



# PARTNERING

# FIELD GUIDE

For MnDOT Construction  
Projects

*Our way of doing business*

**March 2014**

# **PARTNERING**

## A Field Guide to Partnering MnDOT Projects

This field guide is written for both MnDOT and the Contractor's personnel to convey MnDOT's and the construction industry's commitment to partnering. It does so by providing guidelines and tools for successful partnering.

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## CHAPTER 1

# PARTNERING, OUR WAY OF DOING BUSINESS

### We are Committed

This field guide is intended to promote the formation and success of partnering relationships on MnDOT construction projects. MnDOT and the Construction Industry are committed to making partnering the way we do business. We want to give you the tools for successful partnering.

In this field guide you will find a description of many partnering concepts and processes. If you are ever in doubt as to what to do, please ask. You can't partner if you don't know and understand what partnering is. Find help if you need it because it's up to you to make partnering the way we do business.

### Seeking Fairness

Fair does not mean waiving contract requirements or bending the rules. Fair means timely decision making, open communication and mitigating each other's problems. It is both MnDOT's and the contractor's job to be fair and to act in good faith while seeking resolution to project issues. If this objective is kept in mind, a solution will never be too far away.

#### Who wins here?

The resident engineer watched with arms folded as the contractor's crew began a complicated concrete pour. He shook his head and said: "they'll never make their schedule with that equipment. The bucket is too small and they'll need another crane – they'll spend all their time filling buckets instead of pouring concrete." He turned and walked back to the management office, mentally preparing to deny the request for a time extension that he knew would be coming. Why didn't he let the contractor's project manager know of his concern? "That's their responsibility. They'll find out soon enough!"

U.S. Army Corps of Engineers – Pamphlet-91-ADR-P-4

These concepts, fairness and doing what is best for the project, are basic guidelines for partnering success. It takes discipline and perseverance to keep these two principles in mind in the heat of conflict, but it will pay off.

### What is Partnering?

Partnering is a way of conducting business in which two or more organizations make long-term commitments to achieve mutual goals. This requires team-based relationships utilizing open communication among the participants based on trust, understanding, and teamwork.

Partnering is a relationship in which:

- Trust and open communications are encouraged and expected from all participants.
- All parties participate in pre-activity planning to minimize issues.
- All parties address and resolve issues promptly and at the most direct level possible. They strive to develop solutions that are agreeable and meet the needs of everyone involved (win-win approach).
- All parties have identified common goals for the partnership and at the same time are aware of and respect each other's goals and values.
- Partners seek input from each other in an effort to find better solutions to the issues at hand. This creates synergy in the relationship that fosters cooperation and improves the productivity of the partnership.

### Win-Win Negotiations

Too often people think of a win-win solution as "splitting the difference" so both parties share the pain. In fact, a win-win solution is where both parties get all or most of what they need and their true interests in the outcome have been satisfied.

For example, the Contractor demands additional compensation when he discovers the 15-foot wide work area shown on the plans is actually only 5 feet. The Project Engineer states that although the plans may be wrong, the available work area was obvious to all bidders visiting the site.

In a lose-lose scenario, the Contractor does the work as planned and files a claim that is settled in the future by sharing the cost since at that time both sides see the vulnerability of their positions.

In a win-win agreement, the Contractor may state that he really only needs 10 of the 15 feet and both the Project Engineer and Contractor, looking at traffic windows, staging, and environmental permits, find a way to obtain the additional 5 feet.

The key is to do this before the work is done and the money is spent and to brainstorm many different options. Delaying the negotiations or discussion of a dispute until after the work is complete frequently results in a strict debate over financial responsibility.

### **Partnering Objectives**

Owners of construction projects across the country pay tens of millions of dollars each year in interest and legal costs for claims that remain unresolved for long periods of time. This is money that could be used to fund additional projects. MnDOT is no exception. For contractors, unresolved claims mean reduced bonding capacity and fewer funds to reinvest in other enterprises, and, in extreme cases, may even threaten their companies' existence. Affecting both owners and contractors, beyond money and often even more damaging, are the negative attitudes and damaged working relationships that result when issues and claims remain unresolved. The result is poor communications and lost productivity. This is the classic lose-lose situation.

The objective of partnering is to turn this situation around. Without partnering, both MnDOT and the Contractor are gambling that they will be able to convince a third party, dispute review board, or arbitrator of their position months or years later. This in itself is a huge risk and a loss of control of the outcome.

Collaborative pre-activity planning improves project efficiency resulting in higher value delivered for both MnDOT and the Contractor. A pre-activity discussion checklist is included in Appendix G.

The use of partnering in the public sector has grown significantly in recent years. In 1998 a National Partnering Charter outlined the following objectives for partnering:

- Claims mitigated and resolved promptly
- Safer projects
- Increased job satisfaction
- Reduced delays
- Higher quality
- Reduced total project costs

Your job is to keep these objectives in mind as you manage the projects. They are the targets for which you are aiming.

### **Partnering Values**

What we value we do. Each project has its own culture, its norms or "way of doing business". The following is a partial list of partnering values and attributes of the way we want to do business as partners. As project leaders, your job is to instill these values into the projects and to identify and overcome any barriers that interfere with their achievement.

- |   |                         |
|---|-------------------------|
| Fairness                                    | Teamwork                |
| Cooperation                                 | Joint Problem Solving   |
| Trust                                       | Working for Mutual Gain |
| Open and Honest Communication               |                         |
| Rapid Dispute Resolution at the Field Level |                         |

### **Role of the Project Engineer (PE) and Contractor's Project Manager (PM)**

The PE and the PM are responsible for leading the partnering effort. As the project leaders, each of them are accountable for the day-to-day operations of the project, and are in the perfect position to promote partnering. Each of them are critical to partnering success (or failure). The act of planning and executing the partnering workshop builds a relationship between the PE and the PM and presents a united effort to the team.

