



**A Report to the
Audit Committee**

Mayor
Freddie O'Connell

**Sports Authority Executive
Director**
Monica Fawknorton

Audit Committee Members
Burkley Allen
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Audit of the Major League Soccer Stadium Construction Project

November 27, 2023

Metropolitan
Nashville
Office of
Internal Audit



Why We Did This Audit

The audit was conducted due to the important and impactful roll

Disadvantaged Business Enterprise programs and applicable wage laws play in enhancing the quality of life for the citizenry of the Metropolitan Nashville Government.

What We Recommend

- The Metropolitan Nashville Government should work with the State to revise TCA §50-2-112.
- Revise the Metropolitan Nashville Code of Ordinances §4.20.080.
- Ensure the requirement to comply with wage laws is adequately communicated to all Metropolitan Nashville departments and agencies.
- The Metropolitan Sports Authority should monitor and ensure compliance with wage laws.

Audit of the Major League Soccer Stadium Project

BACKGROUND

In 2017, The Metropolitan Nashville Council approved the issuance of \$225 million in revenue bonds by the Sports Authority for the construction of a 30,000-seat capacity soccer stadium for the Nashville Soccer Holdings, LLC. The agreement between the Metropolitan Nashville Government and the Nashville Soccer Holdings, LLC. required the Metropolitan Nashville Government to also contribute \$25 million towards the stadium-related improvement costs. The total estimated cost including site improvements was \$354 million with the Nashville Soccer Holdings, LLC. responsible for any cost overruns.

OBJECTIVES AND SCOPE

The objectives of this audit are to determine if:

- The Metropolitan Nashville Sports Authority had controls in place to ensure the Disadvantaged Business Enterprise participation goal of 30 percent was attained.
- The Metropolitan Nashville Sports Authority had controls in place to ensure that the construction manager and sub-contractors complied with specific wage laws.

The scope of the audit included all payments to the construction manager and sub-contractors between January 1, 2020, and December 31, 2022.

WHAT WE FOUND

The Metropolitan Nashville Sports Authority, the Nashville Soccer Holdings, LLC., and the construction manager worked together with a dedicated team to ensure the success of the Disadvantaged Business Enterprise program. The actual Disadvantaged Business Enterprise participation rate was 37 percent compared to the 30 percent required by the contract.

The construction manager had a process in place to review payroll records for compliance with the federal minimum wage of \$7.25 per hour. No exceptions were noted in payroll testing reviewed.

However, enforcement of construction wage laws as set by Metropolitan Code was not possible. Specific references within Tennessee Code Annotated §50-2-112 – *Wage Regulations* and in the Metropolitan Nashville Code of Ordinances §4.20.080 - *Minimum wages requirements—Basis to the Tennessee Occupational Wages and Workforce Development Report* published by the Tennessee Department of Labor and Workforce Development are obsolete as the report is no longer published by the Tennessee Department of Labor. The references to an obsolete report result in the inability to require construction contractors and subcontractors to pay the occupational wages.

GOVERNANCE

The Metropolitan Nashville Sports Authority was established under the provisions of Tennessee Code Annotated §7-67-101 *et seq.* - *Sports Authorities*, to acquire, improve, repair, operate and maintain professional sports facilities and their surrounding campuses in Metropolitan Nashville and Davidson County, within the provisions of governing contracts. The Sports Authority is governed by a thirteen-member board of directors all of whom are duly qualified voters and taxpayers in the Metropolitan Government of Nashville and Davidson County. An executive director responsible for the day-to-day administration reports to the Board.

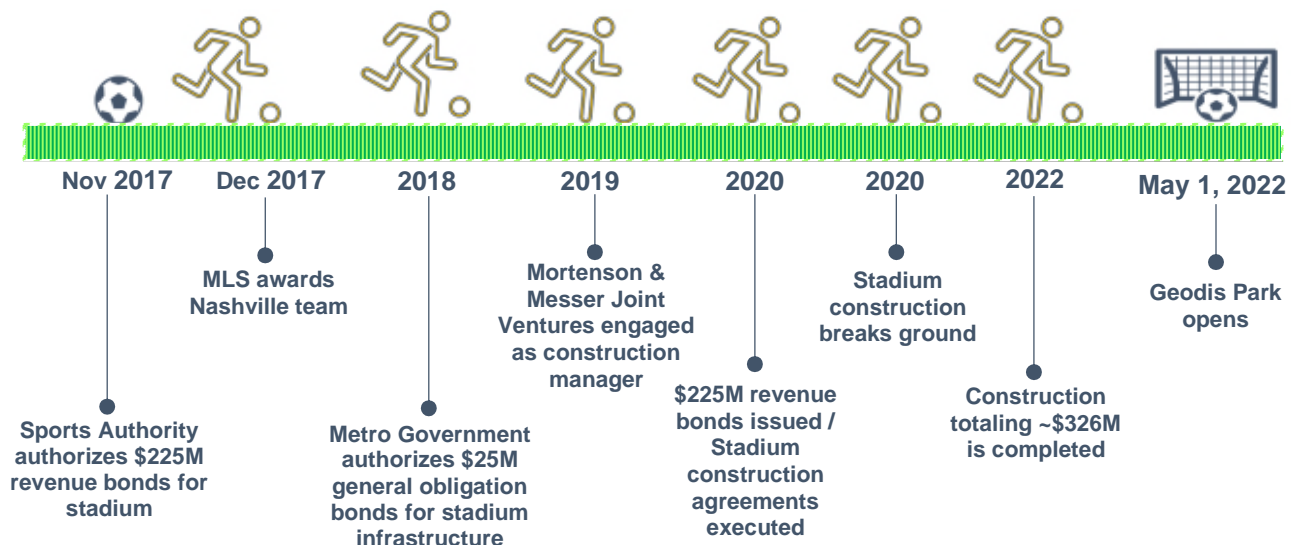
BACKGROUND

Major League Soccer awarded an expansion team to Nashville in December 2017. The Metropolitan Nashville Council passed resolution RS2017-910 authorizing the Sports Authority to issue a maximum of \$225 million in revenue bonds towards the Major League Soccer stadium construction project subject to various conditions including Major League Soccer granting an expansion team to Nashville, execution of documents such as ground lease, stadium lease, etc., and other matters. Resolution RS2018-1328 also authorized the issuance of \$25 million general obligation bonds for Metropolitan Nashville Government to go towards infrastructure development around the stadium.

