



United States Department of Labor  
Occupational Safety & Health  
Administration

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The Kansas Department of Labor  
Division of Industrial Safety and Health

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McCarthy Building Companies, Inc.

For the Nelson Wastewater Treatment Facility Improvements

Partnership Agreement

January 11, 2024

4800 Nall Avenue

Mission, KS 66202

## **I. Identification of Partners**

The Partners in this agreement will include the following:

- a. Occupational Safety and Health Administration, OSHA's Wichita, KS Area Office
- b. The Kansas Department of Labor, Division of Industrial Safety and Health
- c. McCarthy Building Companies, Inc. – Construction Manager

## **II. Purpose/Scope**

- a. The Wichita Area Office of the Occupational Safety and Health Administration (OSHA); The Kansas Department of Labor, Division of Industrial Safety and Health and McCarthy Building Companies Inc.; recognize the need for a safe and healthy jobsite. The goal of this partnership agreement is to help ensure that a safe work environment will be provided for all employees throughout the construction of the Nelson Wastewater Treatment Facility (WWTF) Improvement project.
- b. The (WWTF) Improvements project is Johnson County's oldest treatment facility, dating back to the 1940s. The new Nelson WWTF will feature newer treatment technologies and the addition of provisions for expanded wet weather treatment at the most cost-effective way to meet future Environmental Protection Agency (EPA) and Kansas Department of Health and Environment (KDHE) discharge regulations. The current WWTF hosts multiple collection systems that will be combined into one upgraded and more reliable combined plant servicing all the surrounding communities.
- c. With the inability to divert flows offsite, operations will be continued throughout construction through the use of multiple construction phases closely coordinated with Johnson County. This will allow the entire plant to be replaced while continuing to treat the current wastewater flows throughout the 40+ acre site.
- d. The enabling offsite Fore Main work started in October of 2022 with some additional site prep work beginning in March of 2023 and the bulk of the construction anticipated to start in September of 2023. Due to extensive phased construction, substantial completion is scheduled for March 2029 and final completion for 2030 with multiple interim completion milestones between 2025 and 2028.
- e. This partnership is designed to address potential construction hazards at this worksite, and to promote and recognize contractors on site that have demonstrated an effective safety and health program.
- f. Specifications and assignments within this partnership document do not relieve the contractors from or lessen their safety and health responsibilities, nor change any contractual obligations between McCarthy or any of McCarthy's subcontractor(s), nor does it lessen

any/all affirmative defenses, legal rights, or due process afforded contractors with respect to Agency enforcement action.

### III. Goals/Strategies

OSHA has identified the top four causes of fatalities in construction. These are falls, struck by equipment or machinery, electrocution, and caught-in or between equipment or materials. The overall goal for this Partnership Agreement is to minimize mishaps, injuries, and illnesses on the project and experience zero fatalities.

Goals	Strategies	Performance Measures
Reduce the total number of injury and illness cases, thereby providing a safer and healthier work environment for workers at the project.	Review the OSHA 300 data of all project contractors.	Total Case Incident Rate (TCIR)
Reduce DART rate by 3% annually.	Develop and manage a comprehensive Site-Specific Safety Plan and have subcontractor buy in on this plan as well as have Site Specific Safety Plans of their own	Calculate: Days Away, Restricted or Transferred (DART) Review subcontractor Site Specific Safety Plans
Zero Fatalities	Partners will meet quarterly to review industry and illness statistics and work together to resolve workplace safety and health issues and reduce injuries and illnesses.	A comparison of actual project injury and illness data to the baseline, and most current published BLS Data for NAICS 23 will occur annually. Note: The baseline rates for the partnership are 2.5, 1.6, and 1.1, respectively as established by 2021 BLS data for NAICS 23
Conduct Job-Site Analyses	Staff to engage in weekly safety reviews as well as Task Hazard Analysis (THA) involvement with crews in the field	Track safety reviews and Task Hazard Analysis (THA) process and discuss report, findings, and corrective actions (if any) at weekly staff meetings