The PE and the PM, working together, must decide how to lead the partnering effort on each project. Each of them should have clear objectives in mind as to what they want to accomplish through partnering. Before construction operations begin, a kick-off partnering workshop is held. At the workshop, the PE and the PM will act as hosts. They should be prepared to present an overview of the project and to identify key project issues. As the hosts, they will invite, welcome, and thank all those who attend. The role of the PE and the PM can be expanded to the extent they feel comfortable. The PE and the PM are the project leaders and they need to take the lead in the partnering workshop. The professional partnering facilitator (if used) is there to help.

The PM is responsible to oversee and manage the construction of the work and the Contractor's operations. The PM ensures the Contractor fully satisfies his/her obligations, including those related to quality, as set forth in the contract. The PE is responsible to administer the contract on behalf of the Department. The behavior of the PE and the PM should model the partnering values described above and each should demonstrate to all project stakeholders their commitment to the implied warranty of good faith and fair dealing in the contract.

The PE, as the administrator of the contract, is responsible to protect the Contractor's rights relating to the contract, as well as those of the Department. The Contractor must be paid for everything he/she is owed.

### **Entitlement and Trust**

The timely acknowledgment of entitlement is integral to the trust relationship between MnDOT and the Contractor. Usually, when an event occurs on a project which impacts the project's cost or schedule, the question of responsibility can be determined before the associated cost can be quantified and agreed to. In a partnered relationship, entitlement or acknowledgment of responsibility by either MnDOT or the Contractor is never used as a bargaining chip. Because successful partnered projects rely on forthright communication, we will acknowledge entitlement, whether partial or in full, immediately upon determination of responsibility.

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## CHAPTER 2

# STARTING THE PROCESS

### The Pre-Construction Meeting

The pre-construction meeting is an important step in creating the partnering relationship. A sample pre-construction letter is included in Appendix A. This letter is sent out by the Department at time of contract approval or sooner if needed. The letter includes a questionnaire for the contractor and subcontractors which will assist the PE and the PM in preparing for the pre-construction meeting and enables the PE to respond to the contractor's questions.

### If you are Partnering Internally

Most projects are internally partnered, meaning that a professional facilitator is not used. Facilitation is done by both the PE and the PM. The reasons to internally partner may be due to the small size or lack of complexity of the project. Add some or all the following items as appropriate to the pre-construction meeting agenda when you are using the pre-construction meeting to initiate the partnering effort:

- Exchange of organizational charts
- Commitment to resolve claims at the most direct level possible
- Discussion on pre-activity planning to assure everyone clearly understands their roles and expectations
- Method of escalating unresolved issues for resolution
- Regular scheduled meetings to promote communications
- Progress schedules to encourage discussion of upcoming construction activities
- Formation of teams to resolve identified contract issues
- Identify potential Value Engineering Proposals

### Making the Offer to Partner

All MnDOT owned projects may be professionally partnered. This offer will be in the form of a letter of invitation from the PE to the PM. The letter should be sent out after award. A sample letter of invitation is as follows;

Dear (Project Manager):

Congratulations on being the apparent low bidder on the project XYZ. We at MnDOT are committed to promoting the formation and success of partnering relationships with all our contractors on every project. I will be calling you within the next few days to discuss setting up our partnering process.

I am enclosing a copy of the MnDOT Partnering Field Guide for your reference.

Sincerely,

Project Engineer/Supervisor

### MnDOT Specification Partnering Language;

#### PARTNERING

- A. Partnering does not change the legal relationship of the parties to the Contract, and does not relieve either party from terms of the Contract.
- B. The Department encourages the formation of a strong partnership among the Department, the Contractor, and the Contractor's first tier subcontractors. This partnership draws on the strengths of each organization to identify and achieve mutual goals.

- C. Implement partnering concepts on all projects. Determine jointly between the Contractor and Department's Engineer to either bring in a professional facilitator or to initiate internal partnering by jointly sharing in facilitation responsibilities.
- D. The Contractor must contact the Department's Engineer within 30 days of Notice of Award and before the pre-construction meeting to implement a professionally facilitated partnering initiative. Determine jointly between the Contractor and Department's Engineer a facilitator for the meeting and determine attendees, agenda, duration, and location of a partnering workshop.
- E. Both the Department and the Contractor agree to, and share equally any costs to accomplish partnering.
- F. Persons who should be considered to attend the partnering workshop:
  - 1. Contractor's corporate level manager.
  - 2. Contractor and key project supervisory personnel.
  - 3. First tier subcontractors.
  - 4. Department's Assistant District Engineer for Construction.
  - 5. Department's Resident Construction Engineer.
  - 6. Department's Project Engineer and key project personnel.
  - 7. Project Design Engineer.
  - 8. Local government personnel.
  - 9. Major utilities.
- G. Follow-up workshops may be held periodically as agreed by the Contractor and the Department.

#### **When You Should Hold the Kick-off Partnering Workshop**

Hold the kickoff-partnering workshop before construction operations begin. This gives everyone a chance up-front to get to know each other and to work to identify project challenges and create ways to overcome these challenges, thus setting the partnering relationship in motion.

Research shows, if changes are identified before the project is 33% complete, the project has a high probability of on-time completion. After the project is 33% complete, making changes decreases the odds of on-time completion exponentially.

It is also important to allow enough time for the project team to be in place and become familiar with the project before holding the kick-off workshop. Holding the workshop before the Contractor has decided how to build the project, or has had time to carefully review the contract documents, makes for an ineffective workshop session.

Hold frequent partnering workshops for large complex projects. Hold partnering workshops as needed or as agreed upon by the project team.

#### **Role of the Professional Facilitator**

The professional facilitator assists the PE and the PM in developing an effective partnering process and partnering workshop(s) for the project; the professional facilitator is not the leader of the partnering effort.

The goal is for the PE and the PM to act as the project leaders. The PE and the PM are encouraged, with the guidance of the facilitator, to take an active role in leading and facilitating, the partnering workshop. Keep in mind that the facilitator works for the owner/contractor team and we should make good use of their expertise.

If a professional facilitator is used, the project team will decide if partnering surveys are used for feedback on team performance.

## CHAPTER 3

# SETTING UP THE PARTNERING WORKSHOP

### Determining the Length of the Workshop

The length of the partnering workshop should be commensurate with the size and complexity of the project and familiarity of the parties. Some projects don't warrant a one-day off-site partnering workshop session while others require not only a one-day kick-off session but also multiple follow-up sessions throughout the projects duration. Some determining factors to consider when deciding the length and frequency of workshops are as follows;

(Rate the following factors on a scale of one to three, with three being the highest score)

- \_\_ Number of attendees
- \_\_ Number of key organizations
- \_\_ Size of project
- \_\_ Complexity of project
- \_\_ Difficulty of project

Low scores (average) (1's) indicate that an expanded pre-construction meeting is appropriate, including the expanded agenda discussed in the following section. Middle scores (2's) suggest that a separate ½ to one-day session is appropriate. High scores (3's) indicate that a one-day workshop and a series of workshops over the duration of the project is recommended. Use this assessment as an indicator – your good judgment and common sense should always prevail.

### Sample Workshop Agenda

The PE and the PM are responsible for designing the partnering workshop agenda. If a professional facilitator is used, the professional facilitator should assist the PE and the PM in developing the agenda to meet the specific needs of the project and helping to keep the workshop on track. Here is a sample 1/2-day and one-day partnering workshop agenda.

#### Sample ½ Day Partnering Workshop Agenda

- 8:00 a.m. Welcome (PE and PM)  
Individual Introductions and Project Organization  
Partnering Overview - Define Partnering Values Specific to Project/Team  
Project Overview  
Potential Project Issues  
Key Issues for Success
- 10:00 a.m. Break
- 10:30 a.m. Creative Problem Solving/Commitments for Key Issues  
Development of a Dispute Resolution/Evaluation Process  
Introduction of collaborative pre-activity planning discussion (use example of first activity on the project)
- Noon End of Session

**Sample One-Day Partnering Workshop Agenda**

|           |  |
|-----------|--|
| 8:00 a.m. | Welcome (PE and PM)<br>Individual Introductions and Project Organization<br>Expectations/Rules<br>Partnering Overview – Define Values Specific to Project/Team<br>Team Building Activity (if appropriate)  |
| Break     | Break  |
|           | Team Building (continued)<br>Partnering Lessons Learned/Paradigms<br>Partnering Vision/Mission   |
| Noon      | Break  |
| 1:00 p.m. | Experience - Project Overview<br>Potential Project Issues<br>Key Issues (3-5)<br>Creative Problem Solving for Key Issues<br>Introduction of collaborative pre-activity planning discussion (use example of first activity on the project)<br>Problem Finding<br>Fact Finding<br>Solution Finding<br>Goal Setting and Action Planning |
| Break     | Break  |
|           | Development of a Dispute Resolution Process<br>Establish Maintenance (follow-up) plan for team<br>Closing Remarks and Thanks (PE and PM)   |
| 4:00 p.m. | End of Session   |

**Deciding Who Needs to Attend**

One of the most important contributors to the success of the partnering workshop is the invitation and attendance of all the stakeholders who can impact the project. The PE and the PM develop a list of who needs to attend the partnering workshop given the challenges they are facing and the nature of the project. A “notice of meeting” or invitation should be sent out by the PE in advance of the partnering session. The PE and the PM sign the invitation and request that each invitee confirm their attendance. A sample letter of invitation follows on the next page.

Date: XX/XX/XX

To: XXX

XXX

From: MnDOT Project Engineer (PE)  
Contractor's Project Manager (PM)

Subject: Partnering Workshop for XYZ Project

You are cordially invited to attend our partnering workshop for the XYZ Project. MnDOT and Contractor are committed to working together on this project and your involvement is extremely valuable to the success of the project. We would like to start the partnering effort off with a XX-day partnering workshop. The workshop will take place as follows:

Date:

Time:

Location:

Please confirm, by phone, or e-mail, that you will be attending our workshop. We look forward to making this a great project. We can be reached at:

PE [phone number] PM [phone number]

PE [email] PM [email]

Sincerely,

PE

PM

### **Preparing for the Workshop**

The PE and the PM should meet to discuss and prepare for the partnering workshop. This will probably require more than one meeting. The first meeting will involve selecting potential dates and locations for the workshop and a professional facilitator (if desired). Once these are selected, a list of attendees will be developed by the PE and the PM, making sure that the workshop date(s) work for the key participants. The PE and the PM should also discuss their objectives for partnering the project – what does each hope to accomplish? What issues were identified on the pre-construction questionnaire? This information should be used for designing the workshop to meet the objectives.

