

WARRANTIES



Background

5-13 Recovery Rights, Subsequent to Final Payment.

The Department reserves the right, if it discovers an error in the partial or final estimates, or if it discovers that the Contractor performed defective work or used defective materials, after the final payment has been made, to claim and recover from the Contractor or his surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials.

Warranty or no warranty

The 2020 Florida Statutes

Title XXVI
PUBLIC
TRANSPORTATION

Chapter 337
CONTRACTING; ACQUISITION, DISPOSAL, AND
USE OF PROPERTY

337.19 Suits by and against department; limitation of actions; forum.—

(1) Suits at law and in equity may be brought and maintained by and against the department on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement. In any such suit, the department and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. Notwithstanding anything to the contrary contained in this section, no employee or agent of the department may be held personally liable to an extent greater than that pursuant to s. [768.28](#) provided that no suit sounding in tort shall be maintained against the department.

(2) Suits by and against the department under this section shall be commenced within 820 days of the final acceptance of the work. This section shall apply to all contracts entered into after June 30, 1993.

How long?

820 days

9-8 Acceptance and Final Payment.

9-8.1 Acceptance and Final Payment Documents: Whenever the Contractor has completely performed the work provided for under the Contract and the Engineer has made a final inspection and made final acceptance (as provided in 5-10 and 5-11), and subject to the terms of 8-11, the Engineer will prepare a final estimate showing the value of the work as the Engineer makes the necessary measurements and computations. The Engineer will include all prior estimates and payments in the final estimate and payment. The Department will pay the estimate, less any sums that the Department may have deducted or retained under the provisions of the Contract, as soon as practicable after final acceptance of the work, along with all executed supplemental agreements received after final acceptance.

820 days

Acceptance Letter. The Contractor further agrees, by submitting a Qualified Acceptance Letter that any pending or future arbitration claim or suit is limited to those particulars, including the itemized amounts, defined in the original Qualified Acceptance Letter, and that he will commence with any such arbitration claim or suit within 820 calendar days from and after the time of final acceptance of the work and that his failure to file a formal claim within this period constitutes his full acceptance of the Engineer's final estimate and payment. The overpayment

Bond Nos. 106702983 & 106702984

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CONTRACT BOND

375-020-27
CONTRACTS ADMINISTRATION
OGC - 08/12
Page 1 of 2

KNOW ALL MEN BY THESE PRESENTS: That we, Morrison-Cobalt JV

(Entity Name) having its principal place of business at 2828 Coral Way, Miami, FL 33145 305 854-5504

(Bidding Office Street Address, City, State, Zip and Phone)

(hereinafter called Principal or Contractor) and Travelers Casualty & Surety Company of America

(hereinafter called Surety), duly authorized to do business in the State of Florida, pursuant to the laws of the State of Florida,
having its principal place of business at One Tower Square, Hartford, CT 06183

2 years

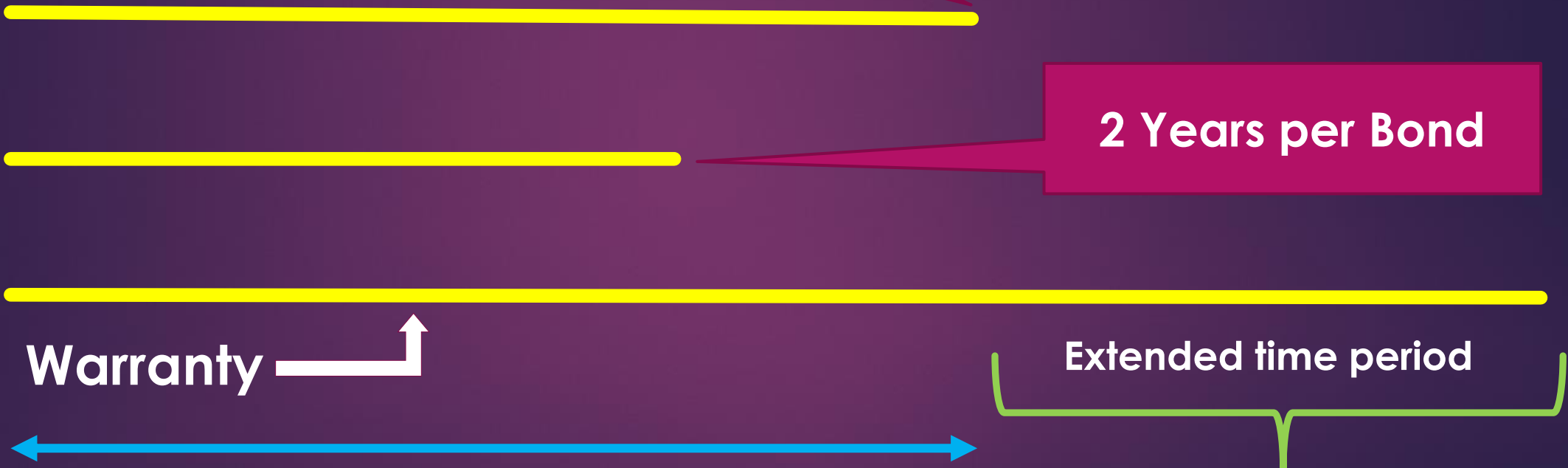
(hereinafter called the Contract), upon certain terms and conditions in the Contract more particularly mentioned; WHEREAS, it was one of the conditions of the Contract that these presents shall be executed; NOW, THEREFORE, the conditions of this obligation are such that if the above-bound Principal in all respects shall comply with Section 337.18(1), Florida Statutes, and shall promptly, faithfully, efficiently, and fully perform the Contract according to plans and specifications as therein referred to and made a part thereof, and any alterations as may be made in said plans and specifications as provided for therein, and within the time period specified, and further, shall remedy any errors in partial or final estimates and any defects which may exist, appear, occur or result in or from said work within a period of two (2) years from the date of final acceptance of the work under the Contract and further if the Contractor shall promptly make payment to all persons furnishing labor, material, equipment, and supplies, and all persons defined in Section 713.01, Florida Statutes, whose claims derive directly or indirectly from the prosecution of the work provided for in the Contract (See Section 337.18(1) (a)-(f), F.S., for specific "claim" notice and time limitation requirements), and shall promptly pay all State Workers' Compensation and Unemployment Compensation taxes incurred in the performance of the Contract,

