

By: Ritter

H.C.R. No. 224

CONCURRENT RESOLUTION

1 WHEREAS, Goss Building Incorporated alleges that:

2 (1) In July 2001, Goss Building Incorporated submitted  
3 a bid to the Texas Department of Transportation for a building  
4 contract and posted a bid security of \$30,000 with its bid;

5 (2) At approximately 2 p.m., July 11, 2001, the Texas  
6 Department of Transportation opened the bids for the building  
7 contract, including the bid from Goss Building Incorporated;

8 (3) Shortly after the opening of the bids, Goss  
9 Building Incorporated discovered a significant error in its bid for  
10 the Texas Department of Transportation's building contract;

11 (4) Goss Building Incorporated notified the Texas  
12 Department of Transportation of the error by telephone at  
13 approximately 3:30 p.m., July 11, 2001, and was advised as to what  
14 procedure to follow;

15 (5) Goss Building Incorporated also notified the Texas  
16 Department of Transportation of the error in writing by letter  
17 dated July 11, 2001, sent by overnight delivery, which the  
18 department received on July 12, 2001;

19 (6) Despite the error, on July 18, 2001, the Texas  
20 Department of Transportation advised Goss Building Incorporated  
21 that it would recommend to the Texas Transportation Commission that  
22 Goss be awarded the contract as the low bidder;

23 (7) On July 26, 2001, Anthony Goss, President of Goss  
24 Building Incorporated, appeared before the Texas Transportation

1 Commission and explained how the error occurred;

2 (8) At the meeting on July 26, 2001, the Texas  
3 Transportation Commission took the incorrect position that it had  
4 no options once a bid was opened;

5 (9) On August 7, 2001, Goss Building Incorporated  
6 returned the contract that was based on the flawed bid to the Texas  
7 Department of Transportation unsigned and requested the return of  
8 its bid security of \$30,000;

9 (10) The Texas Department of Transportation has  
10 refused to return the \$30,000 bid security to Goss Building  
11 Incorporated;

12 (11) In June 2003, through its counsel, Goss Building  
13 Incorporated requested that the Texas Department of Transportation  
14 discuss resolution of this matter and indicated that it would  
15 request a hearing under Chapter 2260, Government Code;

16 (12) Through its counsel, the Texas Department of  
17 Transportation responded and advised Goss Building Incorporated  
18 that the contract was awarded under Chapter 223, Transportation  
19 Code, so Chapter 2260, Government Code, did not apply and directed  
20 Goss to 43 T.A.C. Section 9.2 for the department's dispute  
21 resolution procedure;

22 (13) In July 2003, the Texas Department of  
23 Transportation claimed that since Goss Building Incorporated did  
24 not enter into the contract, the department's rules for resolving  
25 contract disputes under Title 43 of the Texas Administrative Code  
26 did not apply; and

27 (14) Goss Building Incorporated's attempts to resolve

1 this matter through informal and administrative procedures have  
2 been unsuccessful; now, therefore, be it

3       RESOLVED by the Legislature of the State of Texas, That Goss  
4 Building Incorporated is granted permission to sue the State of  
5 Texas and the Texas Department of Transportation subject to Chapter  
6 107, Civil Practice and Remedies Code; and, be it further

7       RESOLVED, That the attorney general and the Office of General  
8 Counsel of the Texas Department of Transportation be served process  
9 as provided by Section 107.002(a)(3), Civil Practice and Remedies  
10 Code.