The second meeting between the PE and the PM will be to prepare presentations, with the help of a professional facilitator (if used). The PE and the PM will take the lead during the partnering workshop. They will present an overview of the project, and have a list of potential/actual project issues. Experience has shown that preparation is critical to feeling comfortable with a leadership role. The PE and the PM should bring along charts, graphs, photos, graphics, and anything else that they feel will help them explain the project.

### **Follow-up Partnering Workshop Session(s)**

Partnering requires an on-going commitment. To reaffirm the commitment it may be necessary to hold multiple partnering workshops throughout the project. A follow-up partnering workshop should be considered when there is a significant change of personnel on the project, if issues remain unresolved, or if the project enters a new phase of work.

## CHAPTER 4

# TOOLS TO ASSIST IN MAKING THE PARTNERSHIP A SUCCESS

### Weekly Meetings

A weekly project meeting can be one of the best partnering tools (See Appendix B for weekly project meeting agenda-sample agenda instructions). Good communication and planning are critical to a successful project. A well-planned and run weekly progress meeting provides the team an opportunity to bring up issues, concerns, and ideas on a regular basis. A weekly project meeting can help everyone working on the job understand the schedule, coordinate work, identify and resolve issues, discuss the status of the project, and plan the week ahead. A good meeting has these attributes:

**Starts on time** - A project meeting should always start on time; this will train everyone to be on time.

**Ends on time** - There should be a set amount of time allotted for the meeting.

### Have an agenda

The Contractor puts together the agenda. The agenda, while fixed, should be flexible enough to discuss new issues as they occur. The agenda must not "lose" old issues that are still open. A good agenda covers:

- Partnering review – discussion about what is going good and where improvements can be made in the partnering effort.
- The schedule (what work is planned) and how the team is going to accomplish it over the next week.
- Unresolved or outstanding issues log - so that you can either resolve them or elevate them up the dispute resolution ladder.
- New issues which need resolution.
- Issues from subcontractors and suppliers.
- Action items and deadlines, so that each person knows what tasks have been assigned and when they are to be completed.

### A record is made of agreements and outstanding issues (minutes)

Meeting minutes are required so that everyone knows what was agreed to and what is still unresolved (the minutes will be very helpful two years down the road when questions arise). The Contractor and MnDOT will share in the responsible for taking the minutes. Minutes will be submitted to MnDOT for approval. MnDOT will then distribute meeting minutes to appropriate individuals.

### The people needed for discussion and to make decisions are there

Make sure the appropriate individuals attend the meeting.

### Attention is on the meeting, not elsewhere

Interruptions from cell phones and mobile devices distract everyone, making the meeting drag on, and preventing everyone from hearing everything (discussions and agreements). If everyone stays focused on the meeting it can start on time and end on time, and you'll all be out more quickly than if everyone keeps being interrupted.

### Communication

The project team should commit to not writing letters without talking to each other first, unless written notice is required by Specification 1403. Talking first gives everyone an opportunity to make sure they understand the issue(s) and to try to work things out before positions are put in writing. If you do end up putting your position in writing, the recipient should know that the letter is coming and what it says.

Experts tell us that 75-80% of good communication is listening – so if you want to improve the project's communication listen, listen, listen. Personality conflicts can get in the way of communications and can disrupt the project. Each person on the project brings a unique personality and some accommodation should be made

for these differences. Egos and personalities are present on every project. Project issues should remain project issues and not become personal issues.

Another good idea to facilitate communication is for the contractor's project superintendent/foreman and MnDOT's lead inspector(s) to meet before the start of each shift to discuss the work planned for the day. They'll be able to agree on an approach and to discuss potential problems.

### **Separating People from the Problem**

Often, when conflict erupts on our project, we begin to look for who is to blame. It is easy to get caught up in the "fight", and in "winning", and not in getting the issue resolved while ensuring that the relationships remain undamaged. Don't forget, everyone will still have to work together to complete the project. Because we become engaged in not losing, we often don't take the time to really understand the problem and we may make assumptions. Frequently the assumptions turn out to be only partially correct. Then we find we can't come up with a good solution because we are working with false assumptions. Here are some steps that can be taken to avoid being trapped in this viscous cycle:

#### -Step #1 Seek to Understand the Problem

Ask probing questions to try to flush out all aspects of the problem - no matter how angry or hostile the other party seems to be. Don't become defensive; you are trying to understand the problem and the assumptions each of the other stakeholders have. This will give you a clearer picture of what the real issues are. Be sure to consider the other party's interests, not just their position. For example, a position might be "we need a detour to do this work", whereas an interest might be "with a detour, we can use larger equipment and do the work more efficiently". Understanding interests can help fashion creative win-win solutions.

#### -Step #2 Don't Make It Personal

Take an objective point of view - don't become engaged in the battle. Take the role of negotiator or fact finder. The more people get wrapped up in the battle and in trying to win, the more likely they are to start feeling that the issue is a personal matter. Remember, it's a project issue, and the success will depend on your ability to not take things personally.

#### -Step #3 Don't Seek to Blame

Don't seek to blame - instead, seek solutions and understanding. People generally act logically; your job is to find the logic behind their actions. It's always there; often it has nothing to do with the stated problem. Pointing fingers makes everyone defensive and, stops communication. No project problem was ever solved by blaming someone. We are all in this project together - we will succeed or fail together.

#### -Step #4 Agree on the Problem

Work to gain agreement on what the problem is before you attempt to find solutions. If we don't agree on what the problem is, how can we ever agree on the solution?

### **The Professional Facilitator**

The professional partnering facilitator (if used) is a project resource. Professional facilitators work on dozens of projects each year and can probably offer you some sound suggestions on improving the partnership.

