

OSHA STRATEGIC PARTNERSHIP AGREEMENT

BETWEEN

THE OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION (OSHA)

HOUSTON NORTH AREA OFFICE

&

McCARTHY BUILDING COMPANIES

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I. IDENTIFICATION OF PARTNERS

A. Background

To facilitate OSHA's goal of reducing occupational fatalities, injuries, and illnesses within the construction industry, OSHA and McCarthy Building Companies (McCarthy), have agreed to enter into a cooperative partnership agreement for the Margaritaville project. The Margaritaville project is located in Conroe, TX. This partnership will help ensure that the construction projects are utilizing an effective and systematic safety management approach that emphasizes continuous improvement.

This partnership is designed to address the hazards within the construction industry, and to promote and recognize jobsites controlled and managed by McCarthy Building Companies that have demonstrated an effective safety and health management system. The partnership agreement will serve to establish a cooperative effort in ensuring a safe worksite and maintaining an open line of communication between OSHA, McCarthy Building Companies, and their contractors. The partnership is consistent with OSHA's efforts to better use their resources, encourage safety management systems, and increase participation by construction contractors who utilize effective safety processes.

B. Partners

- Occupational Safety and Health Administration (OSHA)
- McCarthy Building Companies (McCarthy)

II. PURPOSE/SCOPE

This agreement was developed jointly by OSHA and McCarthy. The common objective and goal of the partnership is to provide a safe and healthful environment for workers involved in the construction industry through increased training, implementation of best work practices, improved safety and health programs, and compliance with applicable OSHA standards and regulations.

By focusing its' efforts, skills, knowledge, and resources, OSHA and McCarthy expect to reduce exposure to hazards and serious injuries by preventing accidents during all construction activities at the Margaritaville project site.

According to Bureau of Labor Statistics, the construction industry has a higher fatality rate compared with the manufacturing industry. The hazards associated with the construction industry are well documented. OSHA has identified the top four causes of fatalities: falls, struck by equipment or machinery, electrocution, and caught in or between equipment. OSHA has devoted resources to these and other activities in the construction industry. The goal of this partnership agreement is to work with McCarthy to establish effective safety management systems and best work practices to achieve self-compliance at the Margaritaville project site.

GOALS AND STRATEGIES

The overall goal of the partnership is to create a relationship that focuses on preventing fatalities, controlling or eliminating serious hazards, and improving safety management systems.

A. Outcomes

The targeted outcome of this Partnership will be to promote a positive safety culture for all contractors working on a McCarthy managed project through the following means:

1. Contractor(s) development of a model construction safety and health management system that other organizations can use and share.
2. Increasing communication and mutual respect among government, state institutions, and the construction contractor community.
3. Promoting use of available OSHA resources to all project contractors where assistance and oversight are needed.
4. Mentoring and providing training opportunities for contractors and their employees.
5. Reduction of injury/illness rates, insurance costs, and compensation claims.

B. Goals

1. Increase the number of employees, employers, and supervisors that have completed relevant safety training.
2. Increase the number of safety and health programs and best safety practices implemented among contractors. Raise safety awareness among all contractors.
3. Reduce and prevent serious accidents, and control or eliminate serious workplace hazards through pre-construction hazard assessments and proactive safety process management.

C. Strategies

1. Develop and maintain rigorous project safety specifications for use in all contracts.
2. Require that all contractors develop pre-construction hazard assessments on all projects and document existing conditions and proposed control measures.
3. Conduct initial (safety kick-off) meeting with McCarthy project management, McCarthy safety representative(s), 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 Margaritaville project.