820 days to litigate

2 Years per Bond

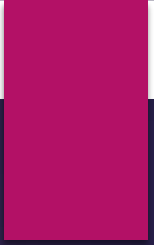
Warranty

Extended time period

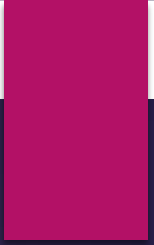


337.02 Purchases by department subject to competitive bids; advertisement; emergency purchases; bid specifications.—

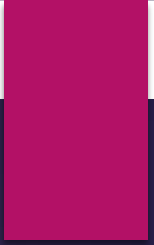
(3) When the department advertises for bids on a contract for supplies, materials, equipment, or other items needed by the department, specifications shall be drafted in such manner as will afford adequate protection to the state as to quality and performance, but specifications shall not be drafted in any manner which will preclude competition in bidding.



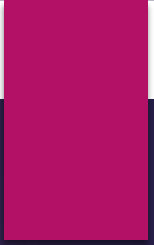
A warranty promises indemnity against defects in an article sold. It is distinguishable from insurance in that insurance promises indemnity from outside perils, unrelated to defects in the article sold.



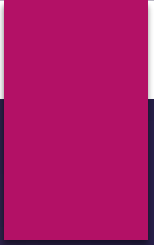
Warranties may be express or implied. They may be written or oral. It has been held that privity is required in order to maintain an action for breach of express or implied warranty.



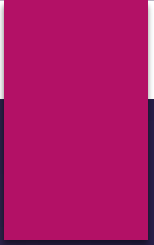
No particular wording need be used to create a warranty, that is, one need not use the words *warranty* or *guaranty*.



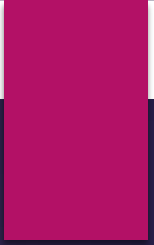
Where an express warranty covers more than just performing the work in accordance with plans and specifications without defects, but goes on to warrant the efficiency or operation of the completed product, then failure of the product to perform as warranted will result in a breach of the warranty.



An express warranty is contractual in nature. Recovery for a breach of express warranty is limited to persons who are in privity of contract or are third party beneficiaries.

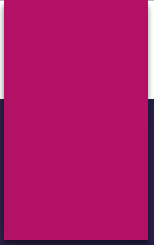


Recovery under an express warranty is limited to the categories of damage specified in the express warranty. Where an express warranty provides for repair or replacement, the warrantor may choose which remedy will be furnished. Either may be used which is reasonable. However, where the repair will not suffice to solve the problem, then repair may not be used.

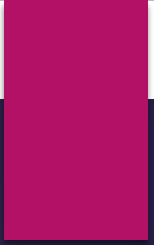


The elements of a cause of action for a breach of warranty with respect to sale of goods under Florida law are:

1. Facts in respect to the sale of the goods;
2. Identification of the type of warranty created;
3. Facts in respect to the creation of the particular warranty;
4. Facts in respect to the breach of the warranty;
5. Notice to seller of breach;
6. The injuries sustained by the buyer as a result of the breach of warranty.

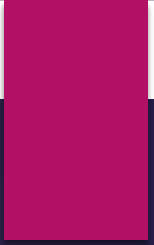


In order to recover damages against the seller of an item for breach of warranty, there must be notice of the breach to give the warrantor an opportunity to remedy the breach and mitigate any damages. When the purchaser continues to use the product after knowing of the defect, and without giving notice to the seller, the purchaser is barred from any warranty claim. Where the warrantor has actual knowledge of the defect, notice is superfluous.

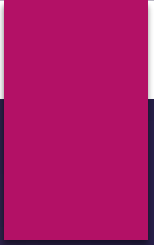


Misuse of the warranted product is a defense to recovery for breach of warranty.

A corollary of misuse is the rule that the consumer, user, or bystander, in relation to the claimed defective product, must exercise ordinary due care.



If the cause of the defect is an independent intervening source involving the product that was not reasonably foreseeable, then there will be no liability for breach of warranty.



Warranties, even implied warranties, can be avoided by a disclaimer in the documents of the sale transaction. In the sale of goods, any exclusion of the implied warranties of merchantability and fitness must be conspicuous. Where there has been no prior examination of the goods, to exclude the warranty of merchantability the word *merchantability* must be used in the disclaimer. A disclaimer of the warranty of fitness must be in writing.