A public-private partnership memorandum of understanding related to the team's expenditures and contributions to the construction of the soccer stadium was signed between the Sports Authority and Nashville Soccer Holdings in April 2018. The memorandum of understanding called for the Nashville Soccer Holdings, LLC to pay for certain stadium expenses prior to the issuance of the revenue bonds as a credit to the team's \$25 million contribution obligation.

The construction cost was estimated at \$354 million but the project was completed at a cost of approximately \$326 million. The stadium opened to the public on May 1, 2022. A high-level timeline of the project may be seen in Exhibit 1. Additionally, descriptions of the agreements executed throughout the project are included in Appendix E.

Exhibit 1: MLS Stadium Construction Timeline



Disadvantaged Business Enterprises Requirements

To increase the government spending in black, brown, and women owned business, the Metropolitan Nashville Government requires contractors to establish a goal for the use of disadvantaged business enterprises during a contract period. To qualify towards the disadvantaged business percentage, businesses must be certified as disadvantaged businesses and must hold a license to do business in the state of Tennessee.

The Sports Authority entered into a construction management agreement with Mortenson & Messer Joint Ventures to serve as construction manager for the construction of the soccer stadium. The agreement, among other requirements, established a Disadvantaged Business Enterprise participation goal of 30 percent for the construction of the soccer stadium. The construction management contract defined disadvantaged businesses to include, without limitation, certified minority owned business enterprises, certified women-owned business enterprises, and certified disabled-veteran-owned business enterprises, and Metropolitan Nashville Government approved small businesses. Additionally, Mortenson & Messer Joint Ventures implemented a women and minority workforce participation goal of 22 percent, with a reported actual achievement of 48 percent workforce diversity.

Minimum Wage Laws

Prior to 2015, the Metropolitan Nashville Code of Ordinances Chapter 4.20 required construction contractors to pay workers not less than the prevailing wages established by the federal Davis-Bacon Act. However, in 2013, the Tennessee Code Annotated § 12-4-903 and § 50-2-112 were amended to prohibit local governments from requiring contractors or subcontractors to pay their workers in excess of the wages established in the Tennessee Occupational Wages Report. Tennessee Code Annotated §50-2-112(a)(2) specifically states, *“With respect to construction contracts, a local government has no authority to require a prevailing wage be paid in excess of the wages established by...the Tennessee occupational wages prepared annually by the department of labor and workforce development, employment security division, labor market information for state building projects.”* Thus, the provisions of the Metropolitan Nashville Code of Ordinances relating to compliance with the Davis-Bacon Act were preempted by state law.

In 2015, the Metropolitan Nashville Code of Ordinances Chapter 4.20 was amended to reflect the changes in the Tennessee Code Annotated. References to Davis-Bacon wages were removed, and minimum wage requirements for any person entering into a contract for building or construction work with the Metropolitan Nashville Government were updated to specify the contractor, *“shall pay not less than the minimum wage rates for all types and occupations of such work as established under the ‘construction and extraction occupations’ listed in the most recent Tennessee Occupational Wages Report published by the Tennessee Department of Labor and Workforce Development, Employment Security Division.”* By amending the Metropolitan Code of Ordinances to reflect the changes to the Tennessee Code Annotated, the ability to require a construction contract minimum wage at a potentially higher wage than the federal minimum wage was reestablished. While reference to the report was accurate in 2015, the State Department of Labor and Workforce Development ceased publishing the *Occupational Wages Report* in 2020, causing both references within the Tennessee Code Annotated and the Metropolitan Nashville Code of Ordinances to become obsolete and therefore unenforceable.

The construction management agreement with Mortenson & Messer Joint Ventures required the construction manager and sub-contractors to comply with all federal, state, and local employment and wage laws. Included within this umbrella would be Metropolitan Nashville Code of Ordinances Chapter 4.20.

OBJECTIVES AND CONCLUSIONS

1. *Did the Sports Authority and the Construction Manager have controls in place to accurately record and attain the Disadvantaged Business Enterprise participation goal of 30 percent?*

Yes. The Sports Authority collaborated with Nashville Soccer Holdings and the construction manager to establish processes and procedures that led to a 37 percent participation rate. The construction manager had a dedicated team to document and monitor progress on the contract requirement. Total payments to sub-contractors totaled approximately \$211 million of which \$77.3 million was paid to disadvantaged business enterprises.

A total of 68 disadvantaged businesses were contracted with for the project. A judgmental sample covering a variety of scopes of work and business locations was made for review. The review of 30 out of 68 disadvantaged businesses (44 percent) paid during the project found all were appropriately certified by either the State of Tennessee or the respective state of their business. Additionally, payments recorded were verified. The sample selected included \$68.2 million of the \$77.3 million (88 percent) in payments to disadvantaged businesses. All payments reviewed were accurately recorded without exception.