### **Team Building Activities**

It is important to the success of the project that project personnel have a sense of enjoyment. Such a sense can be achieved by holding regular joint team activities commonly tied to project accomplishments.

## CHAPTER 5

# MEASURING PROGRESS

### Getting Feedback

A feedback system has been designed to tell how well the partnership is doing. The system includes a project survey (report card) to help identify trends (both positive and negative) and take corrective action quickly or congratulate the project team. (See Appendix C & D for guidelines in completing and managing the survey and a model survey). Partnering surveys should only be used on professional facilitated partnering. If a professional facilitator is used, the team must decide if the survey will be used for feedback on team performance.

Rate the project team on a scale of 1-5 in each of four areas, with 5 indicating the highest level of satisfaction. The areas being measured are:

- 1) mutual respect, honesty, trust, and fairness;
- 2) regular communication at all levels (communication between organizations at the same level and communications up and down each organization's chain of command);
- 3) disputes resolved efficiently and effectively;
- 4) problem solving at the most direct level possible.

The survey form includes a comment area to praise good efforts or list ideas for improvement in each of the four areas. Comments should be specific enough that a limited amount of effort is needed to research the issue. The survey concludes with the following questions:

- What, if anything, caused a positive or negative change in your rating for this month?
- How many disputes were resolved at the job site level this month?
- How many project improvements were made this month (quality, value engineering, and schedule)?
- Do you have any comments on the partnering process?

### Completing the Survey

The Partnering survey may be used as appropriate and is usually completed during a weekly meeting. Each member of the partnering team will complete the survey on a monthly schedule for the duration of the project. The survey may be suspended during times of low or no activity on the project. Remember that you are rating the project teams' performance and not a particular individual. The PE or Contractor's PM will collect the completed forms.

Survey results are summarized comparing the Contractor and MnDOT ratings from the previous meeting and throughout the length of the project. The results will be presented in a graphical format so trends can be easily identified.

Negative responses in a survey or a negative trend should be identified quickly. This will allow you to investigate the underlying causes and take corrective action. Ideally, over time, the scores reported by contractors will be the same as those reported by MnDOT personnel and there will be an upward trend toward higher satisfaction in each area.

### Posting and Distributing Survey Results

The PE and the PM are responsible for collecting the data. The summary reports are discussed at the next weekly project meeting and posted each week in the job site trailer or office so all of the partners on the project can see how the team is doing. You may choose to distribute the reports to each of the team members. If the report identifies areas in need of improvement the project team leaders should meet and discuss a course of action. Likewise, if the report identifies areas going well and/or improving, the team leaders should be sure to offer their congratulations to the project team.

## CHAPTER 6

# THE ESCALATION LADDER

### Elevation of an issue

One of the cornerstones of partnering is the use of a dispute resolution ladder, sometimes called escalation of an issue or escalation ladder. The escalation ladder is created during the partnering workshop (or expanded pre-construction meeting). At the top of the ladder are the first line employees, with the authority to discuss the issue, when a possible conflict may occur. The escalation plan is between the two primary parties to the contract, MnDOT and the Contractor. The design team, although not listed specifically on the escalation plan, is used as a technical resource for MnDOT to aid in resolving the issue. Subcontractors should be brought along with the Contractor if the issue to be escalated is a subcontractor issue. Notification, response, and dispute resolution processes as specified in the contract and to preserve everyone's rights under the contract, must be observed. Therefore, we should pay special attention to make sure the escalation ladder process is developed and complies with the contract.

If either party has a dispute, they should resolve the dispute through the escalation ladder process in a timely manner. Each party to a dispute needs to understand the other person's position, understand it well enough that they can explain it to the other's satisfaction.

The process starts at the most direct level possible for each organization and proceeds up through both organizations' hierarchy until the issue is resolved. An issue is elevated to the next higher level when:

- 1) An agreement cannot be reached at the current level within the agreed upon time, or
- 2) if more than the agreed upon time has passed without a solution, or
- 3) by request of one of the parties at the current level (after first informing the other party).

| <u>Level</u> | <u>Days</u> | <u>MnDOT</u>                    | <u>Contractor</u>   |
|--------------|-------------|---------------------------------|---------------------|
| I            | 1           | Head Inspector                  | Foreman             |
| II           | 2           | PE / Resident Engineer          | Superintendent / PM |
| III          | 3           | ADE Construction/ District Eng. | Owner / President   |
|              |             |                                 |                     |

Elevation to the next level in the escalation ladder should be done in a separate, face-to-face meeting. All individuals involved in the dispute should sit down with the individuals at the next level of the escalation ladder and discuss the issue. For example, the head inspector and the foreman should sit down with the Project Engineer and the Superintendent and discuss all the information that has led to this issue (See Appendix E). This affords the next level the opportunity to ask questions of both sides to gain a thorough understanding of the issue before they try to resolve it at their level.

Once the issue is elevated, the next level is to meet as soon as possible to try and negotiate a resolution. It is imperative that each level understand the criticalness of the issue so that they may identify the amount of time that they have to resolve the issue before it needs to be escalated to the next level. It is important that any resolutions made are communicated to the originating level. It is also important to hold a separate meeting to address disputes (don't try and do it, for example, during the weekly project meeting). Don't assume that the next level truly understands the issue and points of disagreement, or that there will be automatic concurrence with your position, even if you have discussed the issue previously.

MnDOT's Office of Construction and Innovative Contracting (OCIC) should be consulted throughout the entire escalation ladder process. If an issue is elevated to the top of the ladder without resolution, OCIC must be contacted to decide next steps. No process will work if it isn't used. Given complexities of our projects, it is natural that there will be disputes. It is unacceptable to ignore a dispute.

**What is a Dispute?**

Project team members work daily to resolve problems, so they may fail to see that what was a project problem, has now become a project dispute. Here is a simple definition of what constitutes a dispute:

A dispute is a disagreement between two or more people.

It's that simple. It most likely includes contract interpretation, site conditions, money, or possibly time. It commonly includes a discussion of ownership of responsibility.

The escalation ladder is designed to provide timely decision making and avoid reaching an impasse.

**I Can't Give Up Now**

Another barrier is that people may feel that they have failed (and/or that they may be chastised) if they elevate an issue, or it may be that they want to maintain control at their level. Some disputes stay at level I for four to five months, when the agreed upon time to elevate, was one day. It is the responsibility of upper management to ensure that it is safe for a field team to honestly work to solve problems, and to encourage them to elevate the issue to the next level if they can't get it resolved themselves. One of the main purposes of elevating an issue is to resolve disputes quickly. Elevation of an issue is not a sign of failure.

**Disputes Deserve Their Own Meeting**

As stated before, when an issue is elevated it is important that a special meeting be held to discuss the dispute at hand. Many times people will say "well, I talked to him at our weekly meeting" this does not elevate the issue. You need to call and schedule a separate meeting, at which you will discuss, seek to understand, brainstorm ideas about, and seek resolution of only the disputed issue. Minutes should be taken and routed to all parties to encourage understanding of each other's position. A meeting should be held each time an issue is elevated to the next higher level.

**Appendices are intended as tools for your modification and use at your discretion.**

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**APPENDIX A**  
**PRE-CONSTRUCTION LETTER AND QUESTIONNAIRE**

(Date)

(Contractor)

PE: Pre-Construction Meeting and Request for Questions and/or Clarification

Subject: Contract No. \_\_\_\_\_ and notice of Project Engineer

Your company has been awarded the above contract on \_\_\_\_\_(date)\_\_\_\_\_. I will be the Project Engineer on this project.

(Include any standard requests for contract documents or submittals required by the contract.)

To assist the MnDOT Project Team in its preparation for the upcoming Pre-Construction meeting and/or Partnering Workshop, please complete the attached questionnaire (Attachment #1) and return it to me along with any other questions, concerns or requests for clarification within five working days of the receipt of this request.

Early knowledge of this information will allow our Project Team time to do the appropriate research either within MnDOT or with the appropriate external sources to properly respond at the Pre-Construction meeting and/or Partnering Workshop.

(Project Engineer Use A or B)

A. At this time, the State is not aware of any major changes to the contract documents or any issue that would affect the contractor's schedule on this project.

B. At this time, the following is a list of issues that have been discovered during the bid process for this project and will be discussed at the Pre-Construction meeting.

I will contact you regarding our Pre-Construction meeting and/or Partnering Workshop so that we may prepare our staff and invite all subcontractors and stakeholders for the project.

If you have any questions or need additional information, please contact me at your earliest convenience.

Sincerely,

PROJECT ENGINEER

ATTACHMENT #1

Project Name and Contract No.:

---

In preparation for the Pre-Construction meeting/Partnering Workshop, please respond to the following questions. Use additional sheets as needed.

1. List utility companies, watershed districts, railroads, municipalities and any other agencies that you feel it is important to coordinate with. Also, indicate which of these companies should have a representative attend:

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2. Scheduling concerns: \_\_\_\_\_

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3. Construction phasing and/or construction staging concerns: \_\_\_\_\_

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4. Conflicts between design plans, special provisions, standard specifications and/or standard plans: \_\_\_\_\_

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5. Construction methodologies and/or construction procedures that you intend to use that you feel warrant up-front discussion and/or consideration: \_\_\_\_\_

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6. Traffic control concerns: \_\_\_\_\_

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7. Errors in bid quantities: \_\_\_\_\_

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8. QA/QC questions: \_\_\_\_\_

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9. Other issues: \_\_\_\_\_

---

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Contractors Signature; \_\_\_\_\_

Date; \_\_\_\_\_

**Appendix B**

***Weekly Project Meeting Agenda***

|                             |   |  |                    |
|-----------------------------|---|--|--------------------|
| <b>Project Number:</b>      |   | <b>Date:</b> /    /                            |                    |
| <b>Project Engineer:</b>    |   | <b>From:</b> _____ am/pm <b>To</b> _____ am/pm |                    |
| <b>Contractor:</b>          |   | <b>Location:</b>                               |                    |
| <b>Stakeholders Present</b> |   | <b>Stakeholders Present</b>                    |                    |
| 1                           | Name:   | 6  | Name:              |
|                             | Company & Email:                                  |  | Company & Email:   |
| 2                           | Name:   | 7  | Name:              |
|                             | Company & Email:                                  |  | Company & Email:   |
| 3                           | Name:   | 8  | Name:              |
|                             | Company & Email:                                  |  | Company & Email:   |
| 4                           | Name:   | 9  | Name:              |
|                             | Company & Email:                                  |  | Company & Email:   |
| 5                           | Name:   | 10   | Name:              |
|                             | Company & Email:                                  |  | Company & Email:   |
| <b>UNRESOLVED ISSUES</b>    |   |  |                    |
| <b>Description:</b>         |   | <b>Assigned To:</b>                            | <b>Resolution:</b> |
|                             |   |  |                    |
|                             |   |  |                    |
|                             |   |  |                    |
|                             |   |  |                    |
|                             |   |  |                    |
| <b>NEW AGENDA ITEMS</b>     |   |  |                    |
| 1                           | Approval of previous meeting minutes              | Project Manager                                |                    |
| 2                           | Review/Discussion of Partnering Evaluation Scores | Group  |                    |
| 3                           | Review of Outstanding Items                       | Group  |                    |
| 4                           |   |  |                    |
| 5                           |   |  |                    |
| 6                           |   |  |                    |
| 7                           |   |  |                    |
| 8                           |   |  |                    |
| 9                           |   |  |                    |
| 10                          |   |  |                    |
| 11                          |   |  |                    |
| 12                          |   |  |                    |
| <b>ACTION ITEMS</b>         |   |  |                    |
| Item #                      | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |
|                             | <b>Description:</b>                               | <b>Assigned To;</b>                            |                    |
|                             |   | <b>Completion Date:</b> /    /                 |                    |

