

**PARTNERING: EFFECTIVELY WORKING TOGETHER
TO MINIMIZE AND RESOLVE
ON-SITE DISPUTES**

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What Is Partnering?

Partnering is a concept that offers a new approach to the traditionally adversarial relationships of parties to a construction project. Partnering can be described as an "attitude" or "approach to doing business" that recognizes the value of mutual co-operation and trust to create harmonious, and possibly long-term, relationships to achieve the successful completion of one or more projects.

Partnering can also be described as follows:¹

Partnering is much more than a buzzword, a philosophy or an attitude. It is a structured management process that is effective on all sizes of construction projects to focus the attention of all the parties on problem resolution, without prolonged disputes or litigation. All experienced contractors realize that good working relationships are essential for successful, profitable projects. I am committed to the partnering process – it works!

The partnering concept emphasizes that there is a business need to change the old notion that in order for someone to win, somebody else has to lose.²

Partnering is based upon a fundamental principle that effective communication, advance planning, and co-operation between stakeholders can reduce or eliminate problems that might arise on a construction site. Partnering is a familiar concept to those individuals who were involved in the construction industry before marginal budgets, tight schedules, technically complex projects, multiple parties, and litigious attitudes predominated. Escalating litigation is expensive and counterproductive and it endangers everyone's efforts to produce quality projects on time and within budget.³

Partnering may be unfamiliar or uncomfortable to some individuals; it may require more than a "shift in attitude" to succeed. In extreme cases, a change in personnel may be required to ensure that teamwork, common sense and co-operation can be fostered.⁴ Individual personalities make or break a project; partnering is based

¹*Partnering: A Concept for Success* (The Associated General Contractors of America, September 1991) at 18, quoting Richard A. Lewis, vice-president, Granite Construction Company.

²"Partnering: Putting the Handshake Back in the Construction Process" *Constructor*, October 1991, at 26.

³*Supra* at 26.

⁴"Partnering: A Round of Prevention" *Constructor*, January 1991, at 31.

upon a philosophy that each individual's contribution to the project is critical to its success. Partnering is also based upon the concept that individual pride and the desire for excellence should be encouraged to maximize the efforts of all stakeholders who form the project "team."

The Canadian construction industry recognized partnering relatively recently.⁵ The concept is widely endorsed and in use in the U.S.⁶ as a means for parties to take control of costly disputes and to encourage mutual gain.⁷ Members of the Canadian construction industry may have misconceptions about partnering due to a lack of familiarity with the concept. For example, partnering does not change the legal obligations under the contract nor does it involve a rewriting of the contract. Partnering does not involve a sharing of risk or profit. Partnering is merely an attitude based upon good faith; it is not the legal relationship that we know as a "partnership."

What Are the Typical Stages of the Partnering Process?

A partnered relationship typically includes three stages:

A. The Pre-Workshop Stage

The objective of this stage is to develop commitment to the partnering concept among the stakeholders. The partnering consultants work with the principals of the stakeholders to determine their needs and to design the partnering workshop. Key employees may be interviewed or surveyed to identify issues for discussion during the subsequent stages.

⁵It is the author's observation that formal partnering efforts first occurred in western Canada in 1994, with the construction of the Ballantyne Pier. Since May 1994, the Greater Vancouver Regional District, the University of British Columbia, the Ministry of Transportation and Highways, and Centreville Construction Ltd. have introduced partnering to their projects. The Centreville project is the largest urban residential project in North America.

⁶Partnering was introduced to the U.S. construction industry about 1985. James H. Brown, "Partnering on Engineering Construction E/C Projects", pmnetwork, December 1993, at 32.

⁷*Partnering: A Concept for Success*, supra, note 1, at 1.

