additional equity or debt financing, as well as additional surety bonding capacity, which may not be available on terms acceptable to us or at all. Moreover, to the extent that any acquisition results in additional goodwill, it will reduce our tangible net worth, which might have an adverse effect on our credit and bonding capacity.

Our industry is highly competitive, with a variety of larger companies with greater resources competing with us, and our failure to compete effectively could reduce the number of new contracts awarded to us or adversely affect our margins on contracts awarded.

Essentially all of the contracts on which we bid are awarded through a competitive bid process, with awards generally being made to the lowest bidder, but sometimes recognizing other factors, such as shorter contract schedules or prior experience with the customer. Within our markets, we compete with many national, regional and local construction firms. Some of these competitors have achieved greater market penetration than we have in the markets in which we compete, and some have greater financial and other resources than we do. In addition, there are a number of national companies in our industry that are larger than we are and that, if they so desire, could establish a presence in our markets and compete with us for contracts. In some markets, such as Nevada, where home building projects have slowed, construction companies that lack available work in the home building market have begun bidding on highway construction contracts. As a result, we may need to accept lower contract margins in order to compete against competitors that have the ability to accept awards at lower prices or have a pre-existing relationship with a customer. If we are unable to compete successfully in our markets, our relative market share and profits could be reduced.

Our dependence on subcontractors and suppliers of materials (including petroleum-based products) could increase our costs and impair our ability to complete contracts on a timely basis or at all, which would adversely affect our profits and cash flow.

We rely on third-party subcontractors to perform some of the work on many of our contracts. We generally do not bid on contracts unless we have the necessary subcontractors committed for the anticipated scope of the contract and at prices that we have included in our bid. Therefore, to the extent that we cannot engage subcontractors, our ability to bid for contracts may be impaired. In addition, if a subcontractor is unable to deliver its services according to the negotiated terms for any reason, including the deterioration of its financial condition, we may suffer delays and be required to purchase the services from another source at a higher price. This may reduce the profit to be realized, or result in a loss, on a contract.

We also rely on third-party suppliers to provide most of the materials (including aggregates, concrete, steel and pipe) for our contracts, except in Nevada where RHB sources and produces most of its own aggregates. We do not own or operate any quarries in Texas, and there are no naturally occurring sources of aggregates in the Houston metropolitan area. We normally do not bid on contracts unless we have commitments from suppliers for the materials required to complete the contract and at prices that we have included in our bid, except for some aggregates that RHB uses in its construction projects. Thus, to the extent that we cannot obtain commitments from our suppliers for materials, our ability to bid for contracts may be

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impaired. In addition, if a supplier is unable to deliver materials according to the negotiated terms of a supply agreement for any reason, including the deterioration of its financial condition, we may suffer delays and be required to purchase the materials from another source at a higher price. This may reduce the profit to be realized, or result in a loss, on a contract.

Diesel fuel and other petroleum-based products are utilized to operate the plants and equipment on which we rely to perform our construction contracts. In addition, RHB uses oil in combination with aggregates to produce asphalt used in its road and highway construction projects. Decreased supplies of such products relative to demand, unavailability of petroleum supplies due to refinery turnarounds, and other factors can increase the cost of such products. Future increases in the costs of fuel and other petroleum-based products used in our business, particularly if a bid has been submitted for a contract and the costs of such products have been estimated at amounts less than the actual costs thereof, could result in a lower profit, or a loss, on a contract.

We may not be able to fully realize the revenue anticipated by our reported backlog.

Almost all of the contracts included in backlog are awarded by public sector customers through a competitive bid process, with the award generally being made to the lowest bidder. We add new contracts to our backlog, typically when we are the low bidder on a public sector contract and management determines that there are no apparent impediments to award of the contract. As construction on our contracts progresses, we increase or decrease backlog to take account of changes in estimated quantities under fixed unit price contracts, as well as to reflect changed conditions, change orders and other variations from initially anticipated contract revenues and costs, including completion penalties and bonuses. We subtract from backlog the amounts we bill on contracts.

