



Contractor's Asset Management Plan (CAMP)

PRO-ACTIVE CONSTRUCTION DEFECT RISK MANAGEMENT OVERVIEW

OVERVIEW

From a post construction perspective, the goal of this program is to develop a risk management plan that allows Contractors to protect themselves from uncontrollable construction defect claims and litigation.

CURRENT TEXAS RESIDENTIAL CONSTRUCTION ENVIRONMENT

The Texas Residential Construction Commission (TRCC) continually develops policy in an attempt to regulate the residential building industry in Texas. Accordingly, all residential builders must be registered with TRCC and all projects constructed according to the IRC (one and two family houses and remodeling projects), started as of June 1, 2005 must be registered with TRCC.

Post construction home performance will be judged by the TRCC Performance Standards. Those standards are promulgated in Rule form which gives them the same effect as law.

Builders must warrant their work product, the home, for one year against workmanship defects, two years against mechanical (HVAC, plumbing, electrical) delivery system defects, 10 years of habitability and 10 years against structural defects.

Construction disputes are managed by the SSIRP process and evaluations and repair recommendations are made by TRCC approved inspectors utilizing the Performance Standards for one and two year issues and the ASCE guidelines for structural issues as mandated by the Texas Residential Construction Commission and its rules.

POST CONSTRUCTION RISK MANAGEMENT

Our Contractor's Asset Management Plan (CAMP) is an innovative *pro-active* approach to managing post construction risk. CAMP will consist of a combination of tailored CGL insurance and third party insurance backed warranties and additional Risk Management products. Currently in Texas, approximately 80%+ of structural defect claims are in some way soils related. Most current occurrence CGL policies exclude any type of claim that is in any way related to soils or soils movement. The TRCCA mandates that Contractors are potentially liable for residential construction defects for 10 years.

Risk in the construction industry cannot be eliminated but it can be managed.

CAMP consists of a true occurrence CGL policy and the a TRCC compliant insurance backed third party warranty (TPW) program along with additional Risk Management products. Typically, traditional stand alone CGL insurance is reactionary and is a less desirable way to handle claims than the pro-active approach of CAMP.

This is how it works-----

The contractor will enter into a contract with an approved third party warranty company, the program administrator, and its insurer. The terms of this contract are outlined in the Builder Proposal and Agreement. The Contractor, the warrantor of the home, has contracted with Golden to fix any accepted claim as outlined in the TRCC Performance Standards. This provides protection for the Contractor that defects, as defined in the Performance Standards, will be fixed by the warranty insurer and the Contractor will be held harmless.

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The third party warranty (TPW) company home-owner contract establishes the standards by which the home's performance will be evaluated and establishes a dispute resolution procedure that is based on the Texas Residential Construction Commission Act (TRCCA). The Contractor will, in the purchase and sales contract, utilize specific language informing the home owner about the third party warranty and the SSIRP clause for dispute resolution.

The performance standards are those promulgated by the TRCC and are listed in the back of the warranty booklet that is provided to each home owner with their certificate of warranty. This establishes expectations and provides the home owner with one year, two year and 10 year written guidelines of how their house is required to perform. The TPW has an expert warranty staff that home owners can call for coverage and performance questions. The Contractor will file and record with the deed that the TPW has been placed on the home so subsequent owners will be advised of this 10 year structural warranty with its terms and conditions.

By signing the warranty contract at closing, the home owner agrees to the terms and conditions of the TPW company's warranty, including the binding arbitration provisions contained in the copy of the warranty document. Law suits usually cannot be prevented from being filed, but by utilizing the Federal arbitration cause in the contract, the Contractor's council can file a motion to compel arbitration in Court and, because the FAA and Federal law pre-empts state law, as upheld in the US Supreme Court, the case would be ordered into arbitration. The arbitrator's decision can be entered by the Contractor's council as a judgment thus stopping the lawsuit. This method has been very successful in stopping litigation and protecting Contractor's assets.

The TPW will provide each home owner with a maintenance manual which outlines how to take care of their new home. This is a critical risk management tool and important in preventing potential problems.

In addition to the TPW warranty, the Contractor should utilize only insured sub-contractors. The Contractor will also specify that the sub-contractor's CGL policy add the Contractor as an additional named insured. In order to verify compliance, the Contractor will mandate copies of the certificate of insurance and a copy of the policy's declaration page naming the Contractor as an additional insured.

In addition to normal construction codes and normal job site safety methods, the Contractor will provide Builders Risk Insurance, geo-technical soils reports, engineered foundations and engineered structural plans. Each of these professionally generated documents will provide additional transfer of risk in the rare event of some type of failure.

The Contractor will be covered by an **occurrence** type Commercial General Liability insurance policy that protects against "third party action over" claims, premises liability claims and construction defect claims. **CRS can present, through its network of insurance brokers, competitive quotes on CGL and Builder's Risk.** The third party insurance backed warranty will stand in front of and protect the Contractor from most CD claims yet give the Contractor an additional layer of asset protection as well as a

This comprehensive plan will provide needed asset protection and dispute resolution for the Contractor. This plan establishes expectations and the *only* legally recognized method to transfer risk thereby providing a measure of protection against construction defect law suits.

Call today for your introduction into this innovative new method of risk management and asset protection.

A pro-active approach!

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