

**Special Meeting
Board of Trustees
Coast Community College District**

Date: January 5, 2011

**Location: Coast Community College District
Board Room
1370 Adams Avenue
Costa Mesa, California 92626**

Time: 5:00 p.m.

A G E N D A

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance – Trustee Lorraine Prinsky, Board Clerk**
- 4. Opportunity for Public Comment**

Members of the public have the opportunity to address the Board of Trustees on any item that has been described in this notice, before or during consideration of the item. Persons wishing to make comments are allowed 5-minutes. A "Request to Address the Board of Trustees" card needs to be completed and filed with the Secretary of the Board of Trustees prior to speaking.

- 5. Approval of Takeover Agreement between Coast Community College District and American Fire & Casualty Company, for Completion of Golden West College Learning Resource Center, Phase II, Bid # 1954
(See Attachment # 1)**

Background:

On November 22, 2010 a formal Notice of Termination of Contractor Agreement was served to Tadros & Youssef Construction, Inc. (T&Y) pursuant to the Golden

West College Learning Resource Center Project (Bid No. 1954). Despite continual requests and remediation guidance from CCCD personnel, T&Y materially breached its' contractual obligations and, as ratified by the Board on December 8, 2010, T&Y was subsequently terminated, for cause, by the District.

The District has reached an agreement with American Fire & Casualty Company, the performance bond holder on this project, to facilitate the takeover and completion of this project. In addition, as the payment bond holder, American Fire and Casualty will be required to satisfy all stop notices (payment liens) against T&Y. A successor contractor will be contracted by American Fire and Casualty Company subsequent to approval of the Takeover Agreement. This contractor must adhere to the terms and conditions of the original Contractor Agreement. The District is informed that the contractor evaluation process is nearing completion and that a successor contractor will be selected next week.

Expected Outcome:

Pending approval of the Takeover Agreement, it is anticipated that the project will be completed by April 30, 2011. The campus will continue to operate in the existing facilities during the Spring semester with the new facility being open in Summer 2011.

Recommendation:

After review by the college President, Vice Chancellor of Finance & Administrative Services, and District General Counsel, it is recommended by the Chancellor that the board approve the Takeover Agreement between Coast Community College District and American Fire & Casualty Company, effective January 6, 2011, to complete the Golden West College Learning Resource Center Project (Bid #1954). American Fire & Casualty agrees to complete the duties and obligations arising under the Contractor's Agreement, with Tadros & Youssef Construction, in exchange for the outstanding contract payments. A copy of the Takeover Agreement is included as Attachment #1.

Fiscal Impact: No cost impact to the District. The District will seek recovery of additionally incurred delay expenses through assertion of a claim against the performance bond.

6. Further Discussion of Initial Proposal from the Coast Community College District to Negotiate the Agreement between the Coast Community College District and the Coast Federation of Educators/American Federation of Teachers – Local 1911

At the request of Board Vice President Jim Moreno, Board President Patterson has placed this item on the Agenda for further discussion.

Pursuant to Section 3547(a) of the *Government Code*, the following is submitted by the Coast Community College District as its initial proposal for negotiations of a

successor agreement with the Coast Federation of Educators /American Federation of Teachers (CFE/AFT – Local 1911). It is hoped that the negotiations process for this successor agreement will embrace Interest Based Negotiations (IBN), a joint venture currently being explored by the District and its bargaining units. If successful in this endeavor, joint interests will be shared and solutions will be jointly developed during a facilitated negotiations process without the use of traditional proposals and counter-proposals. An alternative hybrid model may also be jointly selected, in which the use of proposals and counter-proposals may facilitate arriving at solutions and agreements for specifically identified articles opened by either side. The District considers any article opened by the CFE for renegotiation, as being opened for both parties and subject to modification. Furthermore, it is the District's intent to respond to each article opened for renegotiations by CFE. The District's proposal is conceptual in nature, with specific language to be provided during the negotiations process. The District reserves its rights to modify its initial proposal by opening additional articles and/or sections, as it deems necessary and appropriate.

The coming years are presenting substantial challenges to the District due to the persisting state fiscal crisis.

At the time of the 2010-11 FY Adopted Budget, the District projected an internal operating deficit of approximately \$3 million emerging in the 2011-12 FY. New estimates based on an analysis from the Legislative Analyst Office (LAO) are now predicting substantial additional state cuts amounting to another \$7 million for the District for 2011-12 FY, bringing the total to approximately \$10 million that the District will have to cut from its operating costs in 2011-12 FY alone, with estimates of another \$7 million in 2012-13 FY. And while the District has taken every effort to make a reasonable estimate of fiscal impacts, these projections are subject to the vagaries and volatility present in the state budget and are subject to change.