Most of the contracts with our public sector customers can be terminated at their discretion. If a customer cancels, suspends, delays or reduces a contract, we may be reimbursed for certain costs but typically will not be able to bill the total amount that had been reflected in our backlog. Cancellation of one or more contracts that constitute a large percentage of our backlog, and our inability to find a substitute contract, would have a material adverse effect on our business, results of operations and financial condition.

If we are unable to attract and retain key personnel, our ability to bid for and successfully complete contracts may be negatively impacted.

Our ability to attract and retain reliable, qualified personnel is a significant factor that enables us to successfully bid for and profitably complete our work. This includes members of our management, project managers, estimators, supervisors, foremen, equipment operators and laborers. The loss of the services of any of our management could have a material adverse effect on us. Our future success will also depend on our ability to attract and retain highly-skilled personnel. Competition for these employees is intense, and we could experience difficulty hiring and retaining the personnel necessary to support our business. If we do not succeed in retaining our current employees and attracting, developing and retaining new highly-skilled employees, our reputation may be harmed and our future earnings may be negatively impacted.

In Texas, we rely heavily on immigrant labor. Any adverse changes to existing laws and regulations, or changes in enforcement requirements or practices, applicable to employment of immigrants could negatively impact the availability and cost of the skilled personnel and labor we need, particularly in Texas. We may not be able to continue to attract and retain sufficient employees at all levels due to changes in immigration enforcement practices or compliance standards or for other reasons.

Our contracts may require us to perform extra or change order work, which can result in disputes and adversely affect our working capital, profits and cash flows.

Our contracts generally require us to perform extra or change order work as directed by the customer even if the customer has not agreed in advance on the scope or price of the extra work to be performed. This process may result in disputes over whether the work performed is beyond the scope of the work included in the original project plans and specifications or, if the customer agrees that the work performed qualifies as

extra work, the price that the customer is willing to pay for the extra work. These disputes may not be settled to our satisfaction. Even when the customer agrees to pay for the extra work, we may be required to fund the cost of such work for a lengthy period of time until the change order is approved by the customer and we are paid by the customer.

To the extent that actual recoveries with respect to change orders or amounts subject to contract disputes or claims are less than the estimates used in our financial statements, the amount of any shortfall will reduce our future revenues and profits, and this could have a material adverse effect on our reported working capital and results of operations. In addition, any delay caused by the extra work may adversely impact the timely scheduling of other project work and our ability to meet specified contract milestone dates.

Our failure to meet schedule or performance requirements of our contracts could adversely affect us.

In most cases, our contracts require completion by a scheduled acceptance date. Failure to meet any such schedule could result in additional costs, penalties or liquidated damages being assessed against us, and these could exceed projected profit margins on the contract. Performance problems on existing and future contracts could cause actual results of operations to differ materially from those anticipated by us and could cause us to suffer damage to our reputation within the industry and among our customers.

Unanticipated adverse weather conditions may cause delays, which could slow completion of our contracts and negatively affect our current and future revenues and cash flow.

Because all of our construction projects are built outdoors, work on our contracts is subject to unpredictable weather conditions, which could become more frequent or severe if general climatic changes occur. For example, evacuations in Texas due to Hurricane Rita resulted in our inability to perform work on all Houston-area contracts for several days. Lengthy periods of wet weather will generally interrupt construction, and this can lead to under-utilization of crews and equipment, resulting in less efficient rates of overhead recovery. For example, during much of 2007, we experienced an above-average number of days and amount of rainfall across our Texas markets, which impeded our ability to work on construction projects and reduced our gross profit. While revenues can be recovered following a period of bad weather, it is generally impossible to recover the efficiencies, and significant periods of bad weather typically reduce profitability of affected contracts both in the current period and during the future life of affected contracts. Such reductions in contract profitability negatively affect our results of operations in current and future periods until the affected contracts are completed.