### **Weekly Project Meetings – Sample Agenda Instructions**

#### **Preparation for meeting:**

- Transfer any previous meetings unresolved action items to the “Unresolved Issues” section of new agenda.
- Include any new issues that developed since last meeting in the “New Agenda Items” section of Agenda form. Identify the person to talk about the subject.
- Invite all necessary stakeholders to the meeting.
- Request all stakeholders to identify any new agenda items and add them to the agenda.
- Compile data from new partnering effort surveys (if surveys used).

#### **During the Meeting:**

- Identify all stakeholders present and the company they represent.
- Contractor or MnDOT to take meeting minutes and distribute Partnering effort surveys (if surveys used).
- All attendee’s to fill out Partnering survey and return to Contractor or MnDOT (if surveys used).
- Review Partnering survey data and discuss trends (if surveys used).
- **Unresolved Issues:**
  - Description of issue.
  - Who the issue was assigned to.
  - What resolutions have been accomplished?
  - Status of issue (completed, in-work).

If status is marked as “in-work”, action steps should be identified and completion date should be assigned in the Action Items portion of the form.

Completed items are to be communicated to the originating party with an explanation as to what decision was made and why. Completed items will be left off future agendas.

- **New Agenda Items:**
  - Review minutes from previous meeting. Make any necessary changes.
  - Review overall project partnering progress and discuss good and bad trends.
  - Describe all new agenda items in detail to all in attendance.
  - Discuss what has been done so far on each item.
  - Discuss possible remedies to the issue.
  - Identify responsible person for follow up (if needed).
  - Determine action items and completion date for each issue.
  - Identify time of escalation if not completed.
- **Action Items:**
  - Review action items, completion dates and responsible person for each issue discussed.
  - Make sure the person responsible for the item understands it in enough detail to follow through.

#### **After the Meeting:**

- Contractor or MnDOT to submit meeting minutes to MnDOT for approval.
- MnDOT to distribute meeting minutes to all appropriate individuals.
- Partnering Survey Evaluation forms to be distributed and posted (if surveys used).
- Transfer all “Action Items” to next meeting’s agenda form for review.
- Individual(s) having action items are responsible for contacting appropriate person(s) to complete the assignment.

## **APPENDIX C**

# **GUIDELINES FOR COMPLETING AND MANAGING THE SURVEY**

The survey was designed to be simple with only four questions that have a 1-5 satisfaction level, making for a maximum score of 20. Each of these four questions has a comment line to suggest an improvement. Included in each survey are additional questions to help measure partnering effectiveness.

1. **Purpose:** The project survey is designed to measure and provide timely feedback on the relationships between all partnering team members. The feedback can be utilized to recognize relationships improvement opportunities. This survey will only be used on professional facilitated partnering and only when the team decides to use surveys for feedback on team performance.
2. **Instruction:** Each member of the partnering team will complete the survey at a regularly scheduled weekly project meeting for the duration of the project. The survey will be completed once a month. Please complete all portions of the survey.

The Project Engineer and/or the Contractor's Project Manager will collect the completed forms.

3. **Feedback:** The survey responses will be collected and feedback will be available at the next regularly scheduled weekly project meeting.

## APPENDIX D PARTNERING SURVEY

**Project Partnering Evaluation**                      **Date:** \_\_\_/\_\_\_/\_\_\_

You are: (circle one): MnDOT / Contractor / Subcontractor / Other \_\_\_\_\_

You are: (circle one): Inspector / Forman / Project Engineer / Superintendent / Resident Engineer / Project Manager / Owner / Other.

Name: \_\_\_\_\_

Contract/Project #: \_\_\_\_\_ Contractor: \_\_\_\_\_

Project Engineer: \_\_\_\_\_ Project Manager: \_\_\_\_\_

Date \_\_\_/\_\_\_/\_\_\_ Contract working day/total contract working days \_\_\_\_\_/\_\_\_\_\_

*Your input is very important to evaluate this project*  
Please indicate your level of satisfaction on this project

|   |   | Satisfaction Level   |
|---|---|--|
| 1   | Mutual respect, honesty, trust and fairness:<br>How do we improve? _____<br>_____   | 1-Never<br>2-Sometimes<br>3-Half the Time<br>4-Almost Always<br>5-Always |
| 2   | Regular communication at all levels:<br>How do we improve? _____<br>_____           | 1-Never<br>2-Sometimes<br>3-Half the Time<br>4-Almost Always<br>5-Always |
| 3   | Disputes resolved efficiently and effectively:<br>How do we improve? _____<br>_____ | 1-Never<br>2-Sometimes<br>3-Half the Time<br>4-Almost Always<br>5-Always |
| 4   | Problem solving at the most direct level:<br>How do we improve? _____<br>_____      | 1-Never<br>2-Sometimes<br>3-Half the Time<br>4-Almost Always<br>5-Always |
| Total satisfaction level (sum 1 - 4): _____   |   |  |
| What, if anything, caused a positive or negative change in your rating for this month:<br>_____     |   |  |
| How many disputes were resolved at the job site level this month?<br>_____                          |   |  |
| How many project improvements were made this month (quality, value engineering, schedule)?<br>_____ |   |  |
| Do you have any comments on the partnering process?<br>_____  |   |  |

