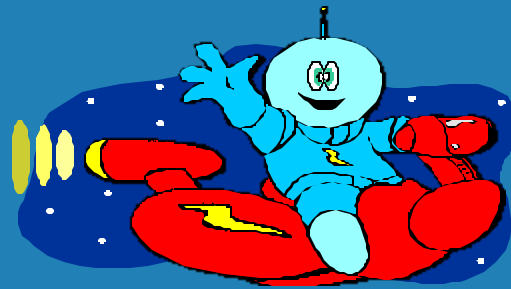


## DESIGN-BUILD

- 1 A DEPARTURE FROM TRADITIONAL CONSTRUCTION CONTRACTING



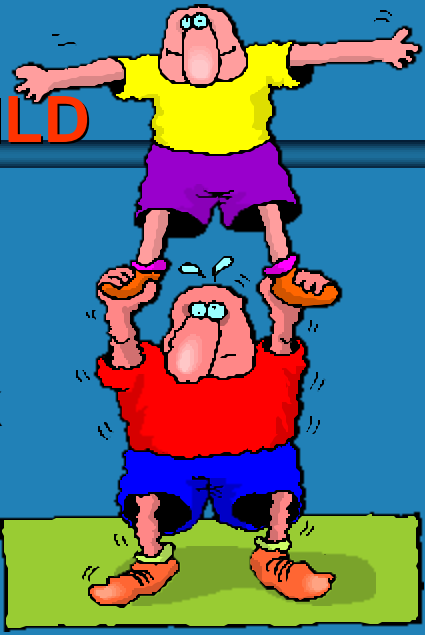
## DESIGN-BUILD

- 2 DIFFERENT RISK ALLOCATION



**DESIGN-BUILD**

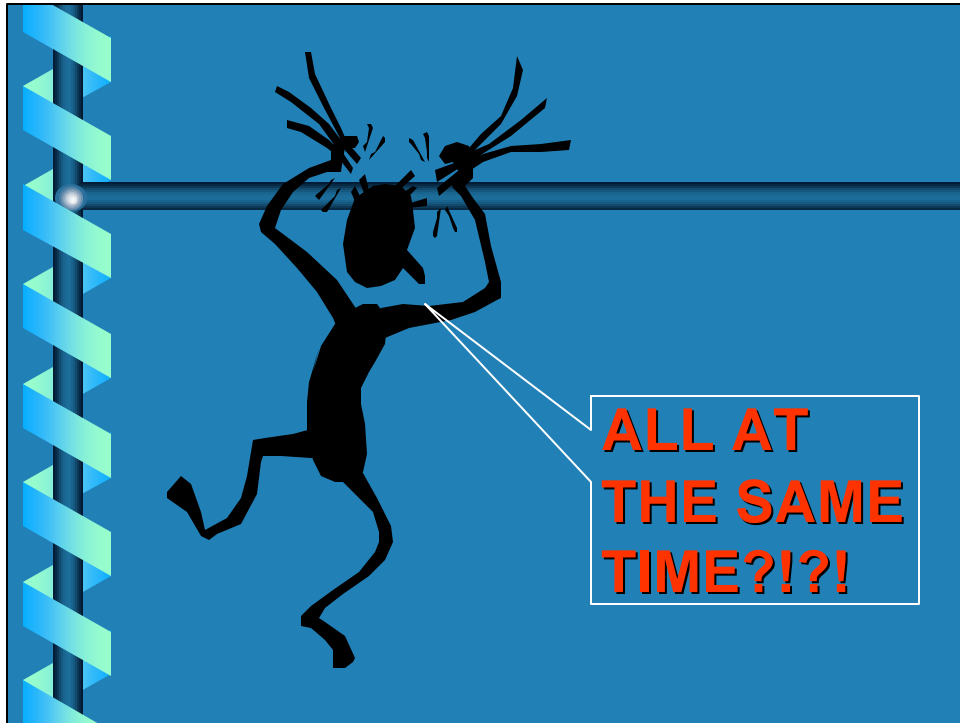
**3** GREATER LEVEL OF TEAMWORK



**DESIGN-BUILD CONTRACT**

- ➔ DOES IT CONTAIN THE PROPER TOOLS?
- ➔ DOES IT ADDRESS NEEDED TEAMWORK?