Timing of the award and performance of new contracts could have an adverse effect on our operating results and cash flow.

At any point in time, a substantial portion of our revenues may be derived from a limited number of large construction contracts. It is generally very difficult to predict whether and when new contracts will be offered for tender, as these contracts frequently involve a lengthy and complex design and bidding process, which is affected by a number of factors, such as market conditions, financing arrangements and governmental approvals. Because of these factors, our results of operations and cash flows may fluctuate from quarter to quarter and year to year, and the fluctuation may be substantial.

The uncertainty of the timing of contract awards may also present difficulties in matching the size of our equipment fleet and work crews with contract needs. In some cases, we may maintain and bear the cost of more equipment and ready work crews than are currently required, in anticipation of future needs for existing contracts or expected future contracts. If a contract is delayed or an expected contract award is not received, we would incur costs that could have a material adverse effect on our anticipated profit.

In addition, the timing of the revenues, earnings and cash flows from our contracts can be delayed by a number of factors, including adverse weather conditions such as prolonged or intense periods of rain, storms or flooding, delays in receiving material and equipment from suppliers and changes in the scope of work to be performed. Such delays, if they occur, could have adverse effects on our operating results for current and future periods until the affected contracts are completed.

Our dependence on a limited number of customers could adversely affect our business and results of operations.

Due to the size and nature of our construction contracts, one or a few customers have in the past and may in the future represent a substantial portion of our consolidated revenues and gross profits in any one year or over a period of several consecutive years. For example, in 2006, approximately 85% of our revenue was generated from three customers, and approximately 97% of RHB s revenue was generated from one customer. Similarly, our backlog frequently reflects multiple contracts for individual customers; therefore, one customer may comprise a significant percentage of backlog at a certain point in time. An example of this is the Texas Department of Transportation, or TXDOT, with which we had 21 contracts representing an aggregate of approximately 69% of our backlog at September 30, 2007. Similarly, seven contracts with the Nevada Department of Transportation, or NDOT, represented 100% of RHB s backlog at September 30, 2007. The loss of business from any one of such customers could have a material adverse effect on our business or results of operations. Because we do not maintain any reserves for payment defaults, a default or delay in payment on a significant scale could materially adversely affect our business, results of operations and financial condition.

We may incur higher costs to lease, acquire and maintain equipment necessary for our operations, and the market value of our owned equipment may decline.

We have traditionally owned most of the construction equipment used to build our projects in Texas, and RHB has traditionally leased much of the construction equipment used to build projects in Nevada. To the extent that we are unable to buy construction equipment necessary for our needs in Texas, either due to a lack of available funding or equipment shortages in the marketplace, we may be forced to rent equipment on a short-term basis, which could increase the costs of performing our contracts in Texas. If a lack of funding or equipment shortages in Nevada results in our inability to lease necessary equipment in Nevada, then we may not be able to complete our construction projects and the costs of performing our contracts in Nevada could increase.

The equipment that we own or lease requires continuous maintenance, for which we maintain our own repair facilities. If we are unable to continue to maintain the equipment in our fleet, we may be forced to obtain third-party repair services, which could increase our costs. In addition, the market value of our equipment may unexpectedly decline at a faster rate than anticipated. Such a decline would reduce the borrowing base under our credit facility, thereby reducing the amount of credit available to us and impeding our ability to continue to expand our business.

An inability to obtain bonding could limit the aggregate dollar amount of contracts that we are able to pursue.

As is customary in the construction business, we are required to provide surety bonds to secure our performance under construction contracts. Our ability to obtain surety bonds primarily depends upon our capitalization, working capital, past performance, management expertise and reputation and certain external factors, including the overall capacity of the surety market. Surety companies consider such factors in relationship to the amount of our backlog and their underwriting standards, which may change from time to time. Events that affect the insurance and bonding markets generally may result in bonding becoming more difficult to obtain in the future, or being available only at a significantly greater cost. Our inability to obtain adequate bonding, and, as a result, to bid on new contracts, could have a material adverse effect on our future revenues and business prospects.