B. The Partnering Workshop

The key feature of this stage is a group workshop involving as many stakeholders and their key personnel as possible. The workshop is designed and facilitated by experienced partnering consultants. It should occur in a location free of distractions. The workshop is usually one or two days in duration and is designed to:

- (a) enhance specific communication and negotiation skills;
- (b) create a sense of team;
- (c) develop trust and personal relationships;
- (d) identify common project goals;
- (e) demonstrate commitment to the common project goals by signing an informal, team-generated Statement of Common Goals or Project Charter (see sample attached);
- (f) identify criteria for project success and develop plans to achieve the common project goals;
- (g) identify obstacles to achieving the common project goals and joint plans to overcome the obstacles;
- (h) raise issues that need to be addressed by the group;
- (i) increase the level of awareness concerning the causes of, approaches to, and costs of conflict;
- (j) design systems to manage conflict effectively when it arises;
- (k) develop plans to “roll down” the partnering concept to each person at the lower organizational levels to create and maintain commitment at every level.⁸

C. Post-Workshop Monitoring of the Relationship

During this stage, ongoing follow-up efforts are required from the team members, often in consultation with the partnering facilitators, to evaluate the relationship. Periodic mini-workshops, meetings, surveys, interviews, or neutral intervention may be required to renew commitments, identify and resolve issues, reinforce skills, and keep the team “on track” toward the partnering and project goals.

⁸“Partnering on Engineering Construction E/C Projects”, *supra*, note 6, at 32.

Follow-up activities focus on keeping the partnering spirit alive throughout the duration of the project. Upon completion, a celebration involving all workers and their family members may occur.

When Should Partnering be Used?

Partnering can be implemented for one project (a single project approach) or for a series of commercial activities (the Dupont model).⁹ The results are most rewarding when parties can anticipate that their mutual efforts will carry them through a long-term and complex series of contracts.

Partnering may be introduced at any stage of construction. The best results are achieved if partnering is introduced at the earliest stage possible. Our observations indicate that stakeholders are most receptive to new ideas and team building before they become entrenched in adversarial positions.

Some Canadian projects introduced partnering immediately after the contracts were let, at the foundation stage, when finishing trade contractors were brought on-site, and at a point of crisis when a project was partially complete. Introducing partnering during the middle of a project can refocus the group or assist the group to identify and resolve current disputes. A group in crisis must have realistic partnering expectations and take into consideration that parties may now be confrontational or adversarial.

Partnering should be used whenever a project might benefit from a collaborative, proactive approach to the day-to-day construction issues that might arise – this recommendation could apply to any project. Results in the U.S. suggest that systematic use of partnering is an approach adopted by some contractors or owners to achieve optimum results!¹⁰

What Does Partnering Offer?

Although the results of partnering are impressive, partnering is not a guarantee of performance, quality, or profit. Partnering is a

⁹B.J. Thompson, *Letter of the Law*, vol. 5, no. 4, December 1993 at 1.

¹⁰The U.S. Army Corps of Engineers experienced a steep drop in litigation on projects utilizing partnering. They indicate that the number of post-construction claims typically drops from hundreds of claims to zero claims as a result of partnering. "Partnering: Returning Common Sense to the Construction Job Site" *Constructor*, March 1993 at 20.

strategy for success. One extensive user of partnering states:¹¹

In over three years we have (1) virtually eliminated time growth, (2) substantially reduced cost growth, (3) experienced no new litigation, (4) reduced paperwork by 2/3, (5) gained new respect for our industry partners, and (6) are HAVING FUN!

Partnering data from the U.S. indicates that the benefits of partnering far outweigh the costs and effort.¹² The benefits listed below were perceived by the following percentage of individuals in existing partnering relationships:¹³

Improved quality	96%
Improved safety	90%
Less adversarial	85%
Improved resource planning	85%
Increased openness	83%
Fewer errors	82%
Increased trust	78%

Canadian research data is consistent with the foregoing U.S. results. A comparison of our 1994 Canadian pre-partnering workshop and post-partnering workshop data confirms that there is a significant increase in trust, co-operation, honesty, perceptions regarding negotiation and conflict resolution skills, respect, and willingness to use a collaborative or partnering approach in business after participants attended the partnering workshops.¹⁴

Our experience with partnering Canadian construction projects indicates that there is a prevailing perception among stakeholders that "I'm honest, trustworthy, or capable but the other people involved are not as honest, trustworthy, or capable."¹⁵ We perceive that the tan-

¹¹*Partnering: A Concept for Success*, note 1, at 18, quoting Colonel Charles E. Cowan, U.S. Army Corps of Engineers, Portland District.

¹²*Supra*, note 6, at 34.

¹³*Ibid.*

¹⁴Gail H. Forsythe's and B. Thompson's Canadian research data demonstrate an increase in the following participant responses. See Appendix survey results at the end of this paper, p. 152.

