



Partnering and alliance contracts in times of financial crisis

Terra et Aqua, #113 December 2008

As the worldwide financial crisis spreads from one sector to another, anxiety amongst all public and private parties is on the rise. Budget gaps, failing financial institutions, plunging markets, plummeting house prices and escalating job loss – the daily news reports are dismal. In the midst of the gloom, however, investors, governments and industry continue to make a concerted effort to keep the economy moving. One sensible suggestion that has been put forth for combating recession and unemployment is the initiation of broad-scale infrastructure and energy projects: Roads, ports, airports, railways for instance. Also to be considered is the need for coastal protection owing to climate change, increased attention to energy sources which demand oil and gas exploration and offshore wind parks, or restructuring ports to stimulate trade.

Yet, an honest look at today's financial crisis shows without a doubt that both private investment and government funds are growing more limited and in some cases drying up entirely. To remedy rising costs, be it for raw materials, for time and cost overruns or for unnecessary litigation caused by contentious environmental disputes, the private dredging industry has long sought cooperative ways of managing these often high profile, high risk, long-term projects.

Traditional adversarial contracts, where profit is the prime motivator and clients and stakeholders are skeptical of contractors, just won't do anymore. Of course companies need to make a profit, but a project that is initiated in an atmosphere of distrust and perceived as having a winner and a loser is really a lose-lose situation. When parties put their energies into ways of outsmarting each other, the result is an inefficient use of intellectual and professional resources.

As Thomas Paine wrote, "These are the times that try men's souls". And for that reason, these are the times to seek working methods that encourage trust and cooperation. These are the times to move on from adversarial contracts to partnering, alliance contracts and public-private partnerships. When partnering parties apply their energy and intellects toward finding an alignment of interests, everyone benefits. Risks and responsibilities are equitably allocated from the start. Cooperation and common goals are the key.

A recent study on partnering, "Conceptual Model for Partnering in the Dredging Industry", examines these novel contractual constructions, evaluates their pros and cons, when they are most appropriate and what the advantages are for clients and

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contractors. Case studies in the Netherlands, at Wieringerrandmeer for saltmarshes, recreational and residential areas, and for the Betuweroute 1-2, part of a freight railway construction, demonstrate that sharing risk and responsibilities has resulted in better use of technical and financial resources. Another example is the coastal protection works at Pevensey Bay in the United Kingdom. As the climate changes, raising sea levels and eroding coastlines, not only coastal communities in the UK but also the hinterlands are endangered. A 25-year alliance contract between government and private industry has given all parties the incentive and time to find sustainable solutions, because long-term sustainable solutions demand long-term sustainable working relationships.

Partnering for sustainability

According to the United Nations' Brundtland Commission, sustainability is about "meeting the needs of the present without compromising the needs of future generations to meet their own needs". It is also defined as incorporating environmental and social considerations into a company's governance structure and as creating a management system in which contractor and client share responsibilities and risks to deliver the best possible product.

The private dredging industry has extended this last meaning of sustainability: Through partnering and alliance contracts, sustainability is not just about responsibilities and risks, but also about strengths and opportunities. The strengths of each party must be mutually recognised and respected, so that opportunities are created which maximise the expertise of each and minimise conflicts.

This may sound like a no-brainer. Work together. Seek common goals. Yet gaining acceptance for the concept of sustainability and partnering has been a slow slog, despite case studies which demonstrate that these kinds of contracts benefit all stakeholders. Still, now is the time for innovation. As the financial uncertainty spreads around the globe, daring to try new forms of contract may contribute to turning the tides of economic distress by building sustainable projects. The private dredging industry views infrastructure projects, which protect coastal areas and create new land for ports and commerce, for residences and recreation, as enduring contributions to sustainability. All the more reason to look at partnering as a means of communicating, collaborating and re-building, not only beaches, but also confidence and trust.

To read more about the above-mentioned study on partnering in the dredging industry and to learn more about recent applications of partnering and alliance contracts, please see the December 2008 issue of *Terra et Aqua* and the enclosure *Facts About Alliance Contracts* available at www.terra-et-aqua.com and www.iadc-dredging.com .

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The current issue is available online at www.terra-et-aqua.com. Photographs are available upon request. Back issues of Terra et Aqua to 1995 are also available at the website.

Terra et Aqua is a technical journal published quarterly in March, June, September and December for professionals and others interested in “maritime solutions for a changing world”. The infrastructure projects and the technologies presented aim to inform port authorities, developers, engineers, the offshore industry and government agencies about the state-of-the-art possibilities offered by dredging and maritime construction.

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