2. *Did the Sports Authority have controls in place to ensure the construction manager and sub-contractors complied with specific wage laws?*

Generally, yes. The Sports Authority did not internally monitor wages for compliance with wage laws due to limited resources. The Sports Authority signed a construction administration agreement with Walsh Management LLC, which delegated oversight of the construction managers and construction execution in conformity with the contracts, including applicable wage laws. Mortenson & Messer Joint Ventures had procedures in place to monitor wages paid throughout the project. Mortenson & Messer Joint Ventures utilized InSight software by SkillsSmart. All employers charging wages to the project were required to upload payroll data weekly. The payroll data included identifying information as well as job classification and wages. The software then compared the wages paid to preset wage requirements. For the project, the wage requirement was set at the federal minimum wage of \$7.25 per hour. All wages included in test work were compared to the federal minimum wage, and no exceptions were noted.

Processes were not in place to ensure the occupational wages required per Metropolitan Nashville Code of Ordinances Chapter 4.20 were paid. However, due to obsolete references in the Metropolitan Nashville Code of Ordinances Chapter 4.20 and Tennessee Code Annotated §50-2-112(a)(2), the ability to enforce wages over the federal minimum wage is nullified. (See Observations A, B, and C.)

Additionally, RS2017-910 was approved by the Metropolitan Nashville Council to amend the intergovernmental agreement between the Metropolitan Nashville Government and the Sports Authority to require the contractor to furnish the Sports Authority certified copies of payroll records. The Sports Authority was then to submit the records to the Metropolitan Nashville Council regularly. However, the intergovernmental agreement was never amended to reflect the requirement. (See Observation D.)

AUDIT OBSERVATIONS

Internal control helps entities achieve important objectives and sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control – Integrated Framework (COSO)*, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environment, mitigate risks to acceptable levels, and support sound decision-making and governance of the organization. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

Observation A– Metropolitan Nashville Code Obsolete Reference

Establishment of criteria for minimum wages on construction contracts was cumbersome. Obsolete references in the Metropolitan Nashville Code of Ordinances §4.20.080 and the Tennessee Code Annotated Chapter 50-2 rendered compliance and enforcement of any minimum wage amount over the federal minimum wage impossible.

Metropolitan Nashville Code of Ordinances

The Metropolitan Nashville Code of Ordinances §4.20.080 specifically references the use of, “*the most recent Tennessee Occupational Wages Report published by the Tennessee Department of Labor and Workforce Development, Employment Security Division.*” The last report produced by the Tennessee Department of Labor and Workforce Development that included occupational wages was in 2019. In 2020, the Tennessee Department of Labor began providing the underlying data to the Federal Bureau of Labor and Statistics to create the occupational wages information. **See Appendix C.**

Additionally, the Metropolitan Nashville Code of Ordinances §4.20.080 references the use of construction and extraction occupations for the establishment of occupational wages on construction contracts. However, no requirement for the contractor to use these classifications in payroll records exists. For monitoring of occupational wages, the inability to make an equivalent comparison between payroll records and the now non-existent occupational wage reports caused accurate reporting and compliance to be impossible.

Without clear criteria within the Metropolitan Nashville Code of Ordinances for construction contractors to follow, the risk of confusion and non-compliance with wage requirements is increased.

Tennessee Code Annotated

While researching the basis of the Metropolitan Nashville Code of Ordinances §4.20.080, a review of the Tennessee Code Annotated §50-2-112 was done. Tennessee Code Annotated §50-2-112 allows local governments to set a minimum wage on construction contracts no higher than, “*the Tennessee occupational wages prepared annually by the department of labor and workforce development, employment security division, labor market information for state building projects.*” Since the Tennessee Department of Labor no longer prepares these wage reports, and instead sends the data to the Federal Bureau of Labor and Statistics to prepare, the law is outdated. To ensure Metropolitan Nashville Code of Ordinances §4.20.080 is enforceable, the underlying law allowing local governments to set the minimum wage at occupational wage levels needs to reflect current processes.

Criteria:

- Tennessee Code Annotated §50-2-112 - *Restrictions on Local Government Authority Regarding Requiring Private Employers to Pay Wages in Excess of Federal and State Minimum Hourly Wage Laws*

- Metropolitan Nashville Code of Ordinances §4.20.080 – *Minimum wages requirements – Basis*
- COSO, Control Activities–Principle 10. The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- COSO, Control Activities–Principle 12. The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
- COSO, Control Activities–Principle 16. The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.

Assessed Risk Rating:

High

Recommendations for Metropolitan Nashville Council:

1. Revise Metropolitan Nashville Code of Ordinances §4.20.080 and §4.20.080 to accurately reflect the source for construction minimum wage amounts provided by the state for comparison purposes. Clarification on wage level and area of occupational wage data should be included.
2. Revise Metropolitan Nashville Code of Ordinances to require contractors and sub-contractors to classify covered workers in the contract and payroll records in conformity with the schedule of classifications issued by the Federal Bureau of Labor and Statistics.
3. Work with the State of Tennessee to have Tennessee Code Annotated Chapter 50-2 – *Wage Regulations* revised to be consistent with the new name and responsibilities for preparing and publishing the Tennessee occupational wages.

Observation B – Construction Contract Improvements

Lack of clarity in applicable state and local laws has led to subsequent lack of clarity in construction contracts and solicitations.

For transportation construction contracts, the Metropolitan Nashville Code of Ordinances §4.20.090 specifies, “*the Purchasing Agent shall ensure that solicitations for construction of any public work or improvement shall reference the Tennessee Occupational Wage Report ...The State’s website shall be identified in the solicitation and made a part of any contract for the construction of any public works project or improvement by reference...*” The explicit reference within these types of contracts assists with projecting costs and ensuring compliance with wage laws. However, a requirement to include explicit references to occupational wages does not exist for general construction contracts within the Metropolitan Nashville Code of Ordinances §4.20.080.

