



**United States Department of Labor,
Occupational Safety & Health
Administration**

&

Sampson Construction, Inc.

**Union Bank & Trust New Office
14400 Davenport Street
Omaha, Nebraska**

Partnership Agreement

23 June 2021- 23 June 2024

I. Identification of Partner

The Partners in this agreement will include the following:

- A. Occupational Safety and Health Administration, OSHA's Omaha, NE Area Office
- B. Sampson Construction, Inc.
- C. Project Subcontractors – Consider any subcontractor working on this project a Partner. All contracts with subcontractors that are not already part of the agreement will incorporate this OSHA partnership into their respective agreements. Sampson Construction, Inc. will attempt to incorporate this OSHA partnership into any previously executed contracts with their respective agreements using a subcontractor change order, which will include a provision acknowledging the subcontractor's obligations under this partnership agreement.

II. Purpose/Scope

- A. The Union Bank and Trust Project is standalone structure. The building consists of a 147,280 square foot precast and steel structure, on 5.4 acres that consist of a bank and tenant build to suit space.
- B. The Omaha Area Office of the Occupational Safety and Health Administration (OSHA), Sampson Construction, Inc., and project subcontractors recognize the need for a safe and healthy jobsite. The goal of this partnership agreement is to help ensure that the construction of the Union Bank and Trust Office will provide a safe work environment for all employees.
- C. This partnership is designed to not only address hazards within the construction industry, but also to promote and recognize jobsites that have 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 Sampson Construction, Inc. or any of Sampson Construction, Inc.'s subcontractors, nor does it lessen any/all affirmative defenses, legal rights or due process afforded contractors with respect to Agency enforcement action.

III. Goals/Strategies and Performance Measures

- A. OSHA has identified the four most frequent causes of fatalities in construction as: falls, being struck by equipment or machinery, electrocution, and caught-in-between equipment or materials. Trenching and excavation is included in the caught-in-between category, and will be addressed in this partnership. The overall goal for this Partnership Agreement is to minimize accidents, injuries, and illnesses on the project and zero fatalities.

| Goals | Strategies | Performance Measures |
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| Minimize accidents, injuries and illnesses on the project; zero fatalities; Project injury/illness data 25% below the current Bureau of Labor Statistics (BLS) National Average for NAICS 23 (all of construction). | Implementation of a comprehensive safety and health program for the jobsite. | <p>OSHA injury and illness data:</p> <ol style="list-style-type: none"> 1. Total Case Incident Rate (TCIR) 2. Days Away, Restricted or Transferred (DART) Rate; 3. Days Away From Work (DAFW) Rate <p>We will compare the most current BLS published data for NAICS 23 for each year. The 2019 BLS TCIR, DART, and DAFW Rates for NAICS 23 are 2.8, 1.7, and 1.1, respectively, and utilize as the baseline for the partnership. We will compare the project's injury and illness data to this established baseline each year. At the conclusion of the project, we will conduct a cumulative review.</p> |
| Provide for Management Commitment and Employee Participation; Develop a contractor/government partnership that will encourage involvement of the subcontractors in the improvement of safety and health performance. | Require all subcontractors to develop and implement a written safety and health program, and/or project specific program. | Verify and track the number of subcontractors' involvement in creating safety plans that are specific to the contractor's work on the project. |
| Conduct Task Hazard Analysis | Recognize hazards in a timely manner. Establish and communicate the plan to mitigate the hazards | Track the number of Task Hazard Analysis completed for the site. |