[Title XXXIX](#)

[Chapter 672](#)

[View Entire Chapter](#)

COMMERCIAL RELATIONS UNIFORM COMMERCIAL CODE: SALES

672.313 Express warranties by affirmation, promise, description, sample.—

(1) Express warranties by the seller are created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as “warrant” or “guarantee” or that the seller have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller’s opinion or commendation of the goods does not create a warranty.

History.—s. 1, ch. 65-254; s. 565, ch. 97-102.

Note.—s. 2-313, U.C.C.

COMMERCIAL RELATIONS UNIFORM COMMERCIAL CODE: SALES

672.314 Implied warranty; merchantability; usage of trade.—

(1) Unless excluded or modified (s. [672.316](#)), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as:

- (a) Pass without objection in the trade under the contract description; and
 - (b) In the case of fungible goods, are of fair average quality within the description; and
 - (c) Are fit for the ordinary purposes for which such goods are used; and
 - (d) Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and
 - (e) Are adequately contained, packaged, and labeled as the agreement may require; and
 - (f) Conform to the promises or affirmations of fact made on the container or label if any.
- (3) Unless excluded or modified (s. [672.316](#)) other implied warranties may arise from course of dealing or usage of trade.

History.—s. 1, ch. 65-254.

Note.—s. 2-314, U.C.C.

[Title XXXIX](#)

[Chapter 672](#)

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COMMERCIAL RELATIONS UNIFORM COMMERCIAL CODE: SALES

672.315 Implied warranty; fitness for particular purpose.—Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.

History.—s. 1, ch. 65-254.

Note.—s. 2-315, U.C.C.; supersedes s. 578.13.

[Title XXXIX](#)

[Chapter 672](#)

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COMMERCIAL RELATIONS UNIFORM COMMERCIAL CODE: SALES

672.316 Exclusion or modification of warranties.—

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but, subject to the provisions of this chapter on parol or extrinsic evidence (s. [672.202](#)), negation or limitation is inoperative to the extent that such construction is unreasonable.

(3) Notwithstanding subsection (2):

(a) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like “as is” or “with all faults” or other language which in common understanding calls the buyer’s attention to the exclusion of warranties and makes plain that there is no implied warranty; and

Section 8.14

VALUE ADDED FEATURES

8.14.1 PURPOSE

To establish a standard administrative procedure for tracking and monitoring Value Added Features (VAF) for compliance with the contract specifications. The procedure sets forth the responsibilities for inspecting and accepting remedial work (RW) required to bring the features in compliance with the specifications. This procedure is primarily for the use of District Construction and Maintenance personnel responsible for monitoring and tracking VAF. In order to maximize the use of Department resources, the Department's routine Maintenance Inspection Program should be utilized as much as possible for inspections to evaluate projects with Value Added Features.

Construction

Office of Construction / Construction Support

Small Painted Structures



Requirements for Becoming a Prequalified Fabricator (*.pdf, 198 KB) (Effective on all contracts let after September 1, 2007)

Prequalified Painted Galvanized Steel Products Fabricators List

Required Forms

- **Fabricator as Responsible Party** Form # 700-010-20
- **Fabricator's Annual Bond** Form # 375-020-65
- **Continuation Certificate Form** # 375-020-65a

For Additional Details, Contact: **Jason Russell** (850) 414-4010

SECTION 338 VALUE ADDED ASPHALT PAVEMENT

3 years

338-1 Description.

Construct value added asphalt pavement consisting of asphalt concrete structural course and asphalt concrete friction course, subject to a three year warranty period after final acceptance of the Contract in accordance with 5-11.

For purposes of this Specification, the Responsible Party, as designated herein, is responsible for performance of the value added asphalt pavement including continued responsibility for performing all remedial work associated with pavement distresses exceeding threshold values determined in accordance with this Section, and as to which notice was provided to the Responsible Party.

The work specified in this Section will not be paid for directly, but will be considered as incidental to other Contract items.

**EXPLANATION OF FLOW CHART STEPS
for
PROJECT ADMINISTRATIVE PROCESS FOR VALUE ADDED ASPHALT PAVEMENT
DURING WARRANTY PERIOD**

- (1) **Project Final Acceptance** – The Value Added Asphalt Pavement (VAAP) specification of the contract take effect once final acceptance of the construction project is issued to the Contractor.
- (2) **Project Administrator (PA) Notifies the District Warranty Coordinator (DWC)** – After Final Acceptance is issued, the PA notifies the DWC that a new VAAP project must be added to the list of Pavement Evaluation Survey (PES) Tracking System. When the list is updated by the DWC, a copy is sent to the State Pavement Evaluation Section (SPES) of State Materials Office (SMO) in Gainesville for information.
- (3) **DWC Initiates and Coordinates Performance Monitoring Visually and by PES Tracking System** – DWC inspection team must check the VAAP list and PES tracking system prior to initiating and coordinating the pavement performance inspection to determine which projects are in the third year warranty period or have the distresses so that the inspection can focus on those projects first. In general, the engineers/inspectors shall drive through the project and randomly stop at several locations to visually inspect the pavement for any distresses with a length of 200 feet each time. For the projects having distress records, the evaluation shall concentrate on those deficiencies first.
- (4) **Distress Observed (PES and/or Visual or Flag)?**
YES - if PES and/or inspection team or other users discover pavement deficiencies, the findings shall be documented and reported to DWC. Go to Step 5.
NO - If no deficiencies are discovered by PES and/or inspection team or other users, go to Step 21.