**THE PROBLEM**

→ OWNER WANTS ESTIMATE AND SCHEDULE TO DETERMINE PROJECT FEASIBILITY

**BUT**

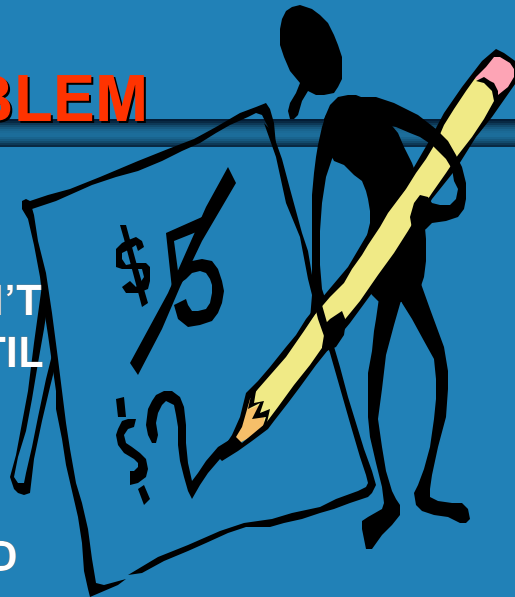
## THE PROBLEM

- DESIGN NOT COMPLETE ENOUGH TO ESTABLISH PRICE OR SCHEDULE

**AND**

## THE PROBLEM

- OWNER CAN'T COMMIT UNTIL PRICE AND SCHEDULE ARE DETERMINED



## **THE SOLUTION**

➔ **PRELIMINARY  
DESIGN-BUILD  
AGREEMENT**

**(AGC NO. 400)**

## **AGC NO. 400**

**ESTABLISHES CONTRACTUAL  
RELATIONSHIP BETWEEN OWNER  
AND DESIGN-BUILDER TO DEVELOP ---**

- ➔ **PROJECT DESIGN**
- ➔ **PRELIMINARY SCHEDULE**
- ➔ **PROJECT ESTIMATE**

## **AGC NO. 400**

- ➔ OWNER CAN HAVE DESIGN-BUILDER ASSIST IN DEVELOPING OWNER'S PROGRAM (3.2.1)
- ➔ DESIGN-BUILDER PREPARES PRELIMINARY SCHEDULE (3.2.3)
- ➔ DESIGN-BUILDER PREPARES PRELIMINARY ESTIMATE (3.2.4)

## **AGC NO. 400**

- ➔ CONTRACT HAS DEFINED DURATION (6.1)
- ➔ DESIGN-BUILDER IS COMPENSATED FOR ITS SERVICES (7.1)
- ➔ IF OWNER PROCEEDS WITH PROJECT, PARTIES WILL ENTER INTO ANOTHER CONTRACT (5.2)



## AGC NO. 400



➔ ADDRESSES  
OWNERSHIP  
OF DOCUMENTS (4.1)

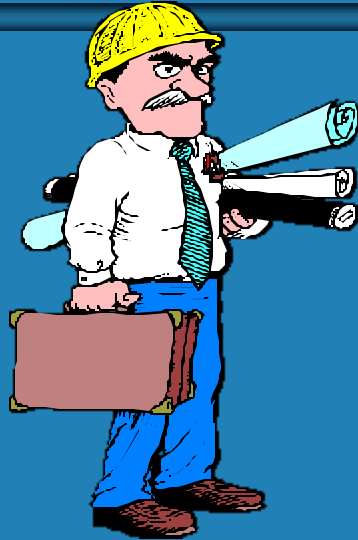
NO, MINE!

MINE!

## AGC NO. 400 DOCUMENT OWNERSHIP

➔ UPON MAKING PAYMENT AS  
REQUIRED BY CONTRACT,  
OWNER RECEIVES OWNERSHIP  
OF THE PROPERTY RIGHTS

## AGC NO. 400 DOCUMENT OWNERSHIP



➔ DESIGN  
PROFESSIONAL  
RETAINS  
COPYRIGHT

## AGC NO. 400 DOCUMENT OWNERSHIP

➔ OWNER CAN'T USE, REPRODUCE  
OR MAKE DERIVATIVE WORKS  
FROM THE DOCUMENTS *FOR*  
*OTHER* PROJECTS WITHOUT  
WRITTEN AUTHORIZATION OF  
DESIGN PROFESSIONAL

## **AGC NO. 400 DOCUMENT OWNERSHIP**

- ➔ IF OWNER USES DOCUMENTS ON OTHER PROJECTS OR WITHOUT WRITTEN CONSENT, OWNER ASSUMES THE RISK AND INDEMNIFIES DESIGN PROFESSIONAL/DESIGN-BUILDER

