

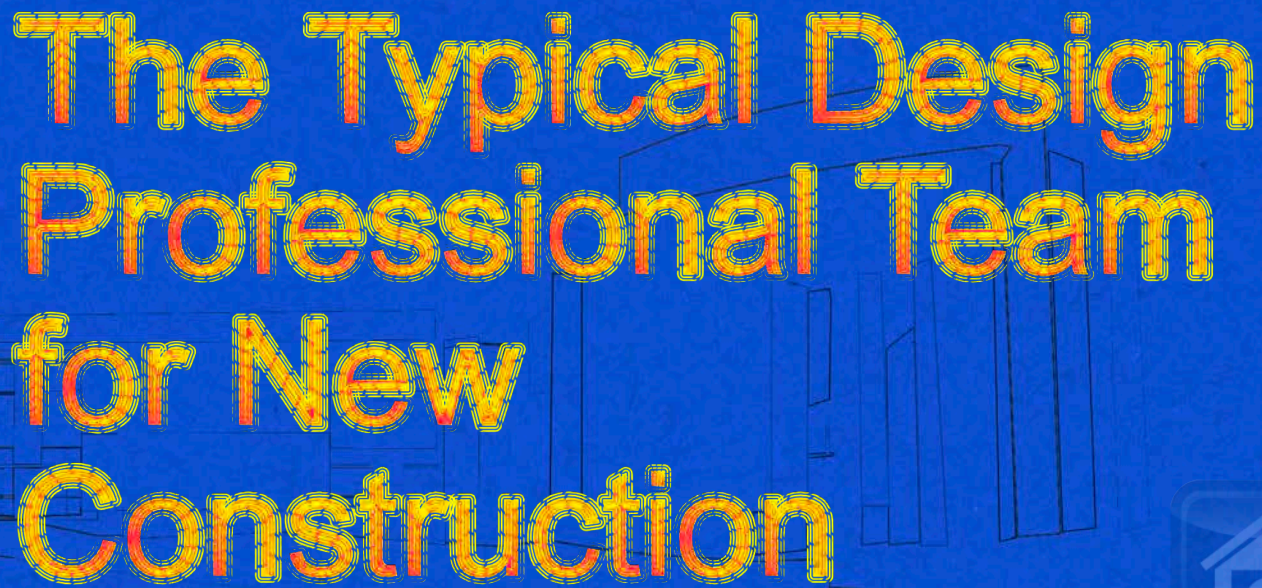
Hiring Your Architect

The When, The How, and The Why.

Texas School Construction and Procurement Conference - November 29, 2023



The Typical Design Professional Team for New Construction



THE TYPICAL TEAM - NEW CONSTRUCTION

 **ARCHITECT**

 **PLUS STRUCTURAL MECHANICAL AND ELECTRICAL ENGINEERS.**

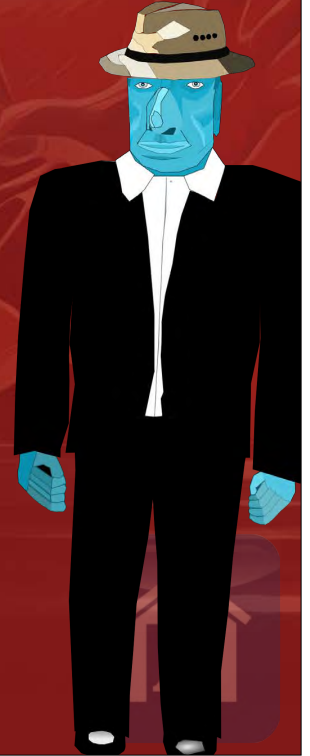
 **GEOTECHNICAL ENGINEER**

 **CIVIL ENGINEER**

Hiring the Design Professional



HIRING AN ARCHITECT TO PERFORM PRE-BOND PLANNING



HIRING AN ARCHITECT PRE-BOND

- ☹️ **NO "FREE" SERVICES IN EXCHANGE FOR FUTURE PROJECTS.**
- ★ **IN THE "GOOD OLD DAYS" IT WAS COMMON TO GET "FREE" SERVICES IN EXCHANGE FOR FUTURE WORK.**
- ★ **ALSO, FROM THE "GOOD OLD DAYS" . . .**
 - ★ **OH MY GOSH! MY BUDGET!**
 - ★ **YOU DESIGNED WHAT?**
 - ★ **NOT MY RESPONSIBILITY!**



NO PARTNERSHIP

THE PROFESSIONAL SERVICES PROCUREMENT ACT



HIRING THE ENGINEER/ARCHITECT

- ☺ *In Procuring Architectural, Engineering, or Land Surveying Services, a Governmental Entity Shall:*
 - ★ **First:** *Select the Most Highly Qualified Provider of Those Services on the Basis of Demonstrated Competence and Qualifications the **MQBDCQ**; and*
 - ★ **Second:** *Attempt To Negotiate With That Provider a Contract at a Fair and Reasonable Price.*



HIRING THE ENGINEER/ARCHITECT

- ☺ *Must Base on “**Competence and Qualifications**...for a Fair and Reasonable Price.” Tex gov’t Code 2254.003*
- ☹ ***CANNOT** Base Award of Contracts for Professional Services on Competitive Bids*



HIRING THE ENGINEER/ARCHITECT

- ☺ *If Unable To Reach Agreement. . .*
 - ★ *Formally End Negotiations With That Provider **in Writing**;*
 - ★ *Select the Next Most Highly Qualified Provider; and*
 - ★ *Attempt To Negotiate a Contract With That Provider at a Fair and Reasonable Price.*
- ☹ *Repeat Until You Reach an Agreement Run Out of Firms*



HIRING THE ENGINEER/ARCHITECT

- *Interviews Take Place in **Open** Session Unless Interviewed by a Committee or Properly Designated Individual.*



HIRING THE ENGINEER/ARCHITECT

- *Penalties for Violating Chapter 2254 of the Texas Government Code:*
 - ★ *A Contract Entered Into or an Arrangement Made in Violation of This Subchapter Is **Void** as Against Public Policy.*
 - ★ *Possible **Class C Misdemeanor***
 - ★ *Violating Section Educ. Code Govt Code 2269, Which Requires Compliance With Government Code 2254 Can Be a Violation of Texas Education Code 44.031*



HIRING THE ENGINEER/ARCHITECT

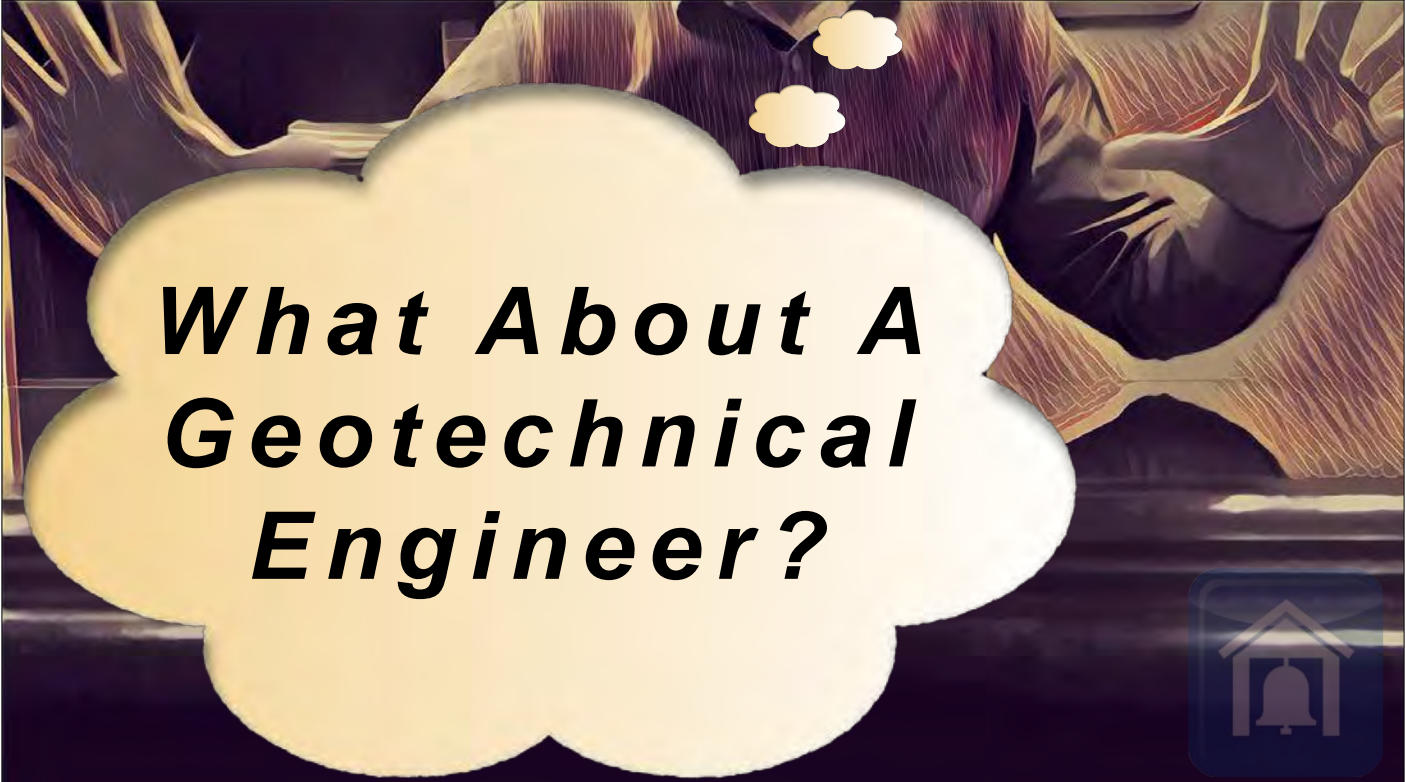
- ☺ *Finally, if the District Is Using an Interlocal Contract With a Purchasing Cooperative To Purchase Materials or Services for a Construction Project*
 - ★ *The District **Cannot Purchase Engineering or Architectural Services Through This Cooperative.***