5 years

SECTION 355 VALUE ADDED PORTLAND CEMENT CONCRETE PAVEMENT

355-1 Description.

Construct Value Added Portland Cement Concrete Pavement (Concrete Pavement), subject to a five year warranty period after final acceptance of the Contract in accordance with 5-11. This Section applies only to new pavements, including added lanes.

Submit each mix design to the Engineer at least 14 days prior to any paving work.

Perform all the associated work specified in this Section including continued responsibility for performing all remedial work associated with pavement distresses exceeding threshold values determined in accordance with this Section and as to which notice was provided to the Contractor.

The work specified in this Section will not be paid for directly, but will be considered as incidental to other Contract items.

SECTION 649 GALVANIZED STEEL POLES, MAST ARMS, AND MONOTUBE ASSEMBLIES

5 years

649-1 Description.

The work in this Section consists of furnishing and installing galvanized steel strain poles, galvanized steel mast arms, galvanized steel monotube assemblies, and galvanized steel CCTV poles in accordance with the details shown in the Contract Documents, subject to a five year warranty period as defined herein. The warranty period will apply only when poles, mast arms or steel monotube assemblies are painted as called for in the Contract Documents.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PAINTED GALVANIZED STEEL STRUCTURES PERFORMANCE BOND

375-020-65
CONSTRUCTION
OGC – 09/07
Page 1 of 2

KNOW ALL MEN BY THESE PRESENTS: That we [Fabricator Name] _____
having its principal place of business at [Street Address, City, State, Zip and Phone #] _____
(hereinafter “Principal”) and _____
(hereinafter “Surety”), duly authorized to do business in the State of Florida, pursuant to the laws of the State of
Florida, having its principal place of business at [Home Office City, State, Zip] _____
are held and firmly bound unto the State of Florida, in the full and just penal sum of _____
DOLLARS (\$ _____), lawful money of the United States of America, to be paid to the Florida
Department of Transportation, to which payment well and truly to be made we bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally and firmly by these presents:

WHEREAS, the above-bound Principal has applied to the State of Florida Department of Transportation
(hereinafter “Department”), to become a Prequalified Fabricator of Painted Galvanized Steel Strain Poles, Mast
Arms and Monotube Assemblies; and

WHEREAS, the above-bound Principal has already and/or intends to provide one or more of the following
materials, including Painted Galvanized Steel Strain Poles, Mast Arms, Monotube Assemblies, Highway Lighting
Poles, or Highway Lighting Arms (hereinafter collectively “Products”), for installation as a part of the completion of
any construction or maintenance contract with the Department during the period from (Date _____) to the
subsequent June 30th, _____ (Year -Note all
annual bond renewals subsequent to initial bond should be from July 1st to June 30th of the following year); and,

CONTINUATION CERTIFICATE

**For Use with Painted Galvanized
Steel Structures Performance Bonds**

Bond No. _____

In consideration of _____ dollars renewal premium, the term of Bond No. _____ in the amount of \$ _____, dated _____ issued on behalf of _____, in favor of _____ in connection with _____ is hereby extended to _____ and the penal sum is now _____ dollars.

This Certificate is subject to the same terms and conditions as set forth in the aforementioned Bond.

The surety's liability under said bond, and any and all continuation certificates, shall not be cumulative and shall not exceed the amount of said penal sum set forth in this continuation certificate regardless of the number of periods the bond is extended. The bond shall be subject to all its agreements, limitations and conditions except as herein expressly modified.

SIGNED, SEALED AND DATED this _____ day of _____, _____.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**ASSUMPTION OF OBLIGATIONS BY A FABRICATOR AS THE
RESPONSIBLE PARTY FOR COLOR AND ADHESION
WARRANTIES ON PAINTED GALVANIZED STRUCTURES**

700-010-20
CONSTRUCTION
04/18

Fin. Proj. ID Contract No.

F.A.P. No. Road No.

Prime Contractor

Fabricator (as the Responsible Party)

Subcontractor Address

Subcontractor F.E.I.D. Number

Pursuant to Section 649 of this Contract, the Fabricator hereby acknowledges and agrees that it will fully and completely assume all responsibilities, obligations and rights as the Responsible Party for the 5 year color and adhesion warranties on the galvanized and painted structures to be installed under this Contract pursuant to Section 649, subject to the Department's approval. Upon approval as the Responsible Party for this Contract, the Fabricator agrees that this undertaking herein shall be self-executing and fully binding upon the Fabricator without need for any additional action on behalf of any party. This designation of Fabricator as a Responsible Party does not alter or change the Contract. All provisions of the Contract shall remain in full force and effect.

Authorized Signature, Fabricator (Printed Name) (Title) Date

Authorized Signature, Prime Contractor (Printed Name) (Title) Date

Approval Signature, FDOT (Printed Name) (Title) Date

SECTION 659

MAST ARM, SPAN WIRE, AND POLE MOUNTING ASSEMBLIES

659-1 Description.

Furnish and install mounting assemblies for vehicular and pedestrian traffic signals, signs, cameras, detectors, and other devices in accordance with the Contract Documents.

659-4 Warranty.

Ensure mounting assemblies have a manufacturer's warranty covering defects for a minimum of three years from the date of final acceptance in accordance with 5-11 and Section 608. The warranty must include providing replacements, within 10 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

3 years

5 years

SECTION 970
MATERIALS FOR RAISED PAVEMENT
MARKERS AND BITUMINOUS ADHESIVE

970-1 Raised Pavement Markers (RPMs).