Goals	Strategies	Performance Measures
Hazard Prevention and Control – Implement innovative strategies to eliminate serious accidents, including the four primary construction hazards (falls, struck-by, caught in or between, and electrical).	Team to engage in safety committee(s) at different levels to positively influence the project and foster safety learning and development.	Review safety committee findings at weekly meetings on site, as well as review at quarterly partnership meetings. Document safety items noted during site walks
Provide for general safety and health and job/task- specific hazard training.	Utilize orientation process, weekly safety meetings, New Employee Training (NET) program as well as other trainings developed for the job	Track training and review at quarterly partnership meetings
Provide for worker involvement.	Provide worker involvement/participation in: Weekly site safety meetings; Site safety audits; Task Hazard Analyses (THA); and OSHA initiatives, including the National Fall Prevention Stand-down, Safe and Sound Week, and Trench Safety Week	Weekly safety meeting attendance, participation (encourage questions and input), Task Hazard Analysis (THA) reviews weekly with staff/craft, team participation in Safety Week, National Fall Protection Stand Down, etc. Positive reinforcement for craft to be identified, tracked, and recognized

**Program Implementation Strategies:**

McCarthy Building Inc. requires all contractors on the Nelson WWTF Improvements Project to comply with Items a through q below.

- a. Develop and maintain rigorous project safety specifications for use in all contracts.
- b. Require that all contractors develop pre-construction hazard assessments on all projects and document existing conditions and proposed control measures.
- c. Conduct initial (safety kick-off) meeting with McCarthy project management, McCarthy project safety manager, and McCarthy project superintendent(s). McCarthy will require all contractors to develop a project safety management plan prior to the start of their work on the Nelson WWTF Improvements.
- d. Require that each superintendent and all McCarthy field managers working on the Nelson WWTF Improvements will have completed a thirty (30) hour construction training course.
- e. Each of the weekly contractor coordination meetings will dedicate the first portion of the meeting to discuss project safety, and such meetings will be documented.

- f. Require that all tiered contractors provide an annual, quarterly, weekly, or daily inspection of equipment as appropriate. Record(s) of inspections will be documented and maintained at the project sites. Require that all equipment capable of amputations be adequately guarded.
- g. Require that all workers on the project are provided with a site-specific safety orientation prior to starting work. The orientation will include information on employee workplace rights and responsibilities. Ensure that a competent person will be provided for all tasks as required by OSHA standards and regulations.
- h. Require that trench plans, fall protection plans, emergency response plans, lift plans, and daily job hazard analysis be developed, reviewed, and documented prior to starting work as it relates to the contractor's scope of work.
- i. Require that site safety inspections are conducted by McCarthy's Project Safety Manager or another designated individual. All inspection findings and corrective actions will be documented, tracked, and communicated to all levels of workers on the project.
- j. Provide resources to conduct OSHA 10/30-hour outreach, Job Hazard Analysis (JHA) development, incident investigation, and other general construction safety training. Training will be provided periodically to project workers and management. Safety and health training will be conducted in Spanish as the need arises.
- k. Require and ensure that all tiered contractors have effective drug/alcohol testing and return to work programs.
- l. Project safety performance will be tracked and evaluated. "Lessons Learned" information will be developed and distributed to other McCarthy managed projects throughout Region VII.
- m. Require that health-related issues arising during the construction project are adequately addressed by the creating contractor with participation by Project Safety Manager. An effective monitoring program will be implemented to assess exposures to health hazards. Control measures will be implemented when exposure exceeds permissible exposure limits.
- n. Provide recognition to contractors that demonstrate the ability to provide a safe working environment.
- o. Require any contractor using tower or mobile cranes to demonstrate proper working conditions through inspections conducted by qualified crane inspectors prior to use. Documentation of inspections will be maintained at the project.
- p. Require that all crane operators are competent and certified to operate the specific crane in use. Documentation to demonstrate competency will be provided and maintained at the project site.
- q. Require that all critical lifts be identified, and a plan to safely perform be developed and implemented prior to the lift.

#### **IV. Safety and Health Management System**

McCarthy Building Inc. will implement a comprehensive safety and health program that includes management leadership and worker involvement, worksite analysis, hazard prevention and control, and safety and health training.