**APPENDIX E**  
**ISSUE ELEVATION MEMORANDUM**

**PROJECT ENGINEER / SUPERINTENDANT LEVEL**

Project Name: \_\_\_\_\_ Project Number: \_\_\_\_\_  
MnDOT District: \_\_\_\_\_ Prime Contractor: \_\_\_\_\_

This issue is:  A policy issue  
 An administrative issue  
 A technical/specification issue

List individuals and organizations affected by this issue and its resolution, i.e. Design, Materials, Maintenance, Local Government, Utilities, Other Governmental Agencies, School Districts, the traveling public: \_\_\_\_\_

\_\_\_\_\_  
Name/Position/Organization: \_\_\_\_\_

\_\_\_\_\_  
Brief description of issue needing further assistance for resolution: \_\_\_\_\_

\_\_\_\_\_  
Brief description of resolutions attempted: \_\_\_\_\_

\_\_\_\_\_  
Names of persons assisting with resolution at this level: \_\_\_\_\_

\_\_\_\_\_  
Additional comments or recommendations: \_\_\_\_\_

\_\_\_\_\_  
Issue resolved?  No  Yes  
If no, Forward to next level on \_\_\_\_\_ (date) at \_\_\_\_\_ (time) at this level? If Yes, Describe resolution below: \_\_\_\_\_

\_\_\_\_\_  
If resolved, written feedback of the resolution was transmitted to Team Members and persons affected by this issue on \_\_\_\_\_ (date) at \_\_\_\_\_ (time)

\_\_\_\_\_  
MnDOT Project Engineer

\_\_\_\_\_  
Contractor Representative

## APPENDIX F

# PARTNERING FIELD GUIDE CHECKLIST

|                              |  |  |
|------------------------------|--|--|
| Prepare for Partnering       | Commit to partnering as our way of doing business  |  |
|                              | Understand win-win negotiating   |  |
|                              | Understand partnering values and the role of the PE and the PM   |  |
|                              | Issue pre-construction letter  |  |
|                              | Review response to pre-construction letter and prepare for pre-construction meeting (add additional items to pre-construction meeting agenda if no professional partnering is specified) |  |
|                              | Make offer to partner (or receive request from Contractor)   |  |
|                              | Hold pre-construction meeting  |  |
|                              |  |  |
| Hold the Partnering Workshop | Schedule and reserve facility for kick-off partnering workshop   |  |
|                              | Obtain professional partnering facilitator's services (if desired)   |  |
|                              | Determine length of partnering workshop, agenda, and attendees list  |  |
|                              | PE and PM meet prior to partnering workshop to discuss and prepare   |  |
|                              | Hold the partnering workshop   |  |
|                              |  |  |
| During the Project           | Schedule and hold weekly project meetings  |  |
|                              | Commit and uphold the commitment to not writing letters without talking to each other.   |  |
|                              | Determine if a follow-up partnering workshop(s) should be held   |  |
|                              | Schedule and hold team building activities   |  |
|                              | Hold pre-activity planning discussions   |  |
|                              | Complete the monthly partnering evaluation survey (if used)  |  |
|                              | Post and distribute the results from the monthly partnering evaluation survey (if used)  |  |
|                              | Meet to review and discuss survey results (if used) – make adjustments as needed   |  |
|                              |  |  |
| Issue Resolution             | Use the dispute resolution ladder developed during the partnering workshop   |  |
|                              | Understand the dispute resolution processes available in the contract  |  |
|                              |  |  |

If you have questions or comments regarding this Partnering Field Guide, please direct them to the MnDOT Office of Construction and Innovative Contracting (OCIC). (651) 366-4200

## APPENDIX G

# PRE-ACTIVITY DISCUSSION CHECKLIST

Work activity: \_\_\_\_\_

Date of discussion: \_\_\_\_\_

- Participants in discussion should include:
  - Inspector for the work
  - PE
  - Foreman (for prime contractor or subcontractors if subcontracted work activity)
  - Superintendent/PM
- Contractor review work to be performed. Identify critical success factors.
  - Sequence of work
  - Anticipated number of workers and equipment
  - Anticipated duration
- Review appropriate specification sections.
  - Are there questions about specification interpretation?
- Are special permits needed or agencies need to be contacted?
  - Are notices required to impacted people?
  - Is coordination needed with other contracts?
- Review submittals associated with the work, are they all approved?
- Review testing and inspection requirements.
- What do we test?
  - Frequency of testing?
  - Who schedules testing?
  - Who performs the testing?
  - Have testing facilities been approved?
  - How are test reports handled?
  - How do we respond to unsatisfactory test results?
- Who performs inspections?
  - Third party or MnDOT?
  - Who calls whom for inspections?
  - If inspector identifies a potential problem, who do they talk to?
- Do materials meet specifications?
  - Have they been tested?
  - Are they stored properly?
- Any question about the equipment being used?
  - Any safety certifications required for equipment or operators?
- Review safety requirements and plan.
  - Traffic management plan
  - Timing of any traffic pattern changes
  - Past experiences with safety and traffic
- Review quantity and change reporting.
- Summarize any clarifications or key outcomes as a result of this discussion:

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