## **THE PROBLEM**

### **HANDLING CHANGE ORDERS**

- ➔ FAIRLY
- ➔ PROMPTLY
- ➔ WITHOUT INTERRUPTING WORK

## **THE SOLUTION**

➔ **OWNER / DESIGN-BUILDER  
STANDARD FORM AGREEMENT**

**(ARTICLE 9, AGC NO. 410)**

## **ARTICLE 9 AGC NO. 410**

➔ **COMBINES TRADITIONAL  
CHANGE ORDER PROVISION  
WITH THOSE MORE SUITED TO  
DESIGN-BUILD DEMANDS**

➔ **BASIS OF PAYMENT IS COST OF  
WORK WITH A GUARANTEED  
MAXIMUM PRICE (GMP)**

**ARTICLE 9**  
**AGC NO. 410**

**OWNER AND DESIGN-BUILDER ---**

“SHALL NEGOTIATE IN GOOD FAITH  
AN APPROPRIATE ADJUSTMENT  
TO THE GMP OR THE ESTIMATED  
COST OF THE **WORK . . . .**” (9.1.3)

**ARTICLE 9**  
**AGC NO. 410**

➔ **OWNER MAY DIRECT CHANGES,  
IN WRITING, PRIOR TO REACHING  
ANY AGREEMENT WITH DESIGN-  
BUILDER ON COST OR TIME ---**

**BUT**

**ARTICLE 9**  
**AGC NO. 410**

**OWNER AND DESIGN-BUILDER ---**

**“SHALL NEGOTIATE EXPEDITIOUSLY  
AND IN GOOD FAITH FOR  
APPROPRIATE ADJUSTMENTS . . . . “**

**(9.2.2.)**

**ARTICLE 9**  
**AGC NO. 410**

**→ IF OWNER AND DESIGN-BUILDER  
DISAGREE AS TO WHETHER WORK  
REQUIRED BY OWNER IS WITHIN  
SCOPE OF**

**THE WORK ---**

## **ARTICLE 9**

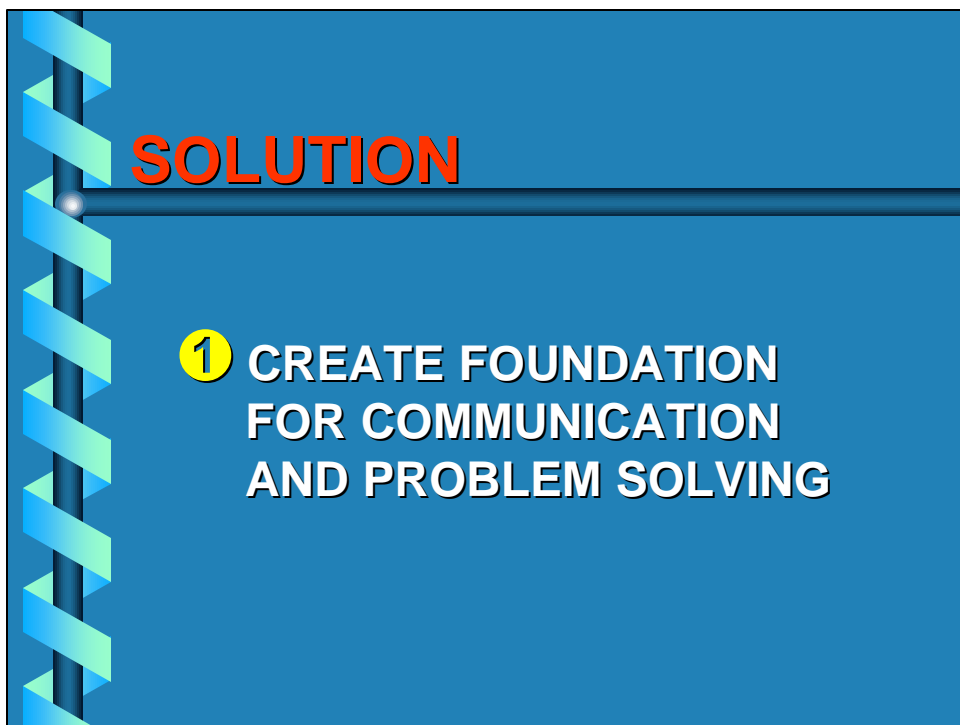
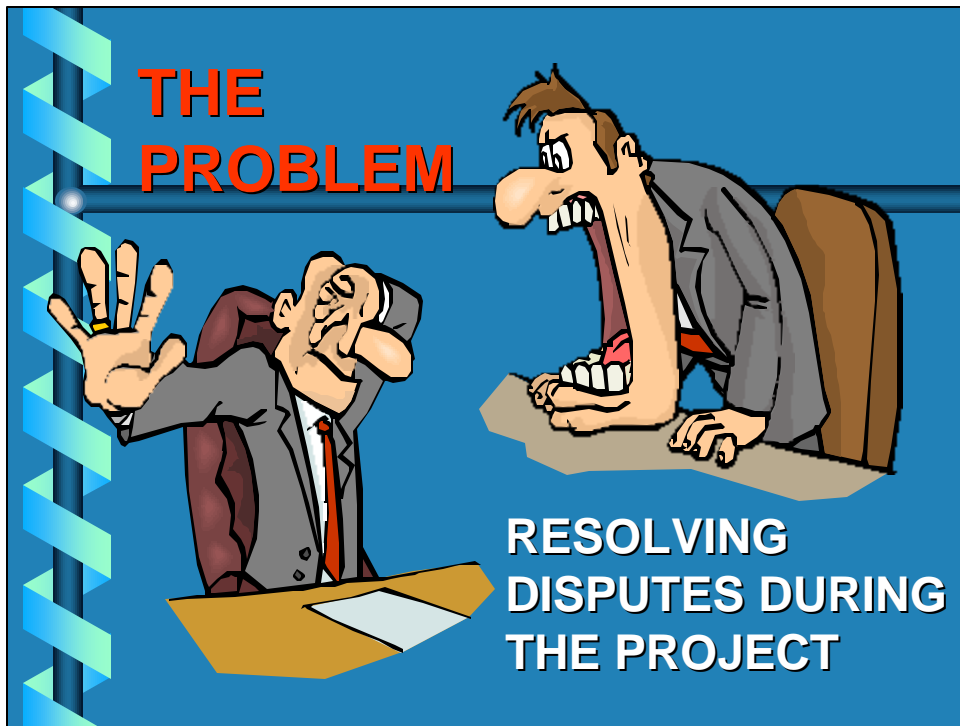
### **AGC NO. 410**