Manufacturers seeking evaluation of their product must submit an application in accordance with Section 606.

RPMs shall be classified in accordance with the following chart:

970-2.3.5 Warranty: The manufacturer must provide a five-year, non-prorated warranty on all components for five years from the date of final acceptance in accordance with Section 706.

SECTION 992 HIGHWAY LIGHTING MATERIALS

5 years

992-1 General.

992-1.1 Pole Design Criteria: The light poles and bracket arm shall be in accordance with the requirements of the AASHTO LRFD Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, the FDOT Structures Manual and with the specific requirements contained in this Section.

The manufacturer shall submit a five year non-prorated full warranty on all components of the luminaire to the Department. The warranty shall begin on the project acceptance date and include all components of luminaire.

j. The manufacturer shall submit a five-year non-prorated full warranty on all components of the luminaire retrofit kit to the Department. The warranty shall begin on the project acceptance date and include all components of the luminaire retrofit kit.

SIGNING, PAVEMENT MARKING, AND LIGHTING

SECTION 700 HIGHWAY SIGNING

700-1 General Requirements.

700-1.1 Description: Furnish and erect roadway signs at the locations, and in accordance with the details, shown in the Plans.

700-3.2.8 Warranty:

700-3.2.8.1 Internally Illuminated Signs: Ensure that internally illuminated signs have a manufacturer's warranty covering defects for five years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

700-3.2.8.2 Highlighted Signs: Ensure that highlighted signs have a manufacturer's warranty covering defects for three years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

5 years

3 years

SECTION 682 VIDEO EQUIPMENT

682-1 CCTV Camera.

682-1.1 Description.

Furnish and install a closed-circuit television (CCTV) camera at the locations shown in the Plans. The installed equipment must provide video images of the roadway, traffic, and other current conditions around a roadside CCTV field site; respond to camera control signals from the operator; and transmit video images to remote locations for observation.

682-3 Warranty.

Ensure that CCTV cameras and video display equipment have a manufacturer's warranty covering defects for a minimum of three years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608. Ensure that the warranty requires the manufacturer to furnish replacements for any part or equipment found to be defective during the warranty period at no cost to the Department or the maintaining agency within 10 calendar days of notification.

Warranty repairs of the video display control system and related TMC display equipment must commence within 24 hours after notification by the Department.

603-6 Documentation for Electronic Equipment.

Prior to final acceptance, submit the following documentary items obtained from the manufacturer for the electronic equipment listed below:

1. Operation Manual
2. Troubleshooting and Service Manual
3. Assembly and installation instructions
4. Pictorial layout of components and schematics for circuit boards
5. Parts list
6. Diagram of the field installation wiring (not applicable to the detectors)
7. Warranty information

Submit documentary items for the following equipment:

1. Controllers
2. Vehicle detectors
3. Load switches
4. Flasher units
5. Preemption units

SECTION 608

MANUFACTURERS' WARRANTIES FOR TRAFFIC CONTROL SIGNALS AND DEVICES

608-1 Description.

This Section sets forth manufacturers' warranty requirements for traffic control signals and devices furnished to the Department. Manufacturer and Contractor costs associated with transferring, submitting, and delivering equipment warranties, requirements, terms, and conditions are part of the work and are included in the pay item for the equipment or construction feature utilizing the equipment.

611-5 Contractor's Warranty Period for Installations.

611-5.1 General Requirements: Repair or replace any defective components or work of the installations for a 90 day period after final acceptance.

611-5.2 Contractor's Responsibilities: During the warranty period, the Contractor is responsible for the following:

1. Repair or replacement of equipment that fails to function properly due to defective materials or workmanship.
2. Upon notification by the Engineer of a malfunction, restore the equipment to proper operating condition within 12 hours after notification by the Engineer.

If the Contractor fails to restore the equipment to proper operating condition within 12 hours after notification, the Engineer has the authority to have the remedial work performed by other forces. The Contractor is responsible for all incurred costs of the work performed by other forces. Remedial work performed by other forces does not alter any of the requirements, responsibilities or obligations of this warranty.

3. In the event that the equipment does not function or malfunctions due to defective materials or workmanship, the Contractor is liable for any impairment to the safety of pedestrian and vehicular traffic resulting from such malfunction.

611-5.3 Department's Responsibilities: During the warranty period, the Department is responsible for the following:

620-2.7.6 Manufacturer's Warranty: Ensure that the SPD has a manufacturer's warranty covering failures for a minimum of 10 years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

The term "failure" for warranty replacement is defined as follows:

Parallel-connected, power-rated SPD units are considered in failure mode when any of the visual indicators shows failure mode when power is applied to the terminals at the unit's rated voltage, or the properly functioning over-current protective device will not reset after tripping.

Series-connected, low-voltage power, data, or signal units are considered in the failure mode when an open circuit condition is created and no data/signal will pass through the SPD device or a signal lead is permanently connected to ground.

In the event that the SPD, including any component of the unit, should fail during the warranty period, the entire SPD shall be replaced by the manufacturer at no cost to the Department or maintaining agency.

633-4 Warranty.

Ensure that the fiber optic cable, the splice enclosures, and terminations have a manufacturer's warranty covering defects for a minimum of two years from the date of final acceptance in accordance with 5-11 and Section 608. Ensure the warranty includes providing replacements, within 10 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

635-5 Warranty.

