

# RESOLVING CONSTRUCTION DISPUTES QUICKLY AND COST-EFFECTIVELY

Pamela Large-Moran Conflict Resolution Services (CRS) Atlantic  
Gus Richardson Alternative Dispute Resolution Services Inc.

## AGENDA

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FRIDAY, February 12, 2010

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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**