4. Require that each superintendent and all McCarthy field managers working on the Margaritaville project will have completed a thirty (30) hour construction training course.
5. Each of the Weekly contractor coordination meetings will dedicate the first portion of the meeting to discussing project safety, and will be documented.
6. 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.
7. Require that all workers on the project are provided a site-specific safety orientation prior to starting work. The orientation will include providing information on employee workplace rights and responsibilities. Ensure that a competent person will be provided for all tasks required by OSHA standards and regulations.
8. 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.
9. Require that daily site safety inspections are conducted by the General Contractor's onsite Safety Professional or other designated individual. All inspection findings and corrective actions will be documented, tracked and communicated to all levels of workers on the project.
10. Provide resources to conduct OSHA 10/30 hour outreach, THA development, incident investigation, and other general construction safety training. Training will be provided periodically to project workers, management, and campus representatives. Safety and health training will be conducted in Spanish as the need arises.
11. Require and insure that all tiered contractors have an aggressive drug/alcohol testing and return to work programs.
12. Project safety performance will be tracked and evaluated. "Lessons Learned" information will be developed and distributed to other McCarthy managed projects throughout the state.
13. Require that health-related issues arising during the course of the construction project are adequately addressed by the creating contractor with participation by

McCarthy's Safety Professional. An effective monitoring program will be implemented to assess exposures to health hazards. Control measures will be implemented when exposures exceed permissible exposure limits.

14. Provide award/recognition to contractors that demonstrate the ability to provide a safe working environment.
15. 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.
16. 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.
17. Require that all critical lifts be identified and a plan to safely perform be developed and implemented prior to the lift.

III. MEASUREMENTS

- A. The measurement system will use OSHA recordable injuries and illnesses to determine the total lost workday injury and illness rate for the project site and compare to the average for the construction industry
- B. Activity measures shall include the applicable number of employers, supervisors and employees trained. Records will be maintained of the 30-hour and 10- hour OSHA training certifications. All contractors will be required to conduct weekly safety toolbox talks.
- C. Intermediate measures will include 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.
- G. Measurement factors will be compiled monthly and at the end of the project by McCarthy and discussed at the quarterly partnership meeting.
- H. The initial baseline will be reviewed annually to address goals.

IV. 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 Companies is responsible to gather the data to evaluate and track the overall results and success of the partnership program. This data will be shared with OSHA.

OSHA is responsible to conduct, write, and submit the annual evaluation report.

V. INCENTIVES

Participant benefits from OSHA may include:

- A. Maximum penalty reductions for all tiered contractors working on any partnership jobsite as allowed in the OSHA Field Operations Manual (FOM) for good faith and history. When calculating the initial penalty reduction, OSHA will grant the 25% reduction provided in the OSHA FOM where the employer has taken specific, significant steps beyond those provided in the OSHA FOM to achieve a high level of employee protection. This additional reduction will not apply to high gravity serious, willful, failure to abate or repeat citations.
- B. Priority consideration for compliance and offsite technical assistance (phone calls/faxes) by OSHA as resources allow.
- C. Other incentives may include a reduction in insurance premiums, workers' compensation claims, and medical costs.

VI. OSHA INSPECTIONS AND VERIFICATION

- A. OSHA will conduct annual, on-site enforcement verification visits at each participating partnership site to assess the site's progress towards the goals of the partnership agreement.
- B. The verification will be tailored to address the resources of the participating OSHA Area Office as well as the activities at the participating site.
- C. In addition to the verification of the progress made towards goals, the visit will also verify whether the site is operating an effective Safety and Health Management System that adequately protects its' employees. The OSHA worksite observations should be sufficient to confirm the partner's worksite is operating a safety and health management system that adequately ensures the protection of employees.

- D. Participants agree in advance, prior to the onsite verification, that they will correct any serious hazards identified during the visit. If the site management refuses to correct such serious hazards, OSHA will make a referral for an enforcement inspection.
- E. Initial verification visits should be conducted as soon as possible after a participating site has entered into the partnership agreement.

These inspections 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, caught-in, 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.

- OSHA will continue to investigate fatalities and catastrophes should they occur at the jobsite as well as alleged "imminent" danger situations.
- OSHA will continue to investigate all complaints and referrals received in accordance with OSHA Instruction CPL 02-00-140, Complaint Policies and Procedures.