Ensure all pull, splice, and junction boxes have a manufacturer's warranty covering defects for a minimum of one year from the date of final acceptance in accordance with 5-11 and Section 608. Ensure the warranty includes providing replacements, within 30 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

SECTION 650

VEHICULAR TRAFFIC SIGNAL ASSEMBLIES

650-1 Description.

Furnish and install vehicular traffic signal assemblies as shown in the Plans and Standard Plans. For additional requirements related to mounting and attaching the assemblies, see Section 659.

650-4 Warranty.

Ensure that the signal housings, backplates, and any other signal assembly components have a manufacturer's warranty covering defects for a minimum of three years from the date of final acceptance in accordance with 5-11 and Section 608. Ensure the warranty includes providing replacements, within 30 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

Ensure that the LED signal modules have a manufacturer's warranty covering defects for a minimum of five years from the date of final acceptance in accordance with 5-11 and 608. Ensure that the warranty includes providing replacements, within 30 calendar days of notification, for any defective parts and equipment (including falling below minimum intensity levels) during the warranty period at no cost to the Department or the maintaining agency.

SECTION 654

MIDBLOCK CROSSWALK ENHANCEMENT ASSEMBLIES

654-1 Description.

Furnish and install midblock crosswalk enhancement assemblies.

654-4 Warranty.

Ensure the midblock crosswalk enhancement assembly has a manufacturer's warranty covering defects for two years from the date of final acceptance in accordance with 5-11 and Section 608. Ensure the warranty includes providing replacements within 10 calendar days of notification for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

SECTION 660 VEHICLE DETECTION SYSTEM

660-1 Description.

Furnish and install a vehicle detection system in accordance with the Contract Documents and this Section. Use vehicle detection systems and loop sealant that meet the requirements of Section 995 and are listed on the Department's Approved Product List (APL).

660-5 Warranty.

Ensure that the detection system has a manufacturer's warranty covering defects for a minimum of 2 years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

Ensure the warranty includes providing replacements, within 10 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

SECTION 663

SIGNAL PRIORITY AND PREEMPTION SYSTEMS

663-1 Description.

Furnish and install a signal priority and preemption system as shown in the Plans. The signal preemption system must recognize and respond to the priority of each user. Meet the requirements of Section 603.

663-4 Warranty.

Ensure that the manufacturer will furnish replacements for any part or equipment found to be defective during the warranty period at no cost to the Department or the maintaining agency within 10 calendar days of notification.

Ensure that the priority and preemption system has a manufacturer's warranty covering defects for five years.

SECTION 665

PEDESTRIAN DETECTION SYSTEM

665-1 Description.

Install a pedestrian detection system. Use pedestrian detection systems and components listed on the Department's Approved Product List (APL). Pedestrian detection systems are classified into three categories: Standard Pedestrian Pushbutton Detectors, Accessible (Audible/Tactile) Pedestrian Pushbutton Detectors, and Passive Detectors. The components of the pedestrian detection system include pushbuttons, pedestrian actuation signs, electronics, wiring, and mounting hardware.

665-3 Warranty.

Ensure that pedestrian detection systems have a manufacturer's warranty covering defects for a minimum of 5 years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608. Ensure the warranty includes providing replacements, within 10 calendar

SECTION 676

TRAFFIC CABINETS

676-1 Description.

Furnish and install traffic cabinets as shown in the Plans. Meet the requirements of Section 603.

676-4 Warranty.

Ensure traffic cabinets have a manufacturer's warranty covering defects for a minimum of two years from the date of final acceptance in accordance with 5-11 and Section 608. The warranty must include providing replacements, within 10 calendar days of notification, for defective parts and equipment during the warranty period at no cost to the Department or maintaining agency.

SECTION 677 EQUIPMENT SHELTER

677-1 Description.

Furnish and install an equipment shelter as shown in the Plans. Ensure that all materials furnished, assembled, fabricated, or installed are new products.

677-2.16 Warranty: The equipment shelter, its components, and hardware must have a manufacturer's warranty covering defects for a minimum of one year.

SECTION 680

SYSTEM CONTROL EQUIPMENT

680-1 Description.

Furnish and install system control equipment as shown in the Plans. Meet the requirements of Section 603.

680-4 Warranty.

Ensure system control equipment has a manufacturer's warranty covering defects for a minimum of three years. The warranty must include provisions for providing replacements within 10 calendar days of notification for defective parts and equipment during the warranty period at no cost to the Department or the maintaining agency.

SECTION 684 NETWORK DEVICES

684-1 Managed Field Ethernet Switch.

684-1.1 Description: Furnish and install a hardened, device-level managed field Ethernet switch (MFES) for intelligent transportation system (ITS) projects. Ensure that the MFES provides wire-speed fast Ethernet connectivity at transmission rates of 100 megabits per second from the remote ITS device installation location to the ITS network trunk interconnection point.

684-5 Warranty.

684-5.1 General: Ensure that the manufacturer will furnish replacements for any part or equipment found to be defective during the warranty period at no cost to the Department or the maintaining agency within 10 calendar days of notification.