- ➔ **DESIGN-BUILDER FURNISHES OWNER WITH COST ESTIMATE TO PERFORM WORK**
- ➔ **IF OWNER ISSUES WRITTEN ORDER TO PROCEED, DESIGN-BUILDER PROCEEDS WITH WORK**

## **ARTICLE 9**

### **AGC NO. 410**

- ➔ **OWNER PAYS DESIGN-BUILDER 50% OF ITS ESTIMATED COST TO PERFORM WORK**
- ➔ **BOTH PARTIES RESERVE THEIR RIGHTS, BOTH AS TO SUMS PAID AND AS TO CLAIMS FOR ADDITIONAL PAYMENT**







## **PARTNERING - THE CONTRACT**

“OWNER AND DESIGN-BUILDER  
AGREE THAT THEY WILL  
ENGAGE IN PARTNERING THAT  
WILL INCLUDE . . .”



## **PARTNERING - THE CONTRACT**

“ . . . DESIGN-BUILDER,  
DESIGN PROFESSIONALS,  
SUBCONSULTANTS, AND  
SUBCONTRACTORS.”



## **PARTNERING - THE CONTRACT**

“THE PARTNERING  
PROCESS WILL . . .”



## **PARTNERING - THE CONTRACT**

**“ . . . BUILD TEAMS ACROSS  
ORGANIZATIONAL LINES TO  
PROMOTE THE SUCCESSFUL  
COMPLETION OF THE PROJECT  
AND . . . ”**



## **PARTNERING - THE CONTRACT**

**“ . . . PROVIDE A PROCESS  
TO RESOLVE DISPUTES  
AND CONFLICTS. ”**



## **PARTNERING - THE CONTRACT**

**“OWNER AND DESIGN-BUILDER  
RECOGNIZE THAT PARTNERING  
ENCOURAGES OPEN  
COMMUNICATION AMONG  
PROJECT PARTICIPANTS AND  
PROBLEM SOLVING, . . .”**



## **PARTNERING - THE CONTRACT**

**“. . . WHICH WILL OCCUR IN A  
MANNER THAT DOES NOT VIOLATE  
OR INTERFERE WITH THE  
CONTRACTUAL RELATIONSHIPS  
OR WITH THE DESIGN-BUILDER’S  
CONTROL OVER THE WORK.”**

## SOLUTION

- 2 GIVE EXECUTIVES AND PROJECT PERSONNEL TOOLS TO RESOLVE DISPUTES QUICKLY AND FAIRLY



## ADR TOOLS

### ✓ AGC DOCUMENTS

- ➔ PROVIDE FOR DIRECT NEGOTIATIONS FOLLOWED BY MEDIATION
- ➔ PROVIDE ADR MENU -- DRB, MINI-TRIAL, BINDING ARBITRATION

## ADR TOOLS

### ✓ PROVIDE SELECTION OF ADR PROCESSES ---

- FORMAL ELEVATION PROCESS
- INDEPENDENT PROJECT NEUTRALS
- MEDIATION