| Goals | Strategies | Performance Measures |
|--|---|---|
| Hazard Prevention and Control - Implementing innovative strategies to eliminate serious accidents, including the four primary construction hazards (falls, struck-by, caught in, and electrical) as well as slip trips and falls on walking working surfaces during winter conditions. | Implement an ongoing site-safety audit program (including daily observations and weekly group site walks, accident/incident investigation review). | Document the number of site safety audits and number of hazards identified and abated during the safety audits; track and document near misses. |
| Provide for general safety and health, and job task specific hazard training with an emphasis on <u><i>silica</i></u> for trades identified as having activities in which <u><i>exposure to crystalline silica is reasonably expected.</i></u> | <ol style="list-style-type: none"> 1. Provide all employees site-specific safety orientation. 2. Provide a safety briefing with all employees before starting work each day. 3. Provide all employees with weekly toolbox talks. | Document the number of employees trained, topic covered, and the training hours received. |
| Provide for worker involvement. | <p>Provide voluntary worker involvement/participation in:</p> <ol style="list-style-type: none"> 1. Weekly toolbox talks. 2. Site safety audits 3. Task Hazard Analyses 4. OSHA initiatives, including the National Fall Stand-down and Safe and Sound Week | <p>Document the number of:</p> <ol style="list-style-type: none"> 1. Weekly site safety meetings and employee involvement. 2. Site safety audits 3. Task Hazard Analyses 4. Number of employees/employers participating in the OSHA initiatives (Fall Stand-down and Safe and Sound Week event) |
| | | |

B. Program Implementation of Strategies:

1. At least one jobsite safety audit/inspection conducted weekly by the general contractor and subcontractors utilizing a system developed by Sampson Construction, Inc. This system provides comprehensive coverage and documentation over a wide variety of site conditions.
2. Ensure employees receive training as follows:
 - a) All contractor employees will receive site-specific safety orientation from Sampson Construction, Inc. covering jobsite safety and health issues and procedures relative to assigned tasks including the comprehensive Fall

Protection Plan and implementation of requirement for fall protection for all activities over 6 feet.

- b) All contractor employees will attend a safety review meeting with their respective Subcontractor before performing work on the site.
 - c) The respective contractors will conduct other hazard-specific training on the specific hazards associated with their tasks.
3. Implement a comprehensive Fall Protection Plan to include fall protection for all activities where work performed six feet or more above a lower surface.
 4. Implement a comprehensive program to reduce slip, trips and falls, and walking working surfaces hazards with an emphasis on winter conditions including snow, ice, and ice from freezing rain.
 5. Require all subcontractors who have written safety and health programs to submit them to Sampson Construction, Inc. before the start of work. Subcontractors who do not have their own written safety and health plan have the option of adopting the safety and health program of their prime contractor, developing one utilizing services provided by other Partnership Members, or secure the services of an outside consulting firm. This must be completed and submitted to Sampson Construction, Inc. before beginning work on-site. All subcontractors shall have an effective safety program in place based on OSHA's 'Recommended Practices for Safety and Health Programs in Construction, dated October 2016. This is found at <https://www.osha.gov/shpguidelines/>. The OSHA's 'Recommended Practices' contain seven core elements—management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, program evaluation and improvement, and communication and coordination for employers on multiemployer worksites.
 6. The Omaha Area OSHA Office is available for clarification, guidance and outreach materials on any safety and health related issues
 7. Create a working relationship between OSHA and the other Partnership Members.

C. Measurements Defined:

1. The total TCIR, DART and DAFW Rates below the average for construction (NAICS 23) nationally based on the BLS 2019 published TCIR of 2.8, DART of 1.7 and DAFW Rate of 1.1, which will serve as the baseline for the project. We will compare the project rates to the most current published BLS rates.
2. Partners will document jobsite safety audits inspections and make them available upon request for OSHA review
3. Sampson Construction, Inc. will verify records of training certifications/training rosters. Sampson Construction, Inc. will also maintain records of site-specific training conducted for all on site employees. These may include, but not be limited to, employees who have attended the site-specific safety orientation, employee's attendance at weekly toolbox talks, as well as other hazard specific training.

4. Partners will evaluate and document the effectiveness of the Fall Protection Plan using the elements listed in Subpart M.
5. Evaluation and documentation of the effectiveness of the slip, trip, fall, and walking working surfaces plan.
6. Sampson Construction, Inc. will maintain Safety and Health Programs on file. Reports are to be made quarterly concerning the general effectiveness of the safety and health programs and copies will be provided to the Omaha Area OSHA office for review.
7. Employers will document employee participation in weekly toolbox talks, site safety audits, task hazard analyses, and OSHA initiatives to include National Fall Stand-down and Safe & Sound Week.