684-5.2 MFES: Ensure that the MFES has a manufacturer's warranty covering defects for five years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

684-5.3 Device Server: Ensure that the device server has a manufacturer's warranty covering defects for five years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

684-5.4 Digital Video Encoder and Decoder: Ensure that the DVE or DVD has a manufacturer's warranty covering defects for two years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

684-5.5 Media Converter: Ensure that the media converter has a manufacturer's warranty covering defects for five years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

SECTION 695

TRAFFIC MONITORING SITE EQUIPMENT AND MATERIALS

695-1 Description.

Furnish or furnish and install a complete, operable traffic monitoring site (TMS) as shown in the Plans and Standard Plans. The Department uses TMS to monitor the volume, speed, number of axles, weight of wheels, axles or vehicles, or vehicular axle classification types.

695-2.5 Manufacturer's Warranty Provisions:

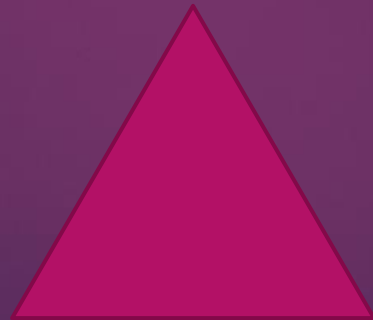
695-2.5.1 General: Secure all warranties provided by the equipment manufacturer for the specific equipment included in the Contract. Ensure that all warranties are fully transferable from the Contractor to the Department. Transfer warranties upon final acceptance in accordance with 5-11. Document all warranties and warranty transfers and submit to the Engineer. The Engineer will submit warranty forms received from the Contractor to the Transportation Statistics Office (TranStat) TMS Manager.

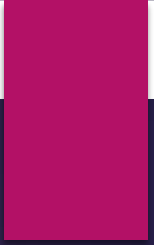
700-4.23 Warranty: Ensure that the DMS system and equipment has a manufacturer's warranty covering defects for a minimum of five years from the date of final acceptance by the Engineer in accordance with 5-11 and Section 608.

700-5.2.13 Warranty: Ensure that the EDS systems and equipment furnished have a manufacturer's warranty covering defects in assembly, fabrication, and materials for a minimum of three years.

700-6.4 Warranty: Ensure all flashing beacons have a manufacturer's warranty covering defects for a minimum of five years from the date of final acceptance in accordance with 5-11 and Section 608. Ensure the manufacturer will furnish replacements for any part or equipment found to be defective during the warranty period at no cost to the Department or maintaining agency within 30 calendar days of notification.

LATENT DEFECTS





A “latent defect” has been described as being hidden or concealed defects which are not discoverable by reasonable and customary inspection, and of which the claimant has no knowledge.



The absolute limit will be tolled

A statute of repose is tolled for any period during which a manufacturer, through its officers, directors, partners, or managing agents had actual knowledge that the product was defective in the manner alleged by the claimant and took affirmative steps to conceal the defect.

5-13 Recovery Rights, Subsequent to Final Payment.

The Department reserves the right, if it discovers an error in the partial or final estimates, or if it discovers that the Contractor performed defective work or used defective materials, after the final payment has been made, to claim and recover from the Contractor or his surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials.

The 2020 Florida Statutes

Title XXVI
PUBLIC
TRANSPORTATION

Chapter 337
CONTRACTING; ACQUISITION, DISPOSAL, AND
USE OF PROPERTY

337.19 Suits by and against department; limitation of actions; forum.—

(1) Suits at law and in equity may be brought and maintained by and against the department on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement. In any such suit, the department and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. Notwithstanding anything to the contrary contained in this section, no employee or agent of the department may be held personally liable to an extent greater than that pursuant to s. [768.28](#) provided that no suit sounding in tort shall be maintained against the department.

(2) Suits by and against the department under this section shall be commenced within 820 days of the final acceptance of the work. This section shall apply to all contracts entered into after June 30, 1993.

820 days

9-8 Acceptance and Final Payment.

9-8.1 Acceptance and Final Payment Documents: Whenever the Contractor has completely performed the work provided for under the Contract and the Engineer has made a final inspection and made final acceptance (as provided in 5-10 and 5-11), and subject to the terms of 8-11, the Engineer will prepare a final estimate showing the value of the work as the Engineer makes the necessary measurements and computations. The Engineer will include all prior estimates and payments in the final estimate and payment. The Department will pay the estimate, less any sums that the Department may have deducted or retained under the provisions of the Contract, as soon as practicable after final acceptance of the work, along with all executed supplemental agreements received after final acceptance.

820 days

Acceptance Letter. The Contractor further agrees, by submitting a Qualified Acceptance Letter that any pending or future arbitration claim or suit is limited to those particulars, including the itemized amounts, defined in the original Qualified Acceptance Letter, and that he will commence with any such arbitration claim or suit within 820 calendar days from and after the time of final acceptance of the work and that his failure to file a formal claim within this period constitutes his full acceptance of the Engineer's final estimate and payment. The overpayment

Bond Nos. 106702983 & 106702984

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CONTRACT BOND

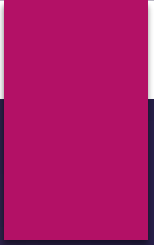
375-020-27
CONTRACTS ADMINISTRATION
OGC - 08/12
Page 1 of 2

KNOW ALL MEN BY THESE PRESENTS: That we, Morrison-Cobalt JV

(Entity Name) having its principal place of business at 2828 Coral Way, Miami, FL 33145 305 854-5504
(Bidding Office Street Address, City, State, Zip and Phone)
(hereinafter called Principal or Contractor) and Travelers Casualty & Surety Company of America
(hereinafter called Surety), duly authorized to do business in the State of Florida, pursuant to the laws of the State of Florida,
having its principal place of business at One Tower Square, Hartford, CT 06183