¹⁵G. Forsythe and B. Thompson: 1994 Pre-Partnering Workshop survey results of over 200 partnering participants consistently indicates that participants perceive themselves to be more honest, trustworthy or capable than the other stakeholders.

gible benefits of partnering, such as improved quality, safety, and fewer errors, are most likely to occur after a participant realizes that the other stakeholders have equivalent or higher expectations of themselves to be honest, trustworthy, or capable. This critical participant insight helps to build trust and respect for other team members.

In the U.S., owners, contractors, and consultants report a significant benefit from partnering – reduced exposure to litigation as a result of open communication and issue resolution strategies.¹⁶ The demonstrated increase in the conflict resolution satisfaction levels of Canadian partnering participants strongly suggests that partnering in the Canadian context can be a powerful tool to reduce the likelihood of costly litigation.¹⁷

If the Canadian partnering experience is consistent with the U.S. partnering experience, the following benefits are likely to occur in Canada as a result of partnering:¹⁸

- (a) lower risk of cost overruns due to better time and cost control;
- (b) greater potential to expedite decision making;
- (c) lower administrative costs and increased productivity due to less defensive posturing;
- (d) increased opportunities for innovation and value engineering;
- (e) minimized exposure to liability for document deficiencies;
- (f) potential to improve cash flow and to have financial success;
- (g) higher morale; and
- (h) improved public image.

¹⁶*Partnering: A Concept for Success*, note 1, at 3.

¹⁷See Appendix attached, at p. 152.

¹⁸*Ibid.* at 3.

How Can Partnering be Initiated?

Partnering may be referred to in the project solicitation advertisement and specifications to alert parties to the fact that the project will be partnered. Although partnering is normally voluntary, a willingness to participate in partnering can be made a criterion of bid selection. A slightly higher bid may be more attractive than a lower bid, if there is an indication of a willingness to commit to a partnered approach.

The first essential criterion required to initiate a successful partnering relationship is a philosophical *commitment* to the process from the senior management of the principal participants. It may be useful for senior management to have joint meetings, or a mini-partnering session, to ensure that a high level of enthusiasm and commitment to partnering exists. A partnering leader from each principal can be designated at this preliminary stage to work with the partnering consultant to design the workshop.

Once a philosophical commitment is secured, it must be supported by a commitment by management to ensure that resources are in place to support the partnering process and the relationship. Commitment may be demonstrated by an equitable division of the partnering costs among the principal parties. In some cases, it may be more suitable for one stakeholder to bear the partnering costs.

Partnering costs typically include the partnering consultants' fees for pre-workshop interviews or surveys, design of the workshop, preparation of materials, and delivery of the workshop. Other costs may include conference space, meals, administrative charges, employee salaries to attend the workshop, and any fees for follow-up work requested of the partnering consultants.

Partnering consultants may be requested to provide specific proposals describing their services, level of experience, and fees. A focus on high-quality service offered by a team of facilitators, extensive experience in Canadian construction issues, and conflict prevention plus strong recommendations from previous clients should assist owners to select appropriate partnering consultants. An emphasis on individual design requirements is highly recommended to maximize participant investments in time, energy, and resources.

How to Prepare for Partnering

Preparations for partnering require leadership from top management, who must assume the following responsibilities:

(1) *Educate Potential Participants*

Management must ensure that potential participants are educated about the partnering process and its benefits. Without advance information, and realistic expectations, participants may view partnering with suspicion, distrust, or disappointment.

The success of the partnering process depends upon a certain degree of candour among the participants. The partnering consultants may be severely hampered in their efforts to design the workshop if the participants provide self-serving or minimal information as a result of misconceptions about the partnering process.¹⁹

(2) *Support Participants by Making Resources Available*

Senior management must demonstrate their commitment to the process by attending and participating in the partnering workshop and follow-up sessions with the same degree of enthusiasm as is expected of employees. Without strong leadership, the partnering initiative is unlikely to succeed. Strong leadership includes: (1) taking steps to ensure that participants are relieved from performing their regular duties while participating in partnering meetings or during the partnering workshop; and (2) ensuring that partnering participants receive fair remuneration while engaged in partnering activities.

(3) *Recognize the Importance of Equity*

One of the key elements of a partnered relationship is a recognition by the team members that each team member's interests must be taken into account. Each participant must be encouraged to perceive that his or her ideas, as well as those of other participants, are equally important contributions to the partnering process. The strength of partnering arises when each "link in the chain" is supported by, and needed by, others. "Participatory leadership" is encouraged to optimize results. For example: The on-site management group may function in a more collaborative manner if open communication, involvement, and shared leadership are encouraged.²⁰

¹⁹For example: Partnering may be prompted by a sincere desire to be regarded as a proactive and innovative leader in the industry, but viewed as a sign of "trouble ahead" by individuals unfamiliar with the partnering process.

²⁰"Partnering: Putting the Handshake Back in the Construction Process", supra note 2 at 27.

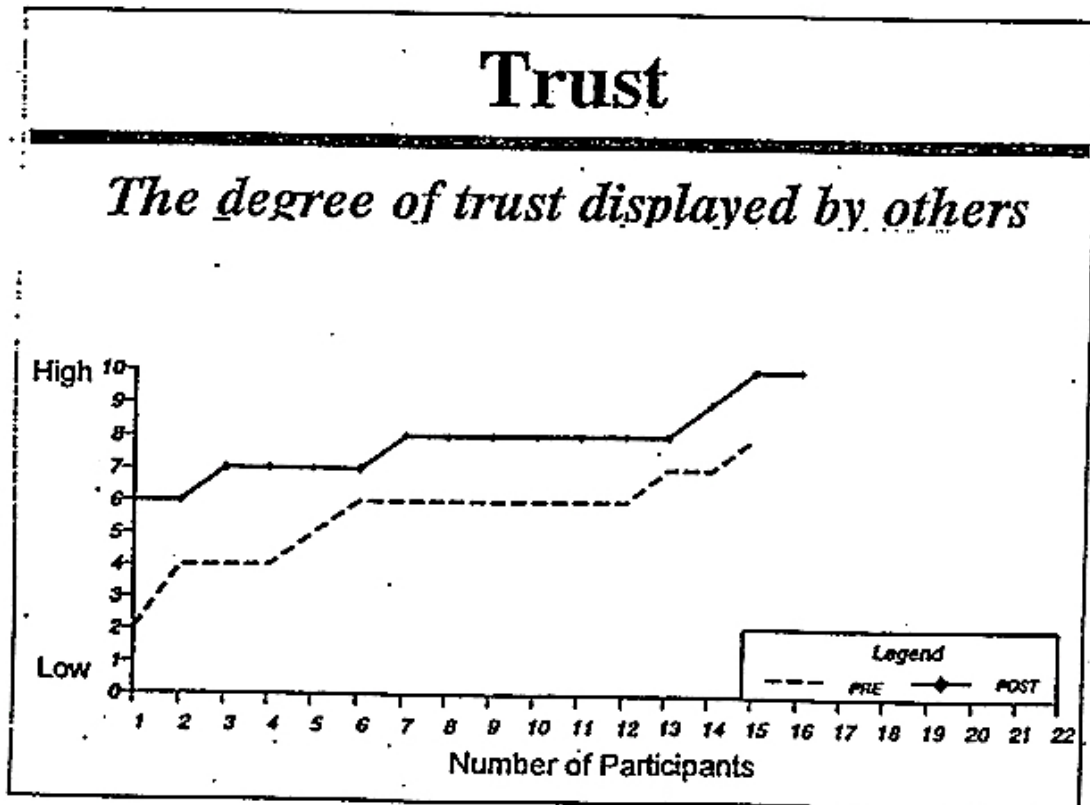
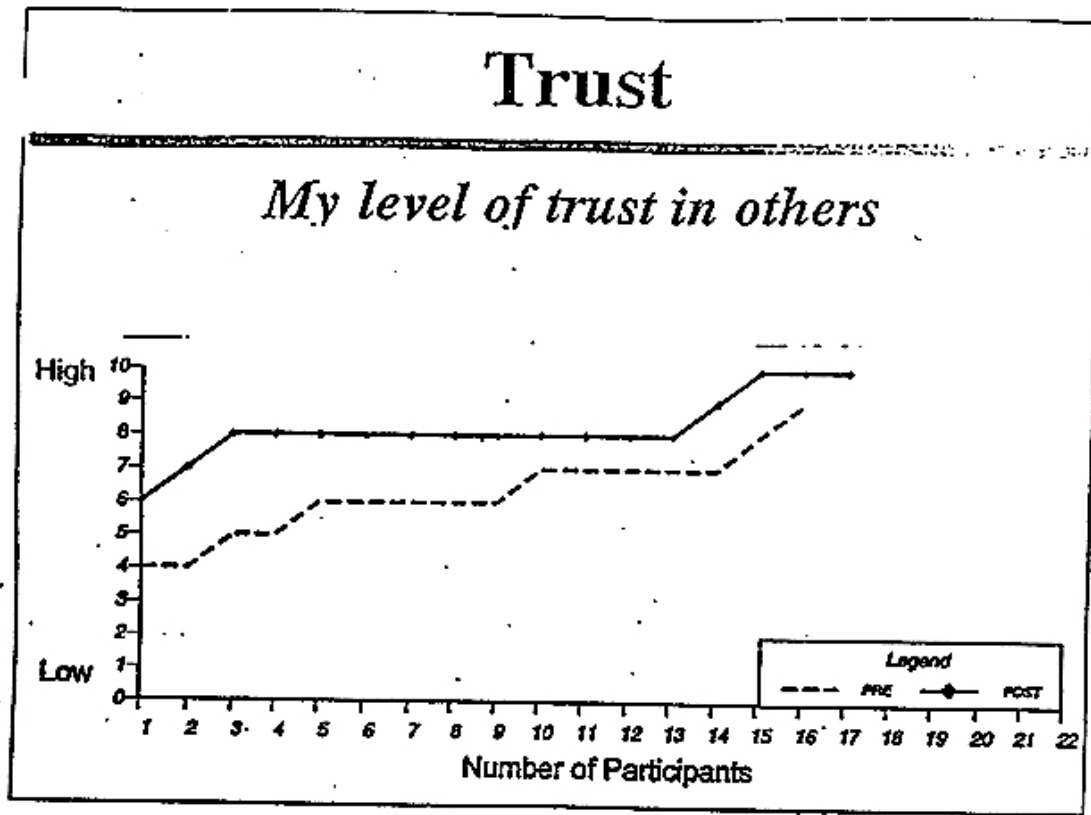
Conclusion

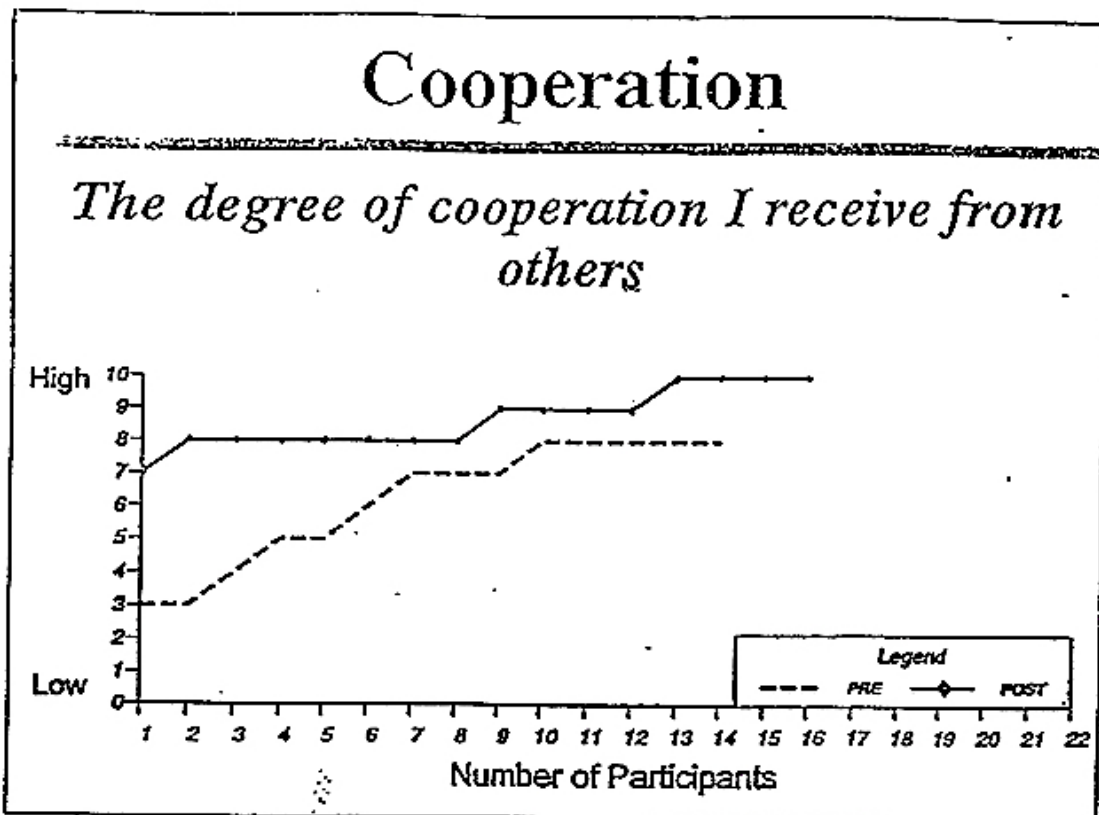
Partnering is a relatively new process being introduced to the Canadian construction industry. The U.S. results are compelling evidence of how teamwork, trust, and respect for the individual can translate into cost savings, increased profit, and project success. The construction industry can play a leading role in generating opportunities and paying lasting dividends throughout the economy.²¹ The partnering process provides a mechanism for the Canadian construction industry to join forces and promote a new business strategy that empowers stakeholders to expect and to give their best to achieve mutual gains. Partnering is an old-fashioned concept within a modern systematized structure whose time has come.

