

Special Provision to Item 005

Control of Work



Item 5, "Control of the Work," of the Standard Specifications, is hereby amended with respect to the clauses below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 12 "Final Acceptance" is supplemented as follows:

12. FINAL ACCEPTANCE

12.4. Project Acceptance for Projects Including Warranted Construction. Is added, as follows.

Description. Warrant the indicated product for the period of 12 mo. Perform any required remedial actions to correct deficiencies identified in periodic evaluations and maintain the product during the warranty period as specified on the plans. As specified on the plans, the warranty will be guaranteed by a warranty letter (Refer to Section 5.12.5, Warranty Letter.)

Develop remedial actions for those parts of the warranted product that do not meet specified standards of performance. The remedial actions will be subject to the approval of the Engineer. Complete the approved remedial actions at no additional cost to the Department. (Refer to Section 5.12.7, Remedial Actions.) When specified by the Engineer, maintain the warranted product during the warranty period at no additional cost to the Department. (Refer to Section 5.12.7, Maintenance.)

12.5. **Warranty Letter.** Provide a warranty letter that provides for the specific item specified on the plans, the assurance by the Contractor that the item will be free of any defects, shrinkages, warpings, defective materials, or workmanship, and the Contractor further warrants to repair or replace at their own expense such defective item or workmanship for a period of 12 mo. from the date of acceptance of the specific item. Furnish the warranty letter as a guaranty for the protection of the claimants and the Department for labor and materials and the faithful performance of all maintenance and remedial actions required by these warranty requirements.

12.6. **Warranty Period.** The warranty period for the specific item will be 12 mo. The beginning date of the warranty period is the date of final acceptance of the section of the project specified on the plans or the General Notes, or as determined by the Engineer. Written notice of the effective beginning date of the warranty period will be furnished to the Contractor.

12.7. **Remedial Actions.** If the annual evaluation results exceed the established threshold values for one or more of the performance indicators, develop remedial actions that will correct the inadequate conditions. Within 30 days of the receipt of the evaluation results, or the resolution of a disputed evaluation, whichever is the latter, submit the proposed remedial actions for the review and approval of the Engineer. If the Engineer does not approve the proposed actions, or mutually agreeable remedial actions cannot be negotiated within 30 days following the submission of the proposed remedial actions, the issue will be referred to the Conflict Resolution Team for disposition.

The remedial actions will comply with the following:

- **Remedial Action Requirements.** Use materials and construction methods that conform to the specification requirements included in the contract for which the warranty applies and which correspond to the approved remedial actions.
- **Schedule for Remedial Actions.** Begin the remedial actions within 30 days following approval of the remedial actions unless a later date is mutually agreed upon with the Engineer.
- **Warranty on Remedial Actions.** The warranty period for the remedial actions performed will be limited to the period of the original contract warranty.

- 12.8. **Maintenance.** When specified on the plans, maintain the warranted product for the warranty period.
- 12.8.1. **Maintenance Responsibilities.** The respective maintenance responsibilities of the Contractor and the Department are specified in the specification or the special provision for the warranted product.
- 12.8.2. **Materials and Construction Methods.** Use materials and construction or maintenance methods that conform to the specification requirements included in the Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (2014) and that correspond to the maintenance action employed or as approved by the Engineer. Where there is no corresponding specification, submit appropriate specifications to the Engineer for approval.
- 12.9. **Emergency Work.** If, in the opinion of the Engineer, conditions require immediate attention, such as for public safety, the Contractor will perform the required work within 10 days of notification by the Engineer. If the contractor cannot perform the required work within the defined time frame, the Engineer can have the necessary work performed, at the Contractor's expense, with the Department's personnel, or through outsourcing. Total cost of the work performed will include expenses, mobilization, labor, traffic control, law enforcement cost, and any other subsidiary costs required for performance of the work. Any work thus performed will not alter the requirements, responsibilities, or obligations included in the warranty. The cost of the "Emergency Work" will be paid for from the "Withheld Payment" described in Article 5 of Special Provision to Item 9 "Measurement and Payment – Warranted Construction" if the contractor cannot perform the work within the defined time frame.
- 12.10. **Applicability of Standard Specification Items 1 through 9.** For the time periods during which maintenance or remedial actions required by the warranty specification is being performed, the applicable portions of Standard Specification Items 1-9, including Special Provisions thereto, will remain in effect. Note, specifically that 8.7.1 Prosecution and Progress, Default of Contract will be enacted if the warranty for the specific items shown herein are not met.
- 12.11. **Traffic Control.** Before beginning any maintenance or remedial actions, submit a traffic control plan to the Engineer for approval. Comply with the provisions of the latest edition of the Texas Manual of Uniform Traffic Control Devices, the TxDOT standard sheets for Traffic Control Plans, and the Traffic Control Plans for the project, as applicable. Implement the approved traffic control plan during maintenance or remedial work.
- 12.12. **Insurance.** Maintain insurance as required by Standard Specification Item 3.4, Execution of Contract, for the maintenance and remedial actions required by the warranty provisions of the contract through the warranty period for warranted construction.
- 12.13. **Responsibility.** Notwithstanding the project acceptance provisions of Article 5.12, "Final Acceptance," the Contractor is relieved of responsibility for the warranted construction upon satisfactory completion of the warranty period and acceptance by the Engineer. The Engineer will provide written acceptance of the warranted construction upon expiration of the warranty period or satisfactory completion of the remedial actions, whichever is the later.