The contract with the construction manager included clause 14.10.2 – *Compliance with Employment Laws*. The clause states the construction manager and subcontractors will comply with all applicable federal, state, and local employment and wage laws. The use of occupational wages as specified in the Metropolitan Nashville Code of Ordinances §4.20.080 is encompassed in this clause. However, the current non-existence of the report referenced renders this section impossible to comply with and therefore unenforceable.

The existing wage data, which was formerly included in the referenced report prior to 2020, is currently too remote from the wording referenced in the Metropolitan Nashville Code of Ordinances to

reasonably expect a user to conclude it is the standard that must be followed. Contractors and departments managing the contracts could utilize incorrect wage rates or could default to the federal minimum wage unless the law is clarified. An example of navigation to the existing wage data may be seen in **Appendix D**.

Without clear instructions to prospective and winning construction contractors, monitoring and compliance by contractors and other stakeholders will be time-consuming, if not impossible.

Criteria:

- Metropolitan Nashville Code of Ordinances §4.20.080 – *Minimum wages requirements – Basis*
- COSO, Control Activities–Principle 10. The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- COSO, Control Activities–Principle 12. The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
- COSO, Control Activities–Principle 16. The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.

Assessed Risk Rating:

High

Recommendation for management of the Finance Department - Procurement Division:

1. Include references to Tennessee Code Annotated §50-2-112 and Metropolitan Nashville Code of Ordinances §4.20.080 in construction contracts to ensure awareness of potentially applicable occupational wages.
2. Include references to Tennessee Code Annotated §50-2-112 and Metropolitan Nashville Code of Ordinances §4.20.080 in construction solicitation affidavits to ensure awareness of potentially applicable occupational wages during the solicitation process.
3. Ensure potential requirement to comply with wage laws is adequately communicated to all Metropolitan Nashville departments and agencies overseeing construction contracts.

Observation C – Monitoring of Construction Contract Wage Compliance

The Sports Authority and the construction manager did not inquire into the interpretation and potential application of Metropolitan Nashville Code of Ordinances §4.20.080.

The Sports Authority relied on wage monitoring performed by Mortenson and Messer Joint Ventures. The construction manager had a process in place to ensure all contractors and sub-contractors paid the federal minimum wage of \$7.25 per hour. However, no inquiry into or monitoring of potentially required wages outside of the federal minimum wage occurred.

A review of 10 contractor payroll records paying 497 employees a total of \$8.1 million in wages was performed. Contractors were judgmentally selected to ensure a variety of services were covered. All employees were paid at least the minimum wage of \$7.25 per hour. However, due to the ambiguous language of Tennessee Code Annotated §50-2-112 and Metropolitan Nashville Code of Ordinances §4.20.080 (see Observation A), quantifying and applying any other wages was not possible.

Without proper monitoring of contract requirements, the risk of noncompliance increases. Lack of a clear understanding of applicable laws encompassed in contract criteria could result in misunderstanding or a delayed updating of laws.

Criteria:

- COSO, Control Activities–Principle 10. The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- COSO, Control Activities–Principle 12. The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
- COSO, Control Activities–Principle 16. The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.

Assessed Risk Rating:

High

Recommendation for management of the Metropolitan Sports Authority:

1. Establish wage law monitoring procedures for all applicable contracts to ensure compliance by the construction manager and all sub-contractors throughout the life of the contract.

Observation D – Intergovernmental Agreement Amendment

An amendment to the intergovernmental agreement between the Metropolitan Nashville Government and the Sports Authority was not incorporated into the final agreement. The oversight caused the Sports Authority to not provide requested records to the Metropolitan Nashville Council.

The Metropolitan Nashville Council amended Section 3 of the intergovernmental agreement between the Metropolitan Government and the Sports Authority through resolution RS2017-910. The amendment authorized the Sports Authority to:

- Require any contractor engaged in the construction of the stadium to furnish certified copies of payroll records to the Sports Authority.
- Ensure that a monthly report of such certified payroll be submitted to the Metropolitan Nashville Council.

The Sports Authority adhered to the certified copy of the agreement which did not include this amendment. As such, no records from contractors were requested nor were they summarized and provided to the Metropolitan Nashville Council.

Lack of processes to ensure resolutions make it to the contract impedes the intended purpose of oversight and decision-making.

Criteria:

- Metropolitan Nashville Council – *Resolution No. 2017-910*
- COSO, Control Activities–Principle 10. The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

- *COSO, Control Activities–Principle 12.* The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
- *COSO, Control Activities–Principle 16.* The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.

Assessed Risk Rating:

High

Recommendation for management of the Department of Law:

1. Establish a process to ensure all amendments approved by the Metropolitan Nashville Council make it to the related agreements or contracts.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

METHODOLOGY

To accomplish our audit objectives, we performed the following steps:

- Interviewed key personnel within the Sports Authority, Project Management Company, and Nashville Soccer Holdings.
- Reviewed Metropolitan Nashville ordinances related to the stadium construction.
- Reviewed the Intergovernmental Agreement between the Metropolitan Government and the Sports Authority for the construction of the stadium.
- Reviewed the construction management agreement between the Sports Authority and the construction management company.
- Evaluated internal controls in place during the audit period.
- Performed inquiries and observations of procedures.
- Reviewed sample selections to determine the effectiveness of internal controls.
- Reviewed and footed final payment applications.
- Considered risk of fraud, waste, and abuse.
- Considered information technology risks.

AUDIT TEAM

James Carson, CIA, CFE, Assisting Auditor

Innocent Dargbey, CPA, CMFO, CICA, Auditor-in-Charge

Lauren Riley, CPA, CIA, CFE, CMFO, ACDA, Metropolitan Auditor



Freddie O'Connell, Mayor

The Sports Authority

Of The Metropolitan Government Of Nashville and Davidson County

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nashville.gov/departments/sports-authority

September 22, 2023

Ms. Lauren Riley, CPA
Metropolitan Auditor
Office of Internal Audit
Metropolitan Government of Nashville and Davidson County
Lauren.Riley@nashville.gov
P. O. Box 196300
Nashville, TN 37219-6300

RE: Audit of the Major League Soccer Stadium Construction Project

Dear Ms. Riley:

Our department is in receipt of the Audit of the Major League Soccer Stadium Construction Project and has reviewed and consulted with our counsel from the Law Department.