##### **Management Leadership**

- a. Clearly state a worksite policy on safe and healthful work and working conditions, so that all personnel with responsibility at the site fully understand the priority and importance of safety and health protection in the organization.
- b. Establish and communicate a clear goal for the safety and health program and define objectives for meeting that goal so that all members of the organization understand the results desired and measures planned for achieving them.
- c. Provide visible top management involvement in implementing the program so that all employees understand management's commitment is serious.
- d. Assign and communicate responsibility for all aspects of the program so that managers, supervisors, and employees in all parts of the organization know what performance is expected of them.
- e. Have the authority to enforce safety rules and regulations. This authority will include provisions to hold subcontractors and employees accountable and, if necessary, remove contractor employees from the job site.
- f. Provide adequate authority and resources to responsible parties so that assigned responsibilities can be met.
- g. Hold managers, supervisors, and employees accountable for meeting their responsibilities so that essential tasks will be performed.
- h. Review program operations at least annually to evaluate their success in meeting the goals and objectives so that deficiencies can be identified and the program and/or the objectives can be revised when they do not meet the goal of effective safety and health protection.

##### **Worksite Analysis**

- a. Conduct periodic workplace inspections/audits for the purpose of identifying and correcting safety and health hazards. Fall, electrical, struck by, and caught in or between hazards will be documented and corrected.
- b. Inspections/audits will be conducted as frequently as deemed necessary by the company, but in no case less than once every month. The company will utilize the services of the third party,

provided by the client under the Owner Controlled Insurance Program, to conduct monthly site safety inspections.

- c. Analyze any new task, processes, materials, and equipment.
- d. Perform routine job hazards analyses.
- e. Provide a reliable system for employees to notify management personnel about conditions that appear hazardous and to receive timely and appropriate responses and encourage employees to use the system without fear of reprisal. This system utilizes employee insight and experience in safety and health protection and allows employee concerns to be addressed.
- f. Investigate accidents and "near miss" incidents so that their causes and means of prevention can be identified.
- g. Maintain records of recordable injuries and illnesses as required by OSHA.
- h. Analyze injury and illness trends to identify work practice improvements or material modification necessary to prevent accidents.

### **Hazard Prevention and Control**

- a. Establish, at the earliest time, safe work practices and procedures that are understood and followed by all affected parties. Understanding and compliance are a result of training, positive reinforcement, correction of unsafe performance, and, if necessary, enforcement through a clearly communicated disciplinary system.
- b. Provide personal protective equipment.
- c. Maintain the facility and equipment to prevent equipment breakdowns.
- d. Plan and prepare for emergencies, and conduct training and emergency drills as needed, to ensure that proper responses to emergencies will be "second nature" for all persons involved.
- e. Establish a medical program that includes first aid onsite, as well as nearby physician and emergency medical care, to ensure proper treatment of any injury or illness that occurs.

### **Safety and Health Training**

- a. Instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury.
- b. Train workers on fall protection, prevention of electrocutions, caught in or between, and struck-by accidents.
- c. Ensure select personnel are trained in basic first aid and CPR.

- d. Train personnel in hazard communications.
- e. Make safety data sheets (SDS's) available to any requesting employee.
- f. Train workers in any other aspects that will enable them to do their jobs safely.

## **V. Worker Involvement**

Worker involvement is an essential component of an affective safety and health program.

- a. Arrange for and encourage employee involvement in the structure and operation of the program and in decisions that affect their safety and health so that they will commit their insight and energy to achieving the safety and health program's goal and objectives.
- b. Ensure workers are involved in the safety and health program through participation in activities such as safety walkthroughs, weekly site safety meetings, site safety audits, task hazard analyses, incident investigations (as appropriate), and OSHA initiatives, including the National Fall Prevention Stand-down, Safe and Sound Week, and Trench Safety Week. Foremen and General foreman will also be trained in first aid/AED training.

## **VI. Performance Measures**

The effectiveness of this partnership agreement will be accessed quarterly, annually, and at the end of the project through the following performance measurements.

- a. OSHA recordable injuries and illnesses to determine the total case incident rate (TCIR) and the days away, restricted, transferred (DART) for the project site and compare to the most recently published BLS rate for NAICS 23.
- b. The applicable number of employers, supervisors, and employees trained. Records will also be maintained for those that receive 30-hour and 10- hour OSHA training. All contractors will be required to conduct and document weekly safety toolbox talks.
- c. The number of safety and health programs instituted.
- d. Outcome measures will be gathered on a monthly basis and will incorporate data to analyze the number of hours worked, number of injuries, illnesses, fatalities, and serious hazards found as a result of onsite audits, job site inspections, and OSHA inspection activity.
- e. Job site inspections will indicate the number of hazards observed and corrected by McCarthy and each affected contractor.
- f. Near miss incidents and first aid cases will be tracked.

