

RESOLVING CONSTRUCTION DISPUTES QUICKLY AND COST-EFFECTIVELY

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AGENDA

FRIDAY, February 12, 2010

Time: Registration

Time: **Introduction and workshop overview**

Construction disputes

- Types of CCDC2 disputes that arise
- Typical parties and issues
- Goals of the parties

Adversarial /Litigation Process

- Steps in the process
- Disadvantages-expensive, slow and frustrating, not party centered/parties lose control of the dispute, destroys relationships, unsatisfactory outcomes

Alternative Dispute Resolution (ADR) Processes

- Continuum of various processes that can be used as an alternative to the Court adversarial/litigation process
- Extends from negotiation to binding/non-binding arbitration

Mediation

- CCDC2 Contract Mediation clause

What is Mediation and how does it work?

- Definition of Mediation
- Stages of a Mediation
- Key elements of a Mediation
- Mediation formats- joint session/caucus

Advantages/benefits of Mediation

- Very high success rate
- Private and confidential
- Timeliness/ quick
- Flexible
- Party centered/parties maintain control of the dispute

- Preserves relationships
- Future focused/avoidance of further disputes
- Voluntary and satisfactory outcomes

The Role of the Mediator

- Provides structure
- No authoritative decision making power
- Facilitates communication and negotiation
- mediator skills

Preparing for Mediation

- Be your own problem solver
- Negotiation styles- competitive vs. collaborative
- BATNA
- Goal is to find a mutually agreeable solution

Mediation Outcomes

- legally binding and enforceable
- better adherence to these consensual agreements

Arbitration

- Rights based-adjudication by an impartial decision maker
- Benefits- faster, more streamlined process than Court
- Can be binding or –non-binding

Med-Arb.

- Parties agree up front that Mediator can become arbitrator

Mediation- Fact scenario- discussion and questions

Workshop overview and conclusion