While we are open to further discussion regarding the recommendation for the Sports Authority to establish wage monitoring procedures for contractors and subcontractors, it is important to note that the recommendation, as presented, does not carve out an exception for projects where, as in the case of the new Tennessee Titans stadium, a private entity is charged with overseeing development and construction of a facility on behalf of the Authority. Additionally, due to the Sports Authority's limited staff and budget, negotiating parties of large-scale projects should have the opportunity to consider the amount of additional personnel and/or financial support needed by the Authority to comply with wage monitoring requirements.

Since compliance with the Audit's recommendation will likely have substantial fiscal implications for the department, the decision to approve or reject the recommendation should be made by the Authority's Board of Directors. Further, it is important to acknowledge that the Authority is a separate legal entity from The Metropolitan Government and not generally subject to the Metropolitan Code of Laws. Our understanding from the Department of Law is that while state law permits the Sports Authority to use Metro's Procurement Division to solicit and select potential contractors, this does not mean that Metro's contractual terms and obligations must also appear in the Authority's contracts. As a result, there is no general requirement in the laws applicable to the Authority that mandates wage monitoring.

Once we receive a copy of the final audit, we will add the presentation of the audit and its recommendation to an upcoming agenda of the Finance and Audit Review Committee of the Board of Directors for consideration and a recommendation to the full Board. The Sports Authority meets monthly on the third Thursday and we hope that you or a member of your staff familiar with the Audit can be present to answer any questions from the committee.



Freddie O'Connell, Mayor
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Of The Metropolitan Government Of Nashville and Davidson County
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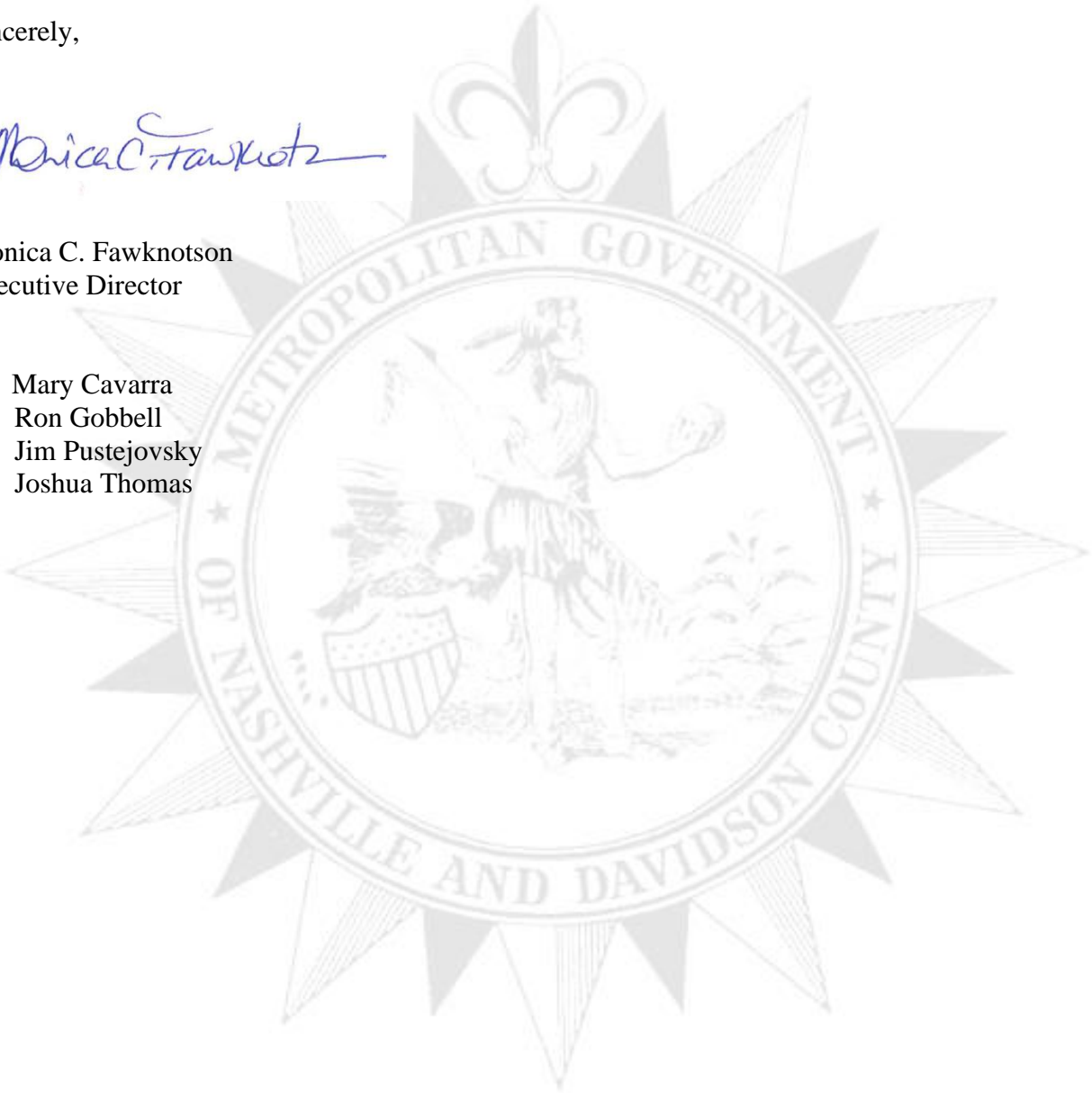
Thank you for working with us through this process. We appreciate all of the work you and your staff have done. If you have any questions, please let us know.

