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- **An attempt to answer a frequently asked question.**

I. **WHAT IS PARTNERING?**
   A. Basically, partnering is:
      1. A system of conducting business with minimal destructive conflict.
      2. A basis for the use of preventive methods of dispute resolution.
   B. Partnering is a design and construction standard of etiquette for human behavior in non contract matters. It is intended to be:
      1. A process to break down obstacles to good working relations.
      2. A moral agreement in principle.
      3. A marketing tool to assist competent planning, design, and construction firms reduce the potential for debilitating competition.
      4. An action to reduce destructive conflict.
      5. A revisiting & updating to validate, confirm , and reinforce; or to revise original operating ground rules that need review.
      6. An assist to help reach agreement on common goals and objectives.
   C. Partnering is a system of conducting business that maximizes the potential for:
      1. Achieving project intent.
      2. Obtaining specified quality.
      3. Encouraging healthy, ethical customer/supplier relationships.
      4. Adding value.
      5. Improving communication.
      6. Providing project condition measurement & feedback.
      7. Providing methods of quickly resolving conflicts by non destructive means at optimal levels of management.
   D. Partnering is an agreement in principle, that does not supersede, alter, or supplant the planning, design, and construction contracts in place or to be written and executed.

II. **Other names for partnering are:**
   A. A handshake agreement.
   B. A gentleman's agreement.
   C. "Let's look at the drawings a bit more closely."
   D. "Let's tally up the favor score?"
   E. "Let's settle this over a beer."

III. **What are the components of a partnering system?**
   A. A project mission statement.
   B. A set of specific goals and objectives to be achieved within the requirements of the project contract documents.
   C. An evaluation system that encourages and permits regular, well based evaluations of how well the project team is achieving the mission, the goals, and the objectives defined in the charter.
   D. An issue resolution system that encourages agreement and the closing out of disputes promptly, at the lowest possible management level, and with little, if any, potential for damage to the parties.

IV. **What else does competent partnering require?**
   A. Team building.
   B. Management of quality, applied at the proper level.
   C. Leadership that encourages analysis, articulation, communication , and action at all project management levels.
   D. Technical competence properly applied.

E. A desire to be an at-risk stakeholder.
F. Constructive project ownership.

V. **Why is partnering applicable in today's construction industry?**
A. What value is added by partnering?
1. Lower costs to resolve conflicts.
2. Quicker settlement of conflicts.
3. Knowledgeable professionals make the resolution decisions.
4. Decision makers are closer to the resolution process.
5. Nature of decisions rendered lessen the probability of appeal.
6. Participants gain privacy in the resolution process.
7. Probability of fair resolution is increased by timely consideration of the dispute.
8. Helps cross critical transition points by setting the ground rules for the crossing.

B. Where and why has partnering been successful?
1. Comments on partnering from the Albuquerque District Corps of Engineers staff in a guide to partnering dated February, 1991.

*"Our experience is positive based on six contracts with four of them substantially complete." Benefits include:*
a) Disputes reduced - no formal claims.
b) Common objectives achieved (schedule, safety, etc.).
c) Increased responsiveness.
d) Higher trust levels.
e) Improved communication.
f) Excellent cooperation & teamwork.
g) Increased value engineering proposals.
h) Developed expedited process for tracking and resolving open items.

2. Comments on partnering by Colonel Charles E. Cowen - Commander Portland District Corps of Engineers in a strategy for partnering in the public sector - April 15, 1991.
a) 80 to 100 % reduction in cost growth over the life of major contracts.
b) Time growth in schedules virtually eliminated.
c) Paper work reduced by 66%.
d) All project engineering goals met or exceeded.
e) Completion with no outstanding claims or litigation.
f) Safety records significantly improved.
g) Pleasure put back in the process for all participants.

3. Combination partnering relationships surveyed & studied by the Construction Industry Institute and reported in the publication ("In Search of Partnering Excellence" - July 1991).
a) Shell Oil/SIP Engineering - 1984.
b) DuPont/Fluor Daniel - 1986.
c) Proctor & Gamble/Fluor Daniel - 1986.
d) Proctor & Gamble/BGP - 1986.
e) Shell Oil/Bechtel - 1987.
f) DuPont/MK - Ferguson - 1987.
g) Shell Oil/The Ralph M. Parsons Company - 1987.
h) Alcan/Fluor Daniel - 1988.
i) Union Carbide/Bechtel - 1988.
j) DuPont/Day & Zimmerman - 1988.
k) Great Northern Nekoosa/Rust International - 1988.

l) Pillsbury/Fluor Daniel - 1989.
m) Hoffman-LaRoche/Day & Zimmerman - 1989.
n) Chevron/Bechtel - 1989.
o) Bethlehem Steel/United Engineers & Constructors - 1989.
p) Proctor & Gamble/M. W. Kellogg - 1989.
q) Chevron/Besteel - 1990.
r) DuPont/H. B. Zachry.

C. Situations in which partnering may be difficult to use.
1. Where the parties intend to pay lip service only to the partnering effort.
2. Where individuals in key technical or management positions choose to resist intelligent discussion and fair decision making.
3. Where early commitments by the owner have made made good intercontract relationships difficult or impossible to maintain.
4. Where construction contracts are let as the documents are being released for field use.
5. Where several parties to the contract prefer to resolve disputes by contested claiming & binding resolution.
6. Where poor contract documents are made the basis of the partnering effort.
7. Where excessive, one sided conditions are placed on sub contractors by prime contractors.
8. Where unfair or obscure payment processing systems are specified and enforced.
9. Where risk has been poorly defined and unfairly allocated.