Our operations are subject to hazards that may cause personal injury or property damage, thereby subjecting us to liabilities and possible losses, which may not be covered by insurance.

Our workers are subject to the usual hazards associated with providing construction and related services on construction sites, plants and quarries. Operating hazards can cause personal injury and loss of life, damage to or

destruction of property, plant and equipment and environmental damage. We self-insure our workers compensation claims, subject to stop-loss insurance coverage. We also maintain insurance coverage in amounts

and against the risks that we believe are consistent with industry practice, but this insurance may not be adequate to cover all losses or liabilities that we may incur in our operations.

Insurance liabilities are difficult to assess and quantify due to unknown factors, including the severity of an injury, the determination of our liability in proportion to other parties, the number of incidents not reported and the effectiveness of our safety program. If we were to experience insurance claims or costs above our estimates, we might also be required to use working capital to satisfy these claims rather than to maintain or expand our operations. To the extent that we experience a material increase in the frequency or severity of accidents or workers compensation claims, or unfavorable developments on existing claims, our operating results and financial condition could be materially and adversely affected.

Environmental and other regulatory matters could adversely affect our ability to conduct our business and could require expenditures that could have a material adverse effect on our results of operations and financial condition.

Our operations are subject to various environmental laws and regulations relating to the management, disposal and remediation of hazardous substances and the emission and discharge of pollutants into the air and water. We could be held liable for such contamination created not only from our own activities but also from the historical activities of others on our project sites or on properties that we acquire or lease. Our operations are also subject to laws and regulations relating to workplace safety and worker health, which, among other things, regulate employee exposure to hazardous substances. Immigration laws require us to take certain steps intended to confirm the legal status of our immigrant labor force, but we may nonetheless unknowingly employ illegal immigrants. Violations of such laws and regulations could subject us to substantial fines and penalties, cleanup costs, third-party property damage or personal injury claims. In addition, these laws and regulations have become, and enforcement practices and compliance standards are becoming, increasingly stringent. Moreover, we cannot predict the nature, scope or effect of legislation or regulatory requirements that could be imposed, or how existing or future laws or regulations will be administered or interpreted, with respect to products or activities to which they have not been previously applied. Compliance with more stringent laws or regulations, as well as more vigorous enforcement policies of the regulatory agencies, could require us to make substantial expenditures for, among other things, pollution control systems and other equipment that we do not currently possess, or the acquisition or modification of permits applicable to our activities.

RHB s lease of an aggregate quarry in Nevada could subject us to costs and liabilities. A limited environmental assessment report that we received in connection with the RHB acquisition was inconclusive about potential environmental contamination at the quarry resulting from various mining activities and landfill operations that may have occurred on or near the property. Due to the limited nature of the report, we are unable to assess the extent of our liability, if any, at the quarry. As lessee and operator of the quarry, RHB could be held responsible for any contamination or regulatory violations resulting from activities or operations at the quarry. Any such costs and liabilities could be significant and could materially and adversely affect our business, operating results and financial condition.

We may be unable to sustain our historical revenue growth rate.

Our revenue has grown rapidly in recent years. However, we may be unable to sustain these recent revenue growth rates for a variety of reasons, including limits on additional growth in our current markets, less success in competitive bidding for contracts, limitations on access to necessary working capital and investment capital to sustain growth, limitations on access to bonding to support increased contracts and operations, inability to hire and retain essential personnel and to acquire equipment to support growth, and inability to identify acquisition candidates and successfully acquire and integrate them into our business. A decline in our revenue growth could have a material adverse effect on our financial condition and results of operations if we are unable to reduce the growth of our operating expenses at the

same rate.

Terrorist attacks have impacted, and could continue to negatively impact, the U.S. economy and the markets in which we operate.