Sincerely,

A handwritten signature in blue ink that reads "Monica C. Fawknotson".

Monica C. Fawknotson
Executive Director

cc: Mary Cavarra
Ron Gobbell
Jim Pustejovsky
Joshua Thomas



APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

We believe that operational management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
Recommendations for the Metropolitan Nashville Council to:			
H	A.1 Revise Metropolitan Nashville Code of Ordinances §4-20-080 and §4-20-090 to accurately reflect the source for construction minimum wages required. Clarification on wage level and area of occupational wage data should be included.	Accept - The Metropolitan Council Office will coordinate potential legislation with the Division of Procurement to revise and update provisions of the Metro Code relative to references to Tennessee Occupational Wage Report published by the Tennessee Department of Labor and Workforce Development, Employment Security Division. (Legislative authority is vested with the Metropolitan Council by the Metropolitan Charter. Adoption of any proposed legislation amending the Metro Code will be solely within the purview of the Metropolitan Council.)	6/30/2024
H	A.2 Revise Metropolitan Nashville Code of Ordinances to require contractors and sub-contractors to classify covered workers in the contract and payroll records in conformity with the schedule of classifications issued by the Tennessee Department of Labor and Workforce Development.	Accept - The Metropolitan Council Office will coordinate potential legislation with the Division of Procurement to revise procurement provisions of the Metro Code relative to required terms in Metro contracts. (Legislative authority is vested with the Metropolitan Council by the Metropolitan Charter. Adoption of any proposed legislation amending the Metro Code will be solely within the purview of the Metropolitan Council.)	6/30/2024

APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
H	A.3 Work with the State of Tennessee to have Tennessee Code Annotated §50-2 – <i>Wage Regulations</i> revised to be consistent with the new name and responsibilities for preparing and publishing the Tennessee occupational wages.	Accept - The Metropolitan Council Office will communicate with the Davidson County Delegation to the General Assembly requesting an update to the state law. (Note that the referenced section of the Tennessee Code does include an alternate source on which to base minimum wages for construction contracts. See, T.C.A. § 50-2-112(a)(2).)	1/31/2024
Recommendations for the Metropolitan Finance – Procurement Division to:			
H	B.1 Include references to Tennessee Code Annotated §50-2-112 and Metropolitan Nashville Code of Ordinances §4.20.080 in construction contracts to ensure awareness of potentially applicable occupational wages.	Accept – Will be developed and presented to the Procurement Standards Board for approval.	10/31/2024
H	B.2 Include references to Tennessee Code Annotated §50-2-112 and Metropolitan Nashville Code of Ordinances §4.20.080 in construction solicitation affidavits to ensure awareness of potentially applicable occupational wages during the solicitation process.	Accept - Will be developed and presented to the Procurement Standards Board for approval.	10/31/2024
H	B.3 Ensure potential requirement to comply with wage laws is adequately communicated to all Metropolitan Nashville departments and agencies overseeing construction contracts.	Accept - Will be developed and presented to the Procurement Standards Board for approval.	10/31/2024

APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendations for the Metropolitan Sports Authority to:</i>			
H	C.1 Establish wage law monitoring procedures for all applicable contracts to ensure compliance by the construction manager and all sub-contractors throughout the life of the contract.	To be determined – See Response Letter	To Be Determined
<i>Recommendation for the Department of Law to:</i>			
H	D.1 Establish a process to ensure all amendments approved by the Metropolitan Nashville Council make it to the related agreements or contracts.	Accept - The Department of Law will coordinate with the Metropolitan Clerk’s Office and Metropolitan Council Staff Office on a process to identify Council action having the effect of modifying the terms of contracts before the Council for approval and notify the department responsible for administering the contracts of the changes.	4/30/2024

APPENDIX B – ASSESSED RISK RATING

Observations identified during the course of the audit are assigned a risk rating, as outlined in the table below. The risk rating is based on the financial, operational, compliance or reputational impact the issue identified has on the Metropolitan Nashville Government. Items deemed “Low Risk” will be considered “Emerging Issues” in the final report and do not require a management response and corrective action plan.

Rating	Financial	Internal Controls	Compliance	Public
HIGH	Large financial impact >\$25,000 Remiss in responsibilities of being a custodian of the public trust	Missing, or inadequate key internal controls	Noncompliance with applicable Federal, state, and local laws, or Metro Nashville Government policies	High probability for negative public trust perception
MEDIUM	Moderate financial impact \$25,000 to \$10,000	Partial controls Not adequate to identify noncompliance or misappropriation timely	Inconsistent compliance with Federal, state, and local laws, or Metro Nashville Government policies	The potential for negative public trust perception
LOW/ Emerging Issues	Low financial impact <\$10,000	Internal controls in place but not consistently efficient or effective Implementing / enhancing controls could prevent future problems	Generally complies with Federal, state, and local laws, or Metro Nashville Government policies, but some minor discrepancies exist	Low probability for negative public trust perception
Efficiency Opportunity	An efficiency opportunity is where controls are functioning as intended; however, a modification would make the process more efficient			

APPENDIX C – SAMPLE OCCUPATIONAL WAGE REPORT

Below is a sample section of the Occupational Employment and Wage Statistics report. As shown, there are various breakouts of wages created.