2 years

(hereinafter called the Contract), upon certain terms and conditions in the Contract more particularly mentioned; WHEREAS, it was one of the conditions of the Contract that these presents shall be executed; NOW, THEREFORE, the conditions of this obligation are such that if the above-bound Principal in all respects shall comply with Section 337.18(1), Florida Statutes, and shall promptly, faithfully, efficiently, and fully perform the Contract according to plans and specifications as therein referred to and made a part thereof, and any alterations as may be made in said plans and specifications as provided for therein, and within the time period specified, and further, shall remedy any errors in partial or final estimates and any defects which may exist, appear, occur or result in or from said work within a period of two (2) years from the date of final acceptance of the work under the Contract and further if the Contractor shall promptly make payment to all persons furnishing labor, material, equipment, and supplies, and all persons defined in Section 713.01, Florida Statutes, whose claims derive directly or indirectly from the prosecution of the work provided for in the Contract (See Section 337.18(1) (a)-(f), F.S., for specific "claim" notice and time limitation requirements), and shall promptly pay all State Workers' Compensation and Unemployment Compensation taxes incurred in the performance of the Contract,



5-9.2 Failure of Engineer to Reject Work During Construction: If, during or prior to construction operations, the Engineer fails to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject in no way prevents the later rejection when such defect is discovered, or obligates the Department to final acceptance. The Department is not responsible for losses suffered due to any necessary removals or repairs of such defects.



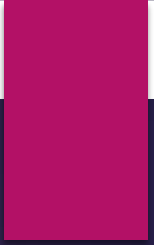
337.015 Administration of public contracts.— Recognizing that the inefficient and ineffective administration of public contracts inconveniences the traveling public, increases costs to taxpayers, and interferes with commerce, the Legislature hereby determines and declares that:

- (1) Time is an essential element of the contract, and to assure satisfactory work progress and timely contract completion, the department shall minimize the allowance of additional contract time.
- (2) In order to increase competition and maximize the utilization of personnel, the department shall minimize the variances between contract lettings.
- (3) To protect the public interest, the department shall vigorously pursue claims against contractors and consultants for time overruns and substandard work products.
- (4) The department shall stabilize the work program, ensuring the timely and systematic completion of projects.

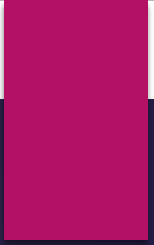
9-3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to Plan or to authorized dimensions within the specified tolerances, the Engineer, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to the Department; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. The Department will

9-5.3 Withholding Payment:

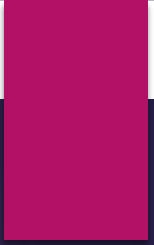
9-5.3.1 Withholding Payment for Defective Work: If the Department discovers any defective work or material prior to the final acceptance, or if the Department has a reasonable doubt as to the integrity of any part of the completed work prior to final acceptance, then the Department will not allow payment for such defective or questioned work until the Contractor has remedied the defect and removed any causes of doubt.



When the action involves a latent defect, the time runs from when the defect is discovered or should have been discovered with the exercise of due diligence. Where there is an obvious manifestation of a defect, notice will be inferred at the time of manifestation regardless of whether the plaintiff has knowledge of the exact nature of the defect.

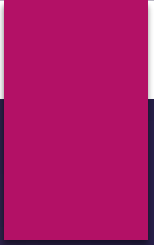


In a case for negligent design and construction of a roof, that the statute of limitations begins to run when a defect has been discovered, even though the specific cause or nature of the defect was not known at the time. Once a defect is discovered, there is a duty to use due diligence to investigate.

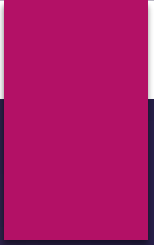


The knowledge of one leak was insufficient to start the running of the statute of limitations. However, the knowledge of the leak then placed a duty of due diligence on the owner to investigate the problem.

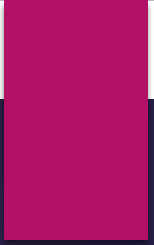
Likewise, it has been determined that where the manifestation of the defect is not obvious but could be due to causes other than an actionable defect, notice of a defect as a matter of law may not be inferred.



If an agreement adopts the law of another jurisdiction, Florida recognizes and will enforce a shortened statute of limitations period if such a period is enforceable under the state law applicable to the dispute.



Courts have recognized a benefit to a *standstill agreement*. Such an agreement, by its terms, suspends the running of the statute of limitations to allow parties to investigate and negotiate claims. A typical agreement would provide that the statute of limitations would be tolled for either a specified or unspecified period of time and would waive the statute of limitations defense during the time of the standstill agreement. If there is an unspecified time, the agreement may provide that the statute would recommence running after the giving of a specified period of notice.



“As to the Statute of Limitations for latent defects, we agree with the stipulation of the parties and with the district court that the applicable statute of limitations is the five-year period provided in Fla. Stat. § 95.11(2)(b), ... We expressly hold that Fla. Stat. § 95.11(2)(b), as it applies to an action on a performance bond, accrues on the date of acceptance of the project as having been completed according to terms and conditions set out in the construction contract.”

