



**United States Department of Labor  
Occupational Safety & Health  
Administration  
&  
The Kansas Department of Labor  
Division of Industrial Safety and Health  
&  
McCarthy Building Inc.**

**For the Tomahawk Creek Wastewater Treatment  
Facility**

**Partnership Agreement  
July 11th  
2019**

**10701 Lee Blvd,  
Leewood, KS 66211**

## **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 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 Inc. recognize the need for a safe and healthy jobsite. The goal of this partnership agreement is to help ensure that the construction of the Tomahawk Creek Wastewater Treatment Facility (WWTF) will provide a safe work environment for all employees.
- b. The Tomahawk Creek WWTF Expansion is located on a 60-acre site in Leawood, Kansas; the expansion project will provide much improvement and efficiency for a facility originally constructed in 1955. The expansion project helps pave the way for the most cost-effective, long-term solution for the plant's customers while improving water quality and preserving a high quality of life. Spring of 2022 is the scheduled project completion date.
- c. This partnership is designed to not only address hazards within the construction industry, but also to promote and recognize jobsites that have a demonstrated an effective safety and health program.
- d. 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
<p>Reduce the total number of injury and illness cases, thereby providing a safer and healthier work environment for workers at the project.</p> <p>Reduce DART rate by 3% annually.</p> <p>Zero Fatalities</p>	<p>Review the OSHA 300 data of all project contractors.</p> <p>Calculate the projects Days Away From Work, Restricted, or Job Transfer (DART) rate.</p> <p>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.</p>	<p>The partnership will compare site:</p> <p>Total Case Incident Rate (TCIR)</p> <p>Days Away, Restricted or Transferred (DART) Rate;</p> <p>Days Away From Work (DAFW) Rate.</p> <p>A comparison of actual project injury and illness data to the baseline, and most current published BLS Data for NAICS 23 will occur annually.</p> <p><b><i>Note: The baseline rates for the partnership are 3.1, 1.8, and 1.2, respectively as established by 2017 BLS data for NAICS 23</i></b></p>
<p>Provide for Management Commitment and Employee Participation.</p> <p>Develop a construction management / contractor / OSHA relationship that will encourage involvement of all Tomahawk jobsite contractors to improve safety and health performance.</p>	<p>Require all contractors to develop and implement a written safety and health program that is specific to the Tomahawk jobsite.</p>	<p>Track and verify the number of contractors who have created safety plans that are specific to the contractor's work on the project.</p>

Goals	Strategies	Performance Measures
Conduct Job-Site Analyses	<p>Identify hazards in a timely manner.</p> <p>Perform initial task hazard analyses and update these analyses as project advances.</p>	<p>Track the total number of hazards identified vs. those identified by workers to measure employee involvement in hazard recognition and correction.</p> <p>Track the number of job-site and task hazard analyses and employee involvement in the analyses.</p>
Hazard Prevention and Control – Implement innovative strategies to eliminate serious accidents, including the four primary construction hazards (falls, struck-by, caught in, and electrical).	Implement and enforce an ongoing site safety audit program (including daily observations and weekly group site walks).	<p>Document the number of site safety audits;</p> <p>Document the number of hazards identified during site safety audits;</p> <p>Document the number of hazards and abated during site safety audits; and</p> <p>Document and track all injuries and illnesses, including near misses.</p>
Provide for general safety and health and job/task-specific hazard training.	<p>Provide all employees site specific safety orientation;</p> <p>Require 10-hour OSHA training for employees;</p> <p>Require 30-hour OSHA training for Superintendents; and</p> <p>Provide all employees with weekly tool box talks.</p>	<p>Document the number of employees trained and the number of training hours received.</p> <p><i>Note: Include orientation, tool box talks, and 10 &amp; 30-hour courses.</i></p>

<b>Goals</b>	<b>Strategies</b>	<b>Performance Measures</b>
Provide for worker involvement.	Provide worker involvement/participation in:  Weekly site safety meetings;  Site safety audits;  Task Hazard Analyses; and  OSHA initiatives, including the National Fall Prevention Stand-down and Safe and Sound Week.	Document the number of:  Weekly site safety meetings;  Site safety audits;  Task Hazard Analyses; and  Employees and employers participating in the OSHA initiatives such as but not limited to the Fall Prevention Stand-down and Safe and Sound Week event.

## **Program Implementation Strategies:**

McCarthy Building Inc. requires all contractors on the Tomahawk Creek 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 Tomahawk Creek WWTF.
- d. Require that each superintendent and all McCarthy field managers working on the Tomahawk Creek WWTF 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 discussing 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 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 daily site safety inspections are conducted by McCarthy's Project Safety Manager or other 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 course of 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 exposures exceed 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. State clearly 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 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 modifications 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 reduce the risk 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-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 (SDSs) 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 and Safe and Sound Week

## **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 through the use of 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 the Compliance Assistance Specialist or other designated OSHA personnel as desired by either party to this agreement. 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, jobsite inspections, and other data and reports.
- b. Quarterly on-site non-enforcement verifications are conducted by the OSHA Compliance Assistance Specialist or other designated OSHA personnel, and a representative of the Kansas Department of Labor, Division of Industrial Safety and Health, 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.
- c. A minimum of one on-site enforcement inspection shall be performed annually for the term of the partnership and will follow the "Focused Inspection" protocol {Memorandum from James W. Stanley, "Guidance to Compliance Officers for Focused Inspections in the Construction Industry", dated August 22, 1994 (Revision 2 issued September 20, 1995 and incorporated herein)} addressing hazards related to falls, struck by equipment or machinery, caught-in or between, and electrical hazards. Inspections conducted in response to complaints, Local and/or National Emphasis Programs (LEP/NEP), or referrals will qualify as the verification inspection if, in addition to addressing the complaint/LEP/NEP/referral item(s), the compliance officer completes the focused inspection protocol for the worksite.

McCarthy Building Inc. will allow OSHA access to the worksite during inspection activities without requiring a warrant.

OSHA will continue to investigate fatalities and catastrophes should they occur at the jobsite as well as alleged "imminent" danger situations. Any complaints, referrals, or hospitalizations received will be handled in accordance with OSHA Instruction CPL 02-00-160, Field Operations Manual, Chapter 9. If deemed appropriate by the area office complaints, referrals and hospitalizations will be handled via phone and e-mail.

## **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 designated signatories to the agreement 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 Tomahawk Creek Wastewater Treatment Facility in Leawood, KS.

The date of this OSHA Wichita Area Office/McCarthy Partnership Agreement is \_\_\_\_\_, 2019.

Principal Participants:

\_\_\_\_\_  
**Ryan Hodge**  
**Area Director**  
**Occupational Safety and Health Administration**  
**Wichita Area Office**

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**Robert Laufer**  
**Project Safety Manager**  
**McCarthy**

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**Walter Eldridge**  
**Project Director**  
**McCarthy**

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**Steve Miller**  
**Safety Director**  
**McCarthy**

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**James Peterson**  
**Project Manager**  
**McCarthy**

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**Matthew Dierking**  
**Project Safety Manager**  
**McCarthy**

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**Mike Wigness**  
**Project Superintendent**  
**McCarthy**

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**Allen Vinyard**  
**Consultation Project Manager**  
**Kansas Department of Labor**  
**Division of Industrial Safety and Health**