VII. PARTNERSHIP MANAGEMENT AND OPERATION

A. McCarthy Building Companies

1. Implement a comprehensive safety and health program, which includes:
 - a. Management leadership
 - b. Worker participation
 - c. Hazard identification and assessment
 - d. Hazard prevention and control
 - e. Employee education and training
 - f. Communication and coordination between employers on a multiemployer worksite
2. Mentor contractors that have not yet developed their own safety and health program, and if necessary, refer them to OSHCON for assistance.

3. Require that all Contractors enforce safety rules and regulations. This authority will include provisions to hold all tiered contractors and employees accountable and, if necessary, removal from the job site.
4. 100% fall protection for fall hazards over six (6) feet as set forth in Site Specific Safety Requirements.
5. Electrical safe work practices will be used when working on or near energized equipment. Ground Fault Circuit Interrupters (GFCI) will be used to protect all temporary electrical circuits that are installed for work on the project. All contractors will ensure that their employees are protected by the use of a GFCI at all times.
6. McCarthy's designated safety representative will be responsible for overseeing site safety and to serve as a point of contact for the project. The jobsite inspection results will be shared and made available to all contractors on the project.
7. Daily safety inspections will be conducted under the supervision of the McCarthy designated safety representative. Jobsite safety meetings/toolbox talks will be conducted and documented on a weekly basis. Employee workplace rights and responsibilities will be re-emphasized during the jobsite safety meeting/toolbox talks. Accident reports, including first aid, injury, property damage and near miss reports will be brought to the attention of the designated safety representative the same day as the occurrence, and documented by each contractor within one week.
8. No employee shall be allowed to work directly below a suspended load except for: employees engaged in the initial connection of steel, and employees hooking or unhooking the load. The following criteria must be met when employees are allowed to work under the load: materials being hoisted shall be rigged to prevent unintentional displacement; hooks with self-closing safety latches or their equivalent shall be used to prevent components from slipping out of the hook; all loads shall be rigged by a qualified rigger. All rigging must be tagged with workload limits.
9. Require the use of appropriate personal protective equipment. Hardhats, eye protection, and gloves will be worn at all times in the construction area(s). All employees working near heavy equipment or motorized vehicles will be required to wear highly visible upper body clothing.
10. Allow OSHA access to the site during inspection activities (monitoring and un-programmed activities such as major injuries and employee complaints) without requiring a warrant.

11. The McCarthy designated safety representative will be the point of contact for all matters associated with this partnership.

B. OSHA

1. OSHA will participate as available in the Project Initial (Safety Kick-Off) Meeting.
2. Designate a safety and health specialist to serve as a resource and liaison for the partnership.
3. Assist with safety and health training and provide technical assistance.
4. Audit the monthly reports/documents and make recommendations for improvement in meeting partnership goals.
5. Conduct inspections in accordance with section VI of this partnership.

VIII. EMPLOYEE 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.

IX. TERMINATION

Any of the signatory stakeholders may terminate participation by providing thirty (30) days written notice to the other.

Either party may also propose modification or amendment to the agreement. Changes to the Partnership Agreement may be implemented if both parties agree that it is in the best interest of the parties involved.

X. TERM AND LOCATION OF PARTNERSHIP AGREEMENT

This partnership agreement will cover the Margaritaville project and will be for a period of two (2) years. McCarthy Building Companies and OSHA will make a joint determination of whether or not to continue the partnership.

This agreement will terminate on _____, which is two (2) years from the date of the signing. If either OSHA or McCarthy Building Companies wishes to withdraw their participation prior to the established termination date, the agreement will terminate upon receiving a written notice of the intent to withdraw from either signatory.

XI. SIGNATURES

Joann Figueroa
Area Director
Houston North Area Office
U.S. Department of Labor/OSHA

Jim Stevenson
Division President
McCarthy Building Companies

Date