Terrorist attacks, like those that occurred on September 11, 2001, have contributed to economic instability in the United States, and further acts of terrorism, violence or war could affect the markets in which we operate, our business and our expectations. Armed hostilities may increase, or terrorist attacks, or responses from the United States, may lead to further acts of terrorism and civil disturbances in the United States or elsewhere, which may further contribute to economic instability in the United States. These attacks or armed conflicts may affect our operations or those of our customers or suppliers and could impact our revenues, our production capability and our ability to complete contracts in a timely manner.

Risks Related to Our Financial Results and Financing Plans

Actual results could differ from the estimates and assumptions that we use to prepare our financial statements.

To prepare financial statements in conformity with GAAP, management is required to make estimates and assumptions, as of the date of the financial statements, which affect the reported values of assets and liabilities, revenues and expenses, and disclosures of contingent assets and liabilities. Areas requiring significant estimates by our management include: contract costs and profits and application of percentage-of-completion accounting and revenue recognition of contract change order claims; provisions for uncollectible receivables and customer claims and recoveries of costs from subcontractors, suppliers and others; valuation of assets acquired and liabilities assumed in connection with business combinations; and accruals for estimated liabilities, including litigation and insurance reserves. Our actual results could differ from, and could require adjustments to, those estimates.

In particular, as is more fully discussed in Management s Discussion and Analysis of Financial Condition and Results of Operations Critical Accounting Policies, we recognize contract revenue using the percentage-of-completion method. Under this method, estimated contract revenue is recognized by applying the percentage of completion of the contract for the period to the total estimated revenue for the contract. Estimated contract losses are recognized in full when determined. Contract revenue and total cost estimates are reviewed and revised on a continuous basis as the work progresses and as change orders are initiated or approved, and adjustments based upon the percentage of completion are reflected in contract revenue in the accounting period when these estimates are revised. To the extent that these adjustments result in an increase, a reduction or an elimination of previously reported contract profit, we recognize a credit or a charge against current earnings, which could be material.

We may need to raise additional capital in the future for working capital, capital expenditures and/or acquisitions, and we may not be able to do so on favorable terms or at all, which would impair our ability to operate our business or achieve our growth objectives.

Our growth has been funded in part by our utilization of net operating loss carry-forwards, or NOLs, to reduce the amounts that we have paid for income taxes, and we expect our NOLs to be fully utilized in 2007. Paying taxes will reduce cash flows from operations compared to prior periods, as we will be required to fund the payment of taxes in 2008 and future periods. To the extent that cash flow from operations is insufficient to fund future investments, make acquisitions or provide needed additional working capital, we may require additional financing from other sources of funds.

Our ability to obtain such additional financing in the future will depend in part upon prevailing capital market conditions, as well as conditions in our business and our operating results; such factors may adversely affect our efforts to arrange additional financing on terms satisfactory to us. We have pledged the proceeds and other rights under our construction contracts to our bond sureties, and we have pledged substantially all of our other assets as

collateral in connection with our credit facility and mortgage debt. As a result, we may have difficulty in obtaining additional financing in the future if such financing requires us to pledge assets as collateral. In addition, under our credit facility, we must obtain the consent of our lenders to incur any amount of additional debt from other sources (subject to certain exceptions). If future financing is obtained by the issuance of additional shares of common stock, our stockholders may suffer dilution. If adequate funds are not

available, or are not available on acceptable terms, we may not be able to make future investments, take advantage of acquisitions or other opportunities, or respond to competitive challenges.

We are subject to financial and other covenants under our credit facility that could limit our flexibility in managing our business.

We have a revolving credit facility that restricts us from engaging in certain activities, including restrictions on the ability (subject to certain exceptions) to:

- make distributions and dividends;
- incur liens or encumbrances;
- incur indebtedness;
- guarantee obligations;
- dispose of a material portion of assets or otherwise engage in a merger with a third party;
- make acquisitions; and
- incur negative income for two consecutive quarters.

Our credit facility contains financial covenants that require us to maintain specifi