Occupational Employment and Wage Statistics (OEWS)

Area	Time Period	Occupation	Occupation Code	Industry	Employment	10th %	25th %	Entry level	Median	Mean	Experienced	75th %	90th %
Northern Middle TN	2021	Construction and Extraction	470000	Total, All Industries	36,970	\$14.26	\$17.62	\$15.26	\$21.47	\$22.39	\$25.95	\$24.38	\$31.06
Northern Middle TN	2021	First-Line Supervisors of Construction Trades and Extraction Workers	471011	Total, All Industries	4,580	\$21.77	\$23.82	\$21.88	\$29.72	\$31.46	\$36.26	\$37.56	\$47.13
Northern Middle TN	2021	Boilermakers	472011	Total, All Industries	140	\$22.82	\$26.10	\$23.84	\$29.78	\$31.23	\$34.93	\$37.79	\$39.51
Northern Middle TN	2021	Brickmasons and Blockmasons	472021	Total, All Industries	560	\$18.57	\$22.91	\$20.80	\$23.94	\$25.73	\$28.19	\$29.50	\$29.89
Northern Middle TN	2021	Stonemasons	472022	Total, All Industries	40	\$15.71	\$18.11	\$16.93	\$19.40	\$19.04	\$20.09	\$19.65	\$21.28
Northern Middle TN	2021	Carpenters	472031	Total, All Industries	2,560	\$14.77	\$18.03	\$16.14	\$22.42	\$21.27	\$23.84	\$23.11	\$28.55
Northern Middle TN	2021	Carpet Installers	472041	Total, All Industries	50	\$13.57	\$17.87	\$15.51	\$22.61	\$23.08	\$26.86	\$31.84	\$32.22
Northern Middle TN	2021	Floor Layers, Except Carpet, Wood, and Hard Tiles	472042	Total, All Industries	140	\$13.39	\$14.35	\$13.88	\$14.35	\$17.01	\$18.57	\$18.75	\$23.66
Northern Middle TN	2021	Tile and Stone Setters	472044	Total, All Industries	220	\$11.46	\$15.21	\$13.56	\$22.55	\$21.93	\$26.11	\$23.56	\$37.91
Northern Middle TN	2021	Cement Masons and Concrete Finishers	472051	Total, All Industries	920	\$15.46	\$18.03	\$16.29	\$22.42	\$21.76	\$24.49	\$23.53	\$28.94
Northern Middle TN	2021	Construction Laborers	472061	Total, All Industries	8,050	\$14.08	\$14.55	\$13.64	\$17.93	\$18.10	\$20.34	\$18.89	\$23.07
Northern Middle TN	2021	Paving, Surfacing, and Tamping Equipment Operators	472071	Total, All Industries	520	\$12.26	\$17.47	\$14.83	\$19.98	\$20.03	\$22.62	\$23.01	\$24.00
Northern Middle TN	2021	Pile Driver Operators	472072	Total, All Industries	Confidential	\$18.34	\$18.34	\$17.42	\$23.26	\$21.21	\$23.10	\$23.26	\$23.26
Northern Middle TN	2021	Operating Engineers and Other Construction Equipment Operators	472073	Total, All Industries	2,130	\$14.98	\$18.03	\$16.45	\$19.20	\$21.05	\$23.36	\$23.31	\$28.50
Northern Middle TN	2021	Drywall and Ceiling Tile Installers	472081	Total, All Industries	320	\$8.94	\$13.09	\$11.04	\$18.03	\$18.44	\$22.14	\$20.97	\$30.00
Northern Middle TN	2021	Electricians	472111	Total, All Industries	4,660	\$17.29	\$18.90	\$17.65	\$23.52	\$25.07	\$28.77	\$29.76	\$35.37
Northern Middle TN	2021	Glaziers	472121	Total, All Industries	400	\$11.86	\$17.67	\$14.79	\$22.42	\$21.12	\$24.29	\$24.47	\$28.55
Northern Middle TN	2021	Insulation Workers, Floor, Ceiling, and Wall	472131	Total, All Industries	570	\$10.08	\$13.65	\$11.47	\$14.15	\$14.86	\$16.56	\$17.40	\$19.10
Northern Middle TN	2021	Insulation Workers, Mechanical	472132	Total, All Industries	190	\$16.22	\$18.03	\$17.13	\$22.47	\$22.04	\$24.49	\$22.89	\$29.15
Northern Middle TN	2021	Painters, Construction and Maintenance	472141	Total, All Industries	950	\$14.23	\$16.11	\$14.68	\$17.96	\$18.87	\$20.97	\$22.42	\$23.98

APPENDIX D – NAVIGATION TO WAGE REPORT

Navigation to the Tennessee Occupational Wages report is difficult. Step-by-step instructions needed to be provided by the Tennessee Department of Labor and Workforce Development to find the information. The Office of Internal Audit recreated the steps to illustrate how cumbersome the process is, especially for someone without knowledge of what steps to follow. Below are the steps needed to get to the occupational wages intended to be used by Metropolitan Nashville Code of Ordinances §4-20-080.