PRE-BOND PLANNING

- ☺ *NO "FREE" SERVICES IN EXCHANGE FOR FUTURE PROJECTS.*
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 - ★ *ALSO, FROM THE "GOOD OLD DAYS" . . .*
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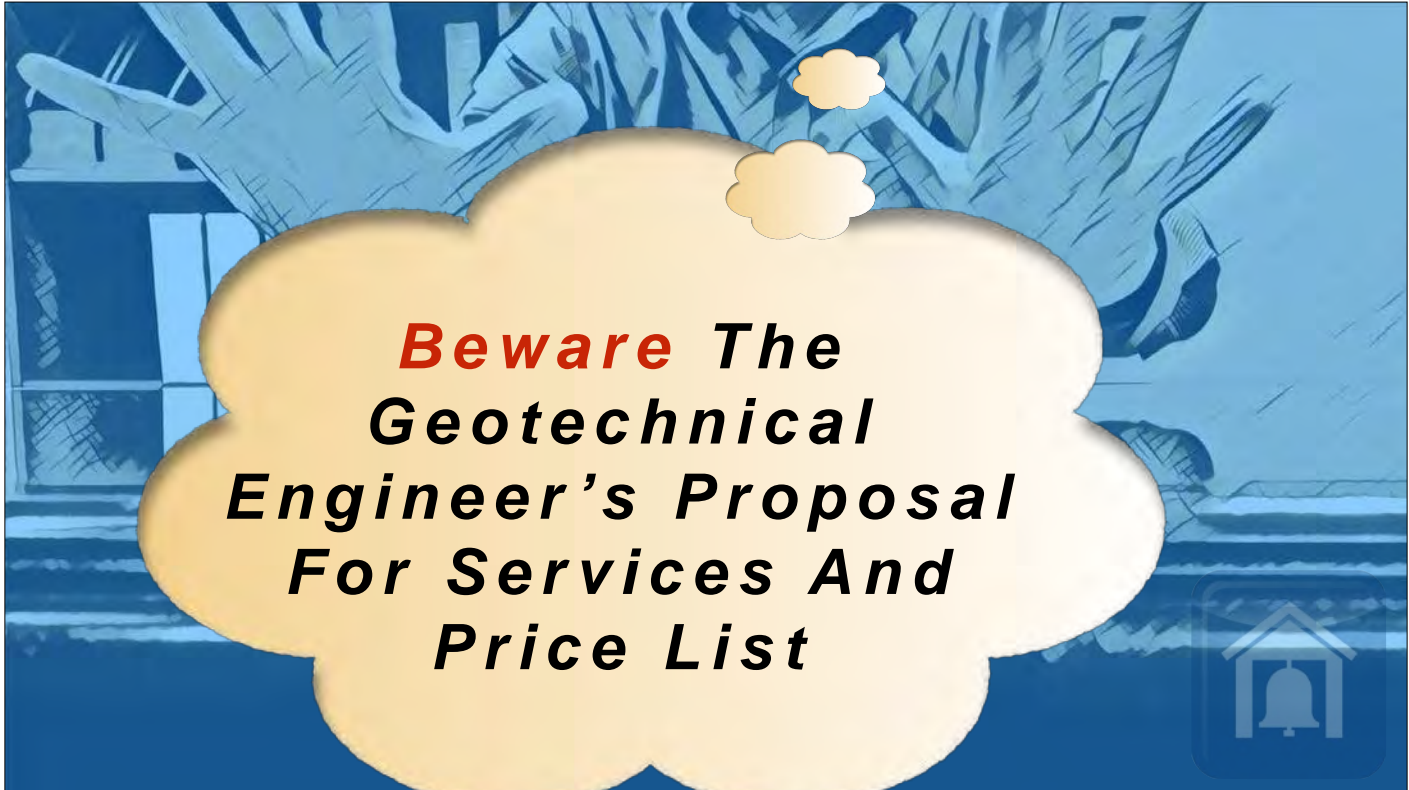
What About A Geotechnical Engineer?

HIRING THE GEOTECHNICAL ENGINEER

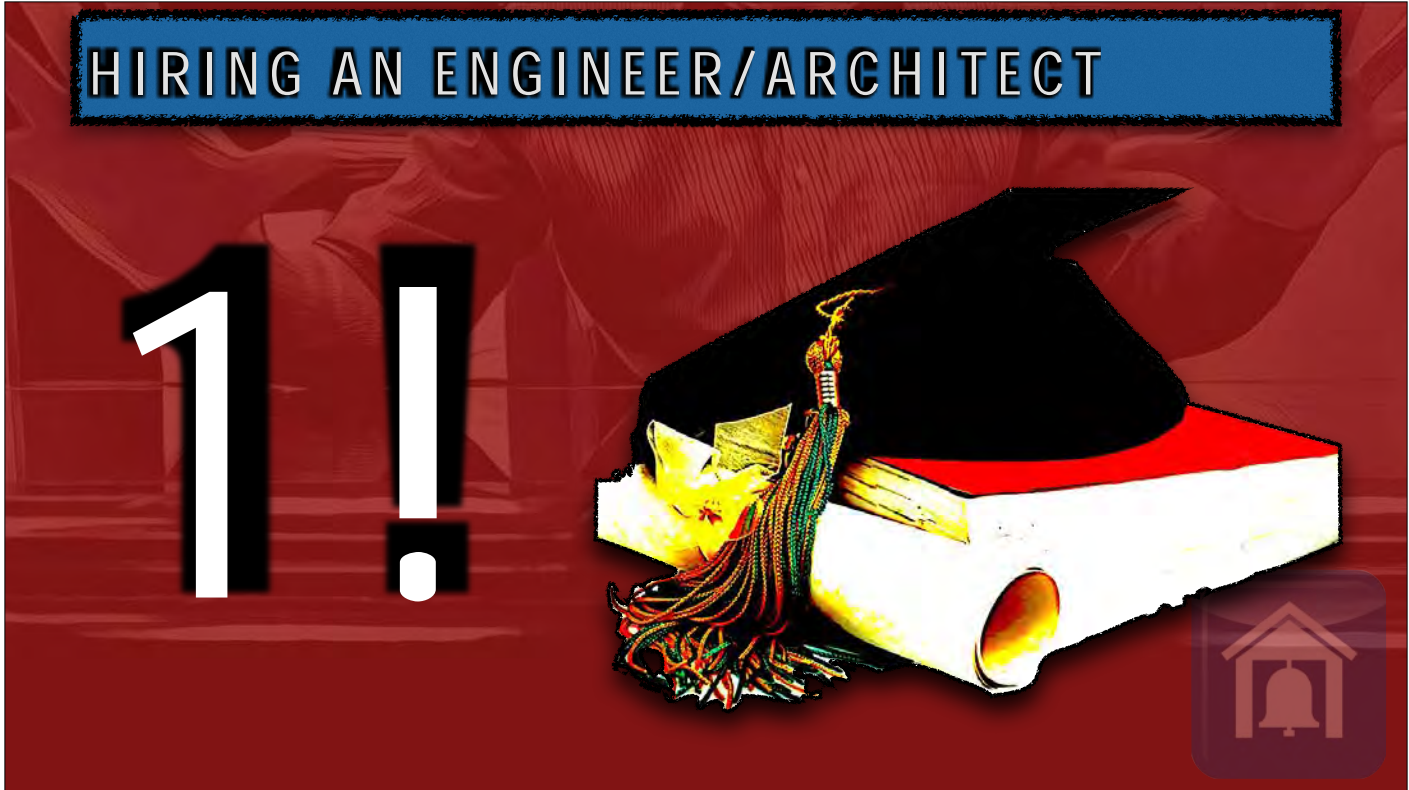
☺ *Can a Public Entity Solicit Bids and Use a Price in the Selection Screening Process for Construction Materials Engineering Services?*

★ **No.** *Under the PSPA, Public Entities Must Select Construction Materials Engineers Based on Qualifications and Demonstrated Competence – Not Price.*



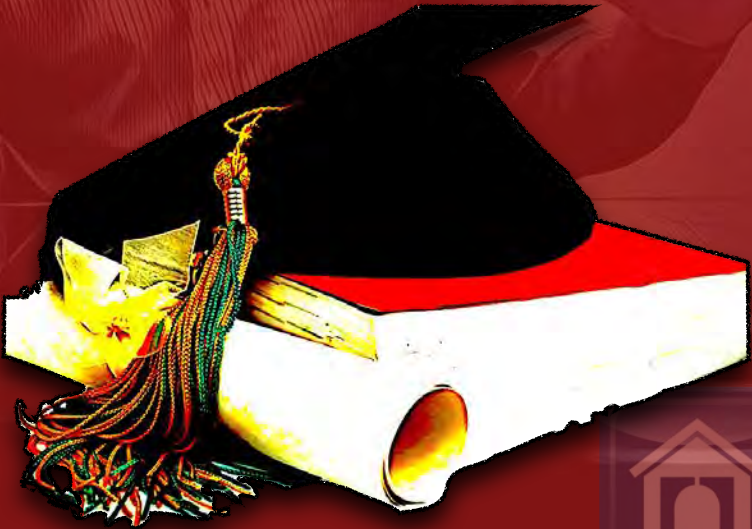


***Beware The
Geotechnical
Engineer's Proposal
For Services And
Price List***



HIRING AN ENGINEER/ARCHITECT

1!



HIRING AN ENGINEER/ARCHITECT

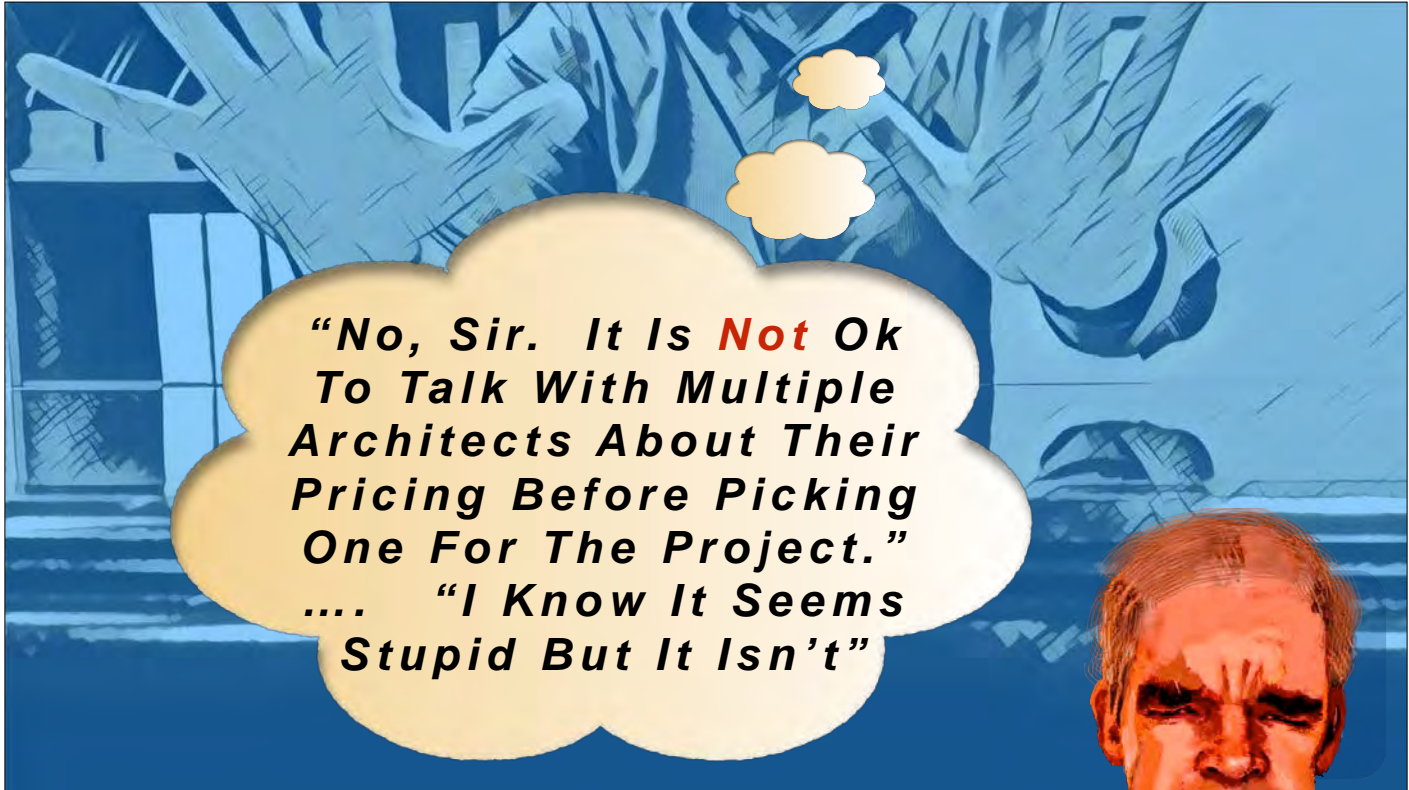
2!



HIRING AN ENGINEER/ARCHITECT

FAILURE TO FOLLOW THESE SIMPLE
INSTRUCTIONS WILL RESULT IN A
VOID CONTRACT AND POSSIBLY
CONSTITUTES A MISDEMEANOR
OFFENSE





***“No, Sir. It Is **Not** Ok
To Talk With Multiple
Architects About Their
Pricing Before Picking
One For The Project.”
.... “I Know It Seems
Stupid But It Isn’t”***



THE STANDARD AIA CONTRACTS ARCHITECTS



THE CONTRACTS - ARCHITECTS (FULL SERVICE)

• *THE USUAL SUSPECTS - THE AMERICAN INSTITUTE OF ARCHITECTS FORMS*

- ★ *THE B101*

- ★ *THE "AGREEMENT"*

- ★ *ADMINISTERING THE A201*

- ★ *THE "GENERAL CONDITIONS"*

COMPENSATION



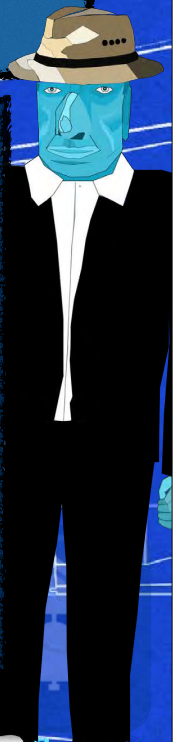
ARCHITECT COMPENSATION

- ☺ **WHEN DO YOU PAY THE ARCHITECT?**
- ☺ **HOW MUCH TO YOU PAY THE ARCHITECT?**



ARCHITECT COMPENSATION

- ☺ **MULTIPLE PROJECTS**
 - ★ **MULTIPLE PROJECTS ON THE SAME CONTRACT.**
 - ★ **THE CONTRACT AMOUNT IS GREATER AND SO IS THE TOTAL PROFIT (RISK) UNDER THE ONE CONTRACT.**
 - ★ **TRACKING PAYMENTS AND COMPLETION CAN BE DIFFICULT DUE TO PHASED PROJECT DEVELOPMENT.**
 - ★ **DISTRICT IS MAKING A LONG TERM COMMITMENT TO A FIRM WITH NO GUARANTEE THAT THE ARCHITECT THEY PREFER WILL STAY WITH THE FIRM.**



ARCHITECT COMPENSATION

😊 **WHAT ARE YOU PAYING FOR?**

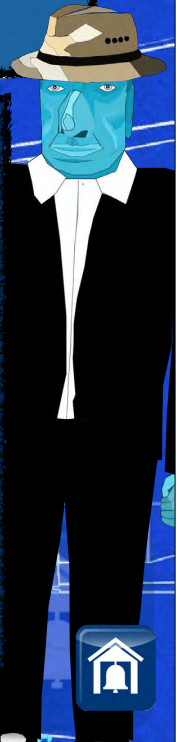
★ **PERCENTAGE OR FLAT FEE?**

★ **BOTH REQUIRE THE PARTIES TO SHARE RISKS.**

★ **COVERS THE “BASIC SERVICES”**

★ **PLUS REIMBURSABLE EXPENSES**

★ **PLUS ADDITIONAL SERVICES FEES**



ARCHITECT COMPENSATION

😊 **A COMMON METHOD**

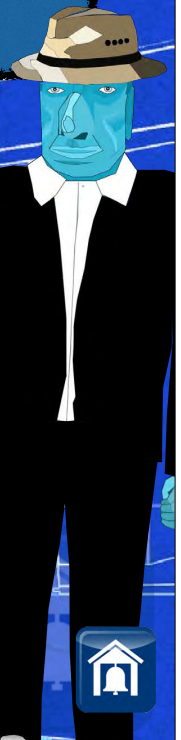
★ **SCHEMATIC DESIGN PHASE - 15% OF TOTAL FEE**

★ **DESIGN DEVELOPMENT PHASE - 20% OF TOTAL FEE**

★ **CONSTRUCTION DOCUMENT PHASE - 40% OF TOTAL FEE**

★ **BIDDING AND NEGOTIATION PHASE - 5% OF TOTAL FEE**

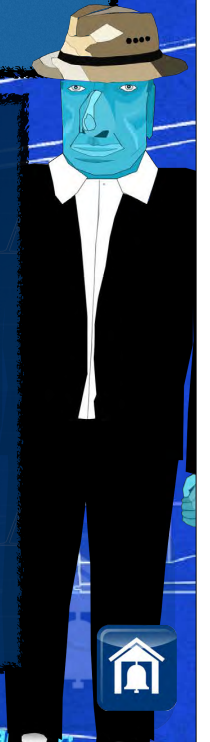
★ **CONSTRUCTION ADMINISTRATION PHASE - 20% OF TOTAL FEE.**



ARCHITECT COMPENSATION

🕒 *HOW MUCH?*

- ★ *DEPENDS ON PROJECT SIZE.*
- ★ *IS IT NEW CONSTRUCTION OR RENOVATION*
- ★ *IS THERE A READY-MADE DESIGN THAT CAN BE USED?*
- ★ *THIS IS ONE OF THE REASONS ARCHITECTS MAINTAIN OWNERSHIP OF THE CONSTRUCTION DOCUMENTS.*



ARCHITECT COMPENSATION

ACCORDING TO RS MEANS DATA

Total Project Size	100,000	250,000	500,000	1,000,000	5,000,000	10,000,000	50,000,000
Percentage	12.2	12.3	9.2	8	7	6.6	6.2

YOU CAN ALWAYS NEGOTIATE A BETTER DEAL THAN THIS



WHEN TO SIGN THE ARCHITECT'S AGREEMENT



WHEN DO WE SIGN ON THE DOTTED LINE?

- ☺ **WHAT IS THE STATUS OF YOUR FUNDING?**
- ☺ **ALWAYS **BEFORE** YOU HIRE A CONTRACTOR OR CONSTRUCTION MANAGER.**
- ☺ **WILL THEY DO ANYTHING FOR FREE?**
- ★ **IS THERE VALUE IN IT?**

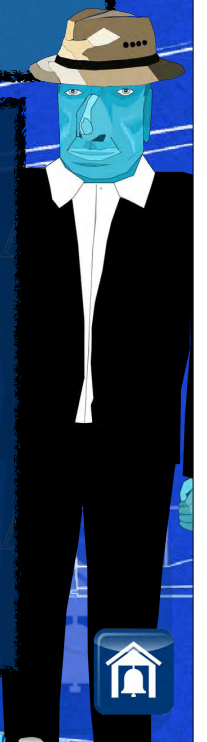


COMMON SCENARIOS



BUT THE ENGINEERING IS INCLUDED!

- 25 ***YOU WANT TO HIRE A CONTRACTOR THROUGH A PURCHASING COOPERATIVE***
- 25 ***STATE LAW EXPLICITLY PROHIBITS OBTAINING DESIGN THROUGH A PURCHASING CO-OP***
- 25 ***BOTTOM LINE: YOU CAN'T ESCAPE HIRING A DESIGN PROFESSIONAL***



Questions?

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