VI. **What are some of the action ingredients of a successful partnering effort?**
A. Generate and maintain a strong desire to achieve project success for all.
B. Make intelligent commitments.
C. Avoid accepting or imposing unreasonable risk.
D. Work and act ethically, morally, and with integrity.
E. Work and act from a position of fairness rather than a position of power.
F. Suppress greed.
G. Try to establish an honest feeling of trust among participants.
H. Gain support from the participants and stakeholders.
I. Assign experience, competent people to responsible management positions.
J. Have empathy.
K. Prepare a good charter, a good partnership evaluation system, and a good issue resolution process.
L. Allow time to make the partnering system work.
M. Recognize and celebrate success.
N. Gain the support and participation of higher management.
O. Develop and use guidelines and evaluation systems for measuring performance quality.

VII. **Alternative dispute resolution (adr) systems**
A. Non binding
1. *Prevention methods* - produces maximum harmony - usually least cost.
a) Intelligent and proper risk allocation.
(1) Risk should be assigned to the parties that can best manage or control the risk - for example:
(a) The architect, if the owner has prepared a well conceived and clearly stated program from which to begin design development.
(b) The owner, if the a/e is expected to assemble and write the program.

(c) The contractor, where full, well prepared, and checked construction documents are available.
(d) The owner, where construction begins before construction documents are complete.

(2) Attempts to shift risks to architects, engineers or contractors not able to absorb these risks is not cost-effective
(a) Reduces competition
(b) Increases costs due to greater contingency allowances.
(c) Increases costs and reduces effectiveness because of the potential for increased numbers and intensity of design & construction project disputes.

b) Incentives for cooperation.
(1) Incentives or bonus provisions
(2) Disincentives or penalty provisions

c) Partnering.
(1) Stresses good faith agreements
(2) Emphasizes teamwork
(3) Encourages good communications

2. *Internal negotiation methods* - parties involved conduct negotiations - requires consensus - relatively cost free.
One method of using the internal method is to include an resolution method in the issue resolution policy that conflicts will first be submitted to a specified group of stakeholders for advice as to settlement methods and a possible resolution.
a) Direct negotiations (often start at UDM level).
b) Step negotiations (usually start at dispute originating level).
(1) If the dispute is not resolved at the originating level, it is moved up to the next management level until a resolution is reached.

3. *Informal external neutral methods* - selected external neutral serves as a informal dispute-resolver - relatively low cost. Usually requires nominal preparation.
a) Architect/engineer rulings.
(1) May be respected even though not legally binding.
(2) Must be impartial
b) Dispute resolution board.
(1) One member selected by owner and approved by contractor; one by the contractor and approved by the owner; a third by the first two members. Third selection usually acts as chairman.
(2) Those selected should be from the design & construction industry.
(3) Must have no conflict of interest.
(4) Conduct investigations and hearings on disputes and publish prompt opinions re the dispute.
c) Independent advisory opinion.
(1) Mutually agreed upon neutral expert meets informally with interested parties, obtains information from both, and render prediction as to the ultimate outcome if not resolved at meeting level.

4. *Formal external neutral method* - selected external neutral(s) serves as formal dispute resolver - relatively low cost - usually requires considerable preparation, and may require legal assistance.
a) Mediation - settlement conferences and informal hearings conducted by a neutral third party.

b) Minitrial - private settlement method usually initiated by an agreement between the parties - less formal than mediation.
c) Advisory opinion - neutral expert meets formally with both parties, obtains information from both, and render prediction as to the ultimate outcome if adjudicated.
d) Advisory arbitration - abbreviated hearing before neutral expert(s). Arbitrator(s) issue advisory award, and render prediction as to ultimate outcome if adjudicated.

B. Binding
1. *Outside of courtroom* - dispute given to knowledgeable third party - moderate cost - may require legal assistance.
a) Binding arbitration
b) Private judge
2. *Inside of courtroom* - most expensive - usually requires legal assistance.
a) Bench trial - before a judge
b) Jury trial - before a jury

VIII. **Definitions**

A. Alternative dispute resolution
A method of resolving disputed design and construction claims outside the courtroom.

B. Partnering 1 - A. G. C.
A way of achieving an optimum relationship between a customer and a supplier. A method of doing business in which a person's word is their bond and where people accept responsibility for their actions.

Partnering is not a business contract, but a recognition that every business contract includes an implied covenant of good faith.

C. Partnering 2 - C. I. I.
A long term commitment between two or more organizations for the purpose of achieving specific business objectives by maximizing the effectiveness of each participant's resources.

(This requires changing traditional relationships to a shared culture without regard to organizational boundaries. The relationship is based upon trust, dedication to common goals, and an understanding of each other's individual expectations and values. Expected benefits include improved efficiency and cost effectiveness, increased opportunity for innovation, and the continuous improvement of quality products and services.)

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D. Partnering 3 - combined.
A method of conducting business in the planning, design, and construction profession without the need for unnecessary, excessive and/or debilitating external party involvement.

E. Partnering charter
The basic manual for operating a partnering system. Contains at a minimum, the mission of the project team, and their objectives for the project. Usually is signed by those writing the document.

The charter is an agreement in principle and must not supersede or supplant the design and construction contracts in place or to be written.

F. Stake holder
An at-risk member of the charter writing team who has signed the charter.