1. Users begin by visiting jobs4tn.gov



2. Once on the website, users need to click the Labor Market Information menu option and select LMI Home.

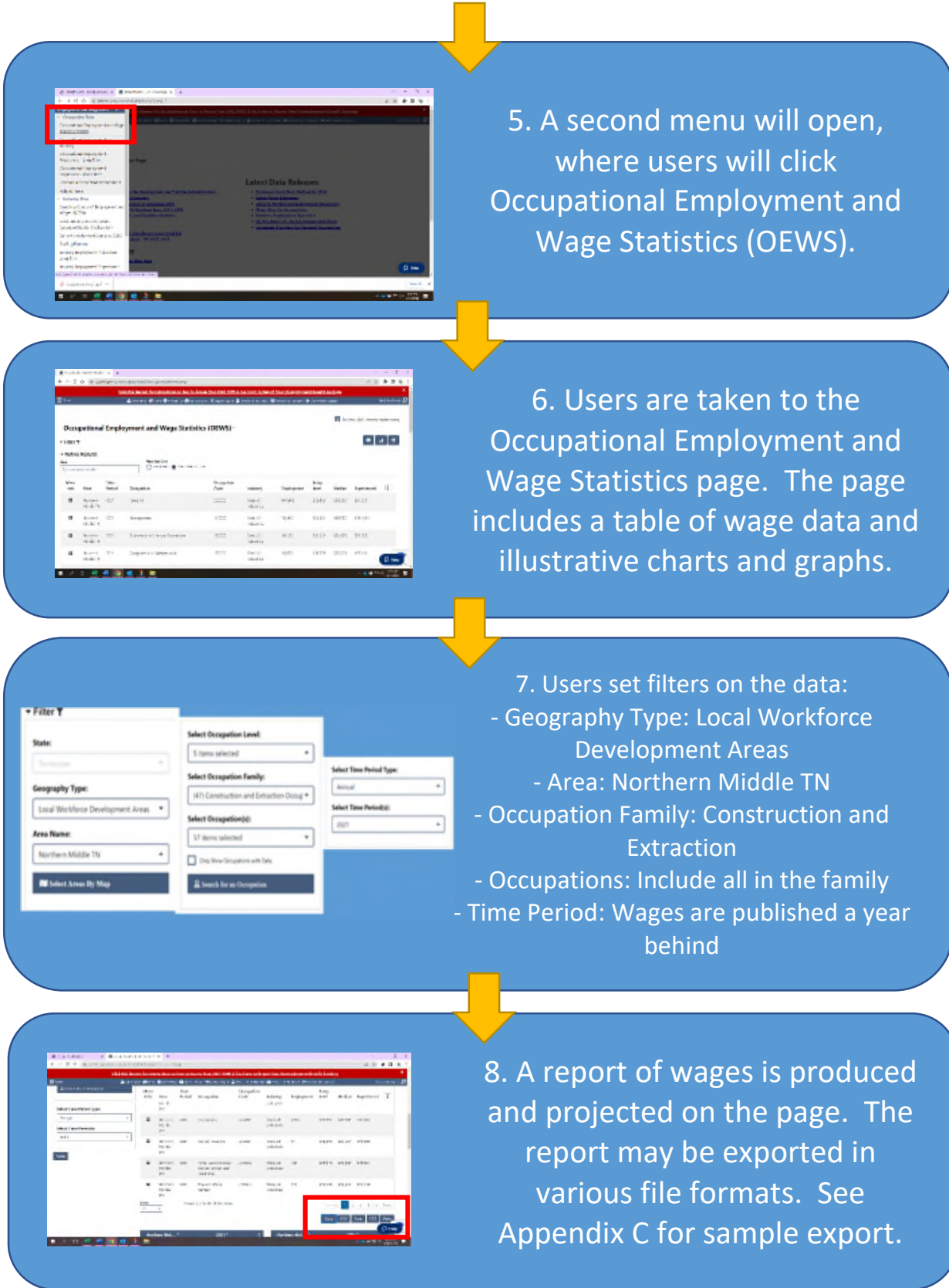


3. Users are taken to the Labor Market Information Home Page. Users click the Menu option in the upper left-hand corner.



4. From the menu that opens, users will select the > next to Employment and Wage Data.

APPENDIX D – NAVIGATION TO WAGE REPORT



APPENDIX E – STADIUM CONSTRUCTION AND MANAGEMENT AGREEMENTS

The Sports Authority entered into various agreements to ensure the construction of the Major League Soccer stadium. A brief description of each agreement is given in the below chart.

<p>GROUND LEASE AND INTERGOVERNMENTAL AGREEMENT:</p> <p>PARTIES: SPORTS AUTHORITY, METROPOLITAN NASHVILLE GOVERNMENT, FAIR BOARD</p> <p>Purpose:</p> <ul style="list-style-type: none">• Ground Lease:<ul style="list-style-type: none">➤ 30-year term for land use➤ Includes prohibited uses➤ Allows sublease to the Team• Intergovernmental Agreement• Revenue Bonds
<p>STADIUM LEASE & DEVELOPMENT AGREEMENT:</p> <p>PARTIES: SPORTS AUTHORITY AND WALSH MANAGEMENT LLC</p> <p>Purpose:</p> <ul style="list-style-type: none">• Construction of 30,000+ seat stadium• Governs construction process in coordination with other documents; roles; cost sharing• CAA Icon serving as Walsh's Representative• Ron Gobbell and Capital Project Solutions overseeing project on Sports Authority's behalf
<p>CONSTRUCTION ADMINISTRATION AGREEMENT:</p> <p>PARTIES: SPORTS AUTHORITY, WALSH MANAGEMENT LLC, AND NASHVILLE SOCCER HOLDINGS</p> <p>Purpose:</p> <ul style="list-style-type: none">• Defines roles for construction phase• Designates CAA Icon as Project Manager• Lists CAA Icon's responsibilities, including:<ul style="list-style-type: none">➤ Monitor construction costs➤ Review contractor payment applications➤ Submit change orders to Sports Authority for approval
<p>ARCHITECT AGREEMENT:</p> <p>PARTIES: SPORTS AUTHORITY AND POPULUS</p> <p>Purpose:</p> <ul style="list-style-type: none">• Defines role of architect and responsibilities• Contract amount• Phases of design and deliverables• Disadvantaged Business Enterprises requirements
<p>CONSTRUCTION MANAGEMENT AGREEMENT:</p> <p>PARTIES: SPORTS AUTHORITY AND MORTENSON MESSER JOINT VENTURE</p> <p>Purpose:</p> <ul style="list-style-type: none">• Defines roles of construction manager and responsibilities• Construction process• Guaranteed maximum price process and amendment• Change order process• Disadvantaged Business Enterprises requirements