## **VII. Annual Evaluation**



The partnership will be evaluated on an annual basis using the Strategic Partnership Annual Evaluation Format measurement system as specified in Appendix C of CSP 03-02-003, OSHA Strategic Partnership Program for Worker Safety and Health Directive.

McCarthy Building Inc. is responsible for gathering the data to evaluate and track the overall results and success of the partnership program.

The OSP evaluation committee is responsible for writing and submitting the annual evaluation report. See section X for committee identification.

### **VIII. OSHA Verifications**

OSHA will verify compliance with this agreement through the following types of activity.

- a. Off-site verifications may be performed by a designated OSHA Wichita Area Office staff member, and by a representative of the Kansas Department of Labor, Division of Industrial Safety and Health. The off-site verifications will assist with maintaining the effectiveness of the partnership without entering the partner's worksite and typically will include review of injury and illness data, the results of jobsite self-inspections, and other data and reports.
- b. Quarterly on-site non-enforcement verifications are conducted by a designated OSHA Wichita office staff member, a representative of the Kansas Department of Labor, Division of Industrial Safety and Health, and the designated representative from the City of Mission to review and discuss the progress of the partnership. The review will typically include a presentation of site safety and health program status and activities by McCarthy, followed by a walkthrough of the worksite. During these visits, serious hazards will be identified, and the implementation of safety and health management systems will be discussed. All serious hazards identified will be corrected immediately. If management refuses to correct the hazards, a referral will be made for an enforcement inspection.

### **IX. Incentives**

- a. Citations issued to site contractors shall include maximum penalty reduction for good faith, as prescribed by CPL 02-00-160 - Field Operations Manual (FOM), dated August 2, 2016, or the most current revision.
- b. Priority utilization of "phone and fax" for safety and health complaints in lieu of on-site inspections. The scope of the phone & fax investigation process may not be expanded beyond what is allowed by reference in the Field Operations Manual (FOM).
- c. Other-than-serious violations observed and immediately abated during an OSHA visit shall not be cited.
- d. McCarthy and contractors may contact the Wichita Area OSHA Office for clarification of safety and health related issues.

- e. Create a working relationship between OSHA, McCarthy, and contractors that enhances employee safety and health specific to this project and nationally through education and the sharing of best practices.

## **X. OSP Management and Operation**

An OSP evaluation committee made up of the signatories to the agreement, or their designated appointees will review contractor compliance and involvement in the partnership; analyze jobsite audits; make partnership improvements; and evaluate partnership modifications, achievements, and success.

## **XI. Worker and Employer Rights**

This partnership does not preclude employees and/or employers from exercising any right provided under the OSH Act, nor does it abrogate any responsibility to comply with rules and regulations adopted pursuant to the Act.

## **XII. OSP Term**

This agreement shall be in effect until completion of the major construction activities. Should OSHA or McCarthy Building Inc. elect to withdraw from participation in the partnership, prior notification in writing of the intent to terminate shall be provided to the other participant. A thirty (30) day written notice is required prior to termination, during which the parties have an opportunity to resolve any issues to avoid termination. Termination by either Party shall constitute a cancellation of the partnership. In the event of a termination, each party agrees that it shall not, directly or indirectly, contact the media regarding the termination, and it shall not discuss with the media any issues or matters regarding the termination. OSHA and McCarthy Building Inc. are the only entities that can terminate this partnership.

## **XIII. Signatures**

Based upon a mutual interest to protect construction workers, the parties below agree to the above terms on the McCarthy / OSHA Partnering Agreement for the Nelson WWTF Improvements in Mission, KS.

The date of this OSHA Wichita Area Office/McCarthy Partnership Agreement is January 11, 2024.

## Principal Participants:

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Todd Underwood  
Area Director  
Occupational Safety and Health Administration  
Wichita Area Office

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Travis Nestor  
Vice President Regional Safety  
McCarthy Building Companies, Inc.

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RJ Muha  
Project Superintendent  
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Sagrado Sparks  
Vice President, Operations  
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Chad Wolfe  
Project Director  
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Robert Laufer  
Sr. Project Safety Manager  
McCarthy Building Companies, Inc.

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Juan Maya  
Project Superintendent  
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Cale George  
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Alex Tinnell  
Project Safety Coordinator  
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