IV. Annual Evaluation

On a quarterly basis, the Executive Safety Committee comprised of Sampson Construction, Inc. on site project manager, project superintendent, project safety manager, and off site project director and a representative(s) from OSHA shall meet and discuss the program and make any modifications as required for continually improvement the partnership. Due to the current COVID-19 pandemic, these meetings may take place virtually. Partnership members will perform an assessment prior to each meeting based on the current COVID-19 situation. These quarterly meetings will serve as an on-site non-enforcement verification visit. From time to time, we will invite Subcontractors to attend to offer further feedback. We will evaluate the partnership annually utilizing Appendix C of the OSHA Strategic Partnership Program (OSPP) Directive CSP 03-02-003. We shall provide this data to the OSHA Area Office.

V. OSHA Strategic Partnership (OSP) Benefits/Incentives

The following partnership benefits include:

- A. In the event that OSHA cites a contractor performing work at the site for a violation occurring at the site, OSHA will provide a maximum penalty reduction for good faith, in accordance with CPL 02-00-164 - Field Operations Manual (FOM), dated April 14, 2020. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**
- B. OSHA will give priority to “phone and fax” safety and health complaints in lieu of on-site inspections.
- C. OSHA agrees not to cite Other-than-serious violations observed during an OSHA visit if immediately abated while the Compliance Officer is onsite..
- D. This partnership requires frequent inspections (at least weekly) of the worksite by Sampson Construction, Inc., Subcontractors, and other members of the partnership to identify and correct hazards. It serves as a model to Subcontractors and others by demonstrating how to implement a strong safety and health program on a multi-employer jobsite. It also encourages a higher level of participation in the safety

process by involving everyone on the jobsite. The partnership participants agree that they will utilize the knowledge gained from this partnership to reduce injuries and illnesses at future work sites.

VI. OSHA Verification

- A. OSHA will continue to investigate formal complaints, fatalities and catastrophes should they occur at the jobsite as well as alleged “imminent” danger situations per the FOM. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**
- B. OSHA will continue to investigate complaints and referrals received in accordance with procedures contained in the FOM. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**
- C. OSHA will complete **at least one focused “monitoring” (onsite enforcement) inspection each year.** These inspection(s) 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. Due to the current COVID-19 pandemic, these inspection(s) may take place virtually. Prior to the inspection(s), the Omaha Area Office will make this determination based on the current COVID-19 situation. Inspections conducted in response to complaints, Local and/or National Emphasis Programs (LEP/NEP), or referrals will qualify as the monitoring inspection if, in addition to addressing the complaint/LEP/NEP/referral item(s), the compliance officer completes the focused inspection protocol for the worksite.
- D. **OSHA representatives will perform on-site non-enforcement verification visits,** by their participation in the quarterly Executive Safety Committee meetings (as outlined in Section IV of the partnership agreement).
- E. Sampson Construction, Inc. will permit OSHA immediate access for any inspection made pursuant to Section VI paragraphs A, B, and C and will not require an inspection warrant for any such inspection.

- VII. **OSP Management and Operation:** Each Subcontractor will designate at least one representative to attend the project pre-activity meeting before major operations of work, as well as the weekly meetings. The Project Executive for Sampson Construction, Inc. or his designee will oversee the meetings. During the weekly meetings, all participants will evaluate the progress of the partnership. The representatives will review the completed and summarized safety audits/ inspections of the site as part of the weekly meeting. We will discuss identified hazards and abatement as well as trends as part of the meeting. OSHA may provide a representative to share current issues in construction risk control and provide input for improvement. Safety representatives will meet the criteria to participate as outlined below:

A. Sampson Construction, Inc.

1. Implement a comprehensive written safety and health program. The written safety and health program should address recognized hazards and should be based on OSHA's 'Recommended Practices for Safety and Health Programs in Construction' dated October 2016. This may be found at: [https://www.osha.gov/shpguidelines/docs/8524 OSHA Construction Guidelines R4.pdf](https://www.osha.gov/shpguidelines/docs/8524%20OSHA%20Construction%20Guidelines%20R4.pdf). The OSHA's 'Recommended Practices' contain the following seven core elements:
 - i. Management leadership and commitment
 - ii. Employee participation
 - iii. Worksite analysis
 - iv. Hazard prevention and control
 - v. Education and training
 - vi. Program evaluation and improvement
 - vii. Communication and coordination for employers on multiemployer worksites
2. Require Subcontractors who have not developed their own safety and health program to meet the requirement provided in paragraph III. D. of the "Program Implementation of Strategies" section of this agreement.
3. Have the authority to enforce safety rules and regulations, by implementing an appropriate Disciplinary Program. This authority will include provisions to hold contractors and employees accountable and, if necessary, take appropriate actions to enforce compliance with the established Project safety rules and regulations.
4. Provide a Project Superintendent/Manager who will have as part of their job description a responsibility for site safety and health, to serve as a point of contact and to assist the senior construction manager in overseeing the partnership goals.
5. Conduct and document weekly job site safety audits/inspections. These inspections are in addition to the general audits/inspections that should occur daily. Provide a copy of the documented audits/inspections of Subcontractors' work areas to the Subcontractor(s) working in each respective area.
6. Review accident reports weekly with the Subcontractors including first aid and near miss reports.
7. Implement a Task Hazard Analysis Program to identify safe work procedures before performing work.
8. Conduct and retain summary documentation of weekly toolbox talks and training logs.
9. Evaluate and document the effectiveness of the Fall Protection Plan, and take corrective action as needed.
10. Maintain/compile injury and illness data and provide to OSHA.
11. Provide and post signage identifying the site as an OSHA Partnership Project.

12. In addition to OSHA's notification requirements, Sampson Construction, Inc. will notify the local OSHA area office of safety or health related events, which are likely to generate public attention and/or news media coverage. Notification will be provided in a timely manner and include sufficient background and incident information to respond to agency and public inquiries.
13. Ensure that subcontractors receive Sampson Construction, Inc. Site Specific Safety Plan prior to commencing work on site.
14. Ensure that contractors and subcontractors develop and implement a procedure for the reporting of all work-related injuries and illnesses, which prohibits discrimination against an employee from reporting these events, as directed in 29 CFR 1904.35 and 1904.36.
15. Ensure that contractors and subcontractors evaluate and improve their safety and health programs, which should include:
 - i. Periodic evaluation of hazard control measures for effectiveness.
 - ii. Establish and implement processes (where they do not exist) to monitor program performance, certify program implementation, and identify program shortcomings and opportunities for improvement.
 - iii. Take necessary actions to improve the program and overall safety and health performance.
16. Since this is a multiemployer worksite, ensure that contractors and subcontractors communicate and coordinate with all employers on this worksite, which should include:
 - i. General contractors, contractors, and staffing agencies commit to providing the same level of safety and health protection to all employees.
 - ii. General contractors, contractors, subcontractors, and staffing agencies communicate hazards present at the worksite and hazards that the work of contract workers may create on site.
 - iii. General contractors establish specifications and qualifications for contractors and staffing agencies.
 - iv. Prior to beginning work, general contractors, contractors, and staffing agencies coordinate on work planning and scheduling to identify and resolve any conflicts that could impact safety and health.

B. Sampson Construction, Inc. will require Subcontractors to do the following:

1. Appoint an on-site person to act as a safety representative to resolve jobsite safety matters and be the liaison to Sampson Construction, Inc.
2. Conduct daily non-documented safety audits/inspections of their work area and operations. In addition to daily non-documented audits/inspections, subcontractors will participate in weekly documented audits/inspections completed by Sampson Construction, Inc. This will allow subcontractor employees to participate in the weekly documented audits/inspection process, increasing hazard awareness for not only their work operations but also all work operations performed on site. We will communicate findings and abatement based on monthly documented audits/inspections to all employees on site.

3. Implement the Sampson Construction, Inc. Task Hazard Analysis (or an equivalent) program.
4. Participate quarterly in jobsite safety meetings with Sampson Construction, Inc.
5. Receive a copy of all the jobsite audits/inspections conducted by Sampson Construction, Inc.
6. Ensure that its employees attend the Sampson Construction, Inc. Site Orientation prior to starting work on the project.
7. Cooperate and participate in all respects with OSHA's involvement with this project including any required meetings, inspections, training, and documentation.

C. Sampson Construction, Inc. will require the following General Provisions for all Contractors working on the Jobsite:

1. Require the use of conventional fall protection (i.e., personal fall arrest/restraint systems or guardrail systems) when performing work that is 6 feet or greater above a lower level.
2. All Contractors and Subcontractors will actively participate in the Sampson Construction, Inc. Task Hazard Analysis Program, or an equivalent pre-planning program that Sampson Construction, Inc. approves.
3. Use Ground Fault Circuit Interrupters (GFCI) throughout the project for 110V/120V circuits.
4. Do not lift loads overhead without clearing the path to delivery of materials, equipment, and personnel.
5. Enforce OSHA required trench and excavation protection.
6. All workers, management, and visitors shall wear hardhats, safety glasses, construction work boots and high visibility clothing at all times when on site. (Exception shall be in the isolated on site project office, vehicle and equipment cabs.)
7. Cranes: Sampson Construction, Inc. and all Subcontractors shall provide proof of crane operator training (NCCO) and perform an operation/load test before any crane use.
8. Functioning back-up alarms and fire extinguishers shall be present on all motorized construction equipment.
9. Prior to the start of work, machine operators will conduct and document daily equipment inspections.
10. Hold weekly Toolbox Talks with all employees onsite, documented, and attendance is mandatory. These meetings will provide all employees with an open forum to discuss safety issues or concerns with Sampson Construction, Inc. and other contractors on the site.
11. Do not stack or use above 6 feet any scaffolds that are narrower than 40 inches (PERRY TYPE) in width.

12. All Contractors and Subcontractors will enforce safety and health rules by implementing a disciplinary program. All employees will be subject to progressive disciplinary measures for failure to comply with safety and health policies and procedures of the Contractors and Subcontractors.

D. OSHA

1. OSHA Personnel from the Omaha Area Office may assist the partnership with off-site safety and health training.
2. OSHA will give priority to Sampson and subcontractors when the employer(s) requests technical assistance for the site.
3. Conduct a quarterly partnership evaluation and include data used to monitor the success of the partnership efforts. On a quarterly basis, the Project Manager for Sampson Construction, Inc., or his designee, Subcontractors' representatives, an OSHA representative shall meet and discuss the program and make modifications as required for continual improvement to the partnership.
4. OSHA will participate in the review of partnership company safety and health programs, with Subcontractors as needed, and provide technical assistance and recommendations for improvement.
5. OSHA will provide national statistics covering all areas of standards enforcement for distribution to the Partners.

VIII. Employee and Employer Rights and Responsibilities

This partnership does not preclude employees and/or employers from exercising any right provided under the OSH Act (or, for federal employees, 29 CFR 1960), nor does it abrogate any responsibility to comply with the Act.

IX. Terms of OSP

- A. This agreement shall be in effect until completion of the major construction activities, except that the power of termination, on the condition of thirty (30) days prior written notice to the other party, is expressly reserved to either or both of the principal participants, OSHA and Sampson Construction, Inc.
- B. Should either of the principal participants (OSHA or Sampson Construction, Inc.) elect to withdraw from participation in the partnership prior notification in writing of the intent to terminate shall be given to the other Party. 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 Sampson Construction, Inc. are the only entities that can terminate this partnership.

**United States Department of Labor
Occupational Safety & Health Administration**

Based upon a mutual interest to protect construction workers, the parties below agree to the above terms on the Sampson Construction, Inc. / OSHA Partnering Agreement for the Union Bank and Trust New Office in Omaha, NE.

The date of this OSHA Omaha Area Office/ Sampson Construction, Inc. Partnership Agreement is June 23, 2021.

Principal Participants:

**Matthew Thurlby
Area Director
Occupational Safety and
Health Administration
Omaha Area Office**

**Dan Vokoun
Vice President
Sampson Construction, Inc.**

**Casey Lenner
Safety Director
Sampson Construction, Inc.**

**Matthew Graff
Vice President
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**David Cavolic
Vice President
Sampson Construction, Inc.**