The District shall first continue to seek long-term solutions in mitigating budget deficits in areas outside of salary and benefits. However, as 90 percent of the District's general fund budget is dedicated to staff salaries and benefits, the District will be forced to seek financial concessions, preferably temporary in nature, during the negotiations with unions and the meet and confer process with employee groups to close the \$10 million gap. As the District values all of its employees, it is the District's intent that concessions made, either temporary or permanent, be equitable across all employee categories.

Prior year solutions included the ENDS program which contributed to the closure of an estimated \$13 million imbalance and resulted in the permanent elimination of more than 100 positions. The District is seeking a collaborative and cooperative process that will consider strategies that will generate the necessary savings while minimizing further reductions to staff and maintaining maximization of access for students and service to the community. Strategies that may be jointly considered for negotiation include but are not limited to:

- Salary rollbacks
- Furloughs
- The establishment of a Joint Labor Management Benefits Committee with negotiating authority

- Benefits savings gained through restructuring of benefits package and the elimination and/or reduction of some current benefits
- Benefits eligibility restructuring
- Total compensation model
- ENDS II
- Individual voluntary reductions in service
- Increased productivity to include increased class size
- Freezing of step and column increases
- Overload reductions
- Overload pay calculation that results in a decrease in total overload paid out by District
- Suspension of salary growth formula
- Suspension of longevity pay

Because of the seriousness of the fiscal situation, the District realizes this will be a challenging negotiations process, with or without IBN. With this in mind, the District desires to focus the negotiations primarily on specific articles and provisions with direct fiscal implications. The District's basic interests in the negotiations are to achieve the necessary savings and to avoid reduction in staff through layoff.

Consistent with the above, the District proposes opening the following articles:

Article XI – Hours of Service

Article XIII – Compensation

Article XX – Employee and Dependent Benefits and Coverage

Article XXVI – Agreement Conditions and Duration:

- Contract term
- Reopeners on Salary and Benefits

7. Resolution # 11-03 Authorizing Payment to Trustee Absent from Board Meeting

California Education Code Section 72024(d) provides that "a member (of the Board of Trustees) may be paid for any meeting when absent if the Board by Resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the community college district, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the Board." (See Attachment # 2)

Trustee Grant was absent from the Special Meeting of January 5, 2011. A resolution has been prepared for the Board to consider indicating that Trustee Grant's absence was due to hardship deemed acceptable by the Board.

8. Recess to Closed Session

*Conducted in Accordance with applicable sections of California law.
Closed Sessions are not open to the public*

a. Conference with Labor Negotiator (Pursuant to Code Section 54957.6)

Agency Negotiator: Deborah Hirsh, Vice Chancellor, Human Resources

Employee Organizations:

Coast Federation of Classified Employees (CFCE),
Coast Community College Association-California Teachers Association/National Education Association (CCCA-CTA/NEA),
Coast Federation of Educators/American Federation of Teachers (CFE/AFT),
Unrepresented Employees: Association of Confidential Employees (ACE),
Unrepresented Employees: Coast District Management Association (CDMA),
Educational Administrators

**b. Conference with Legal Counsel: Anticipated Litigation
(Pursuant to sub-section "b" of Government Code Section 54956.9)**

One Case: Claim filed by Rogelio Garcia-Meza

9. Report of Action from Closed Session (if any)

10. Adjournment

It is the intention of the Coast Community College District to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the Coast Community College District will attempt to accommodate you in every reasonable manner. Please contact the Secretary of the Board of Trustees, (714) 438-4848, at least as soon as possible to inform us of your particular needs so that appropriate accommodations may be made.

TAKEOVER AGREEMENT

This TAKEOVER AGREEMENT has been entered into by and between Coast Community College District, a California public education entity, (hereinafter called "Obligee,") and American Fire and Casualty Company, an Ohio corporation (hereinafter "Surety"). Obligee and Surety may be referred to herein individually as "Party" and collectively as "Parties." This Takeover Agreement commences beginning on January 7, 2011 and shall terminate on June 30, 2011.

RECITALS

WHEREAS, Tadros and Youssef Construction, Inc. dba T&Y Construction (hereinafter referred to as "Contractor"), heretofore entered into a Contractor's Agreement, awarded on or about September 17, 2008, (the Contractor's Agreement, including all amendments, addenda, general and special conditions, