

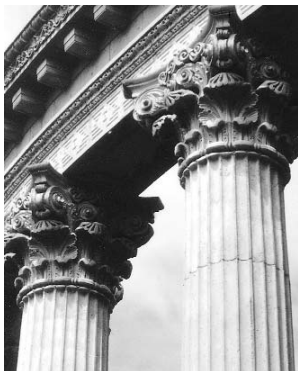
# NEGOTIATING STRATEGIES

Practical, Proven Techniques for Negotiating Better Agreements and Increasing Profits

VOLUME 1 NUMBER 1

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## 12 Goals of an Effective Agreement: What Every Design Professional and Client Should Know

Owner-Design Professional agreements must address specific issues such as project scope definition, compensation, ownership of documents and insurance requirements (see above article). Ample resources exist that outline required content. Effective agreements go further — they act as catalysts for identifying and achieving important project goals, and as tools for team-building. When evaluating agreements, ask the following:

1. Does the agreement promote a dialogue about each party's underlying concerns and expectations?
2. Is the tone of the agreement positive and collaborative?
3. Does the agreement prompt discussion that educates both parties about the intended design and construction process?
4. Does the agreement identify the full gamut of services required for the project, who will provide each of these services (A/E team, Owner, Owner's Representative, or third party) and define each party's roles and responsibilities?
5. Does the agreement provide each party with the authority, responsibility and means to fulfill their contractual responsibilities and the other party's expectations?
6. Does a clear and efficient mechanism exist to address disputes? Does it emphasize conflict avoidance and easy dispute resolution?
7. Are contingencies included to address the unexpected without countless claims for additional services?
8. Is clear and concise language utilized? Has this language been adequately tested in courts?

***"Impasses during a negotiation often occur because their is no . . . set of goals with which to measure the agreement against."***

9. Does the agreement fairly allocate risks and responsibilities and provide the means to manage the risks assigned to each party?
10. Are the fees reasonable and commensurate with the value the client is likely to receive?
11. Is the language insurable and consistent with each party's legal standard of care?
12. Do the terms parallel related documents such as the General Conditions for Construction and the contract between the Owner and Contractor?

Impasses during a negotiation often occur because their is no prior agreement about the "rules of the game" and a set of goals with which to measure the agreement against. On

the other hand, difficult contract issues are easily resolved if discussed within the context of agreed-upon goals.

Before delving into specific terms, try prefacing your next negotiation by agreeing on the overall goals. Use the 12 goals outlined above as a starting point. At various points during the negotiation, step back and evaluate the draft agreement against these goals.

If you reach an impasse, chances are that one or both party's positions are in conflict with at least one of the goals. Once the positions are evaluated against the goals, the spirit of cooperation will prevail and specific terms will be easier to resolve.