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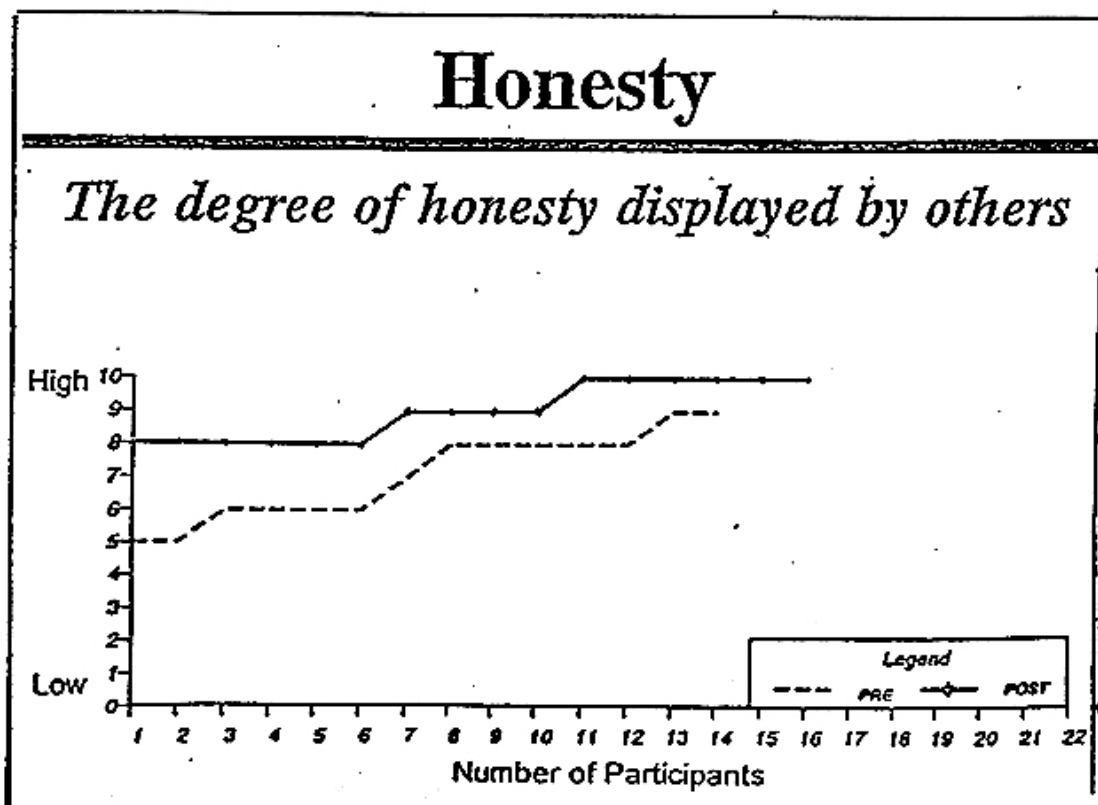
²¹Byron L. Farrell, "Partnering Beyond the Jobsite, The President's Message" *Constructor*, November 1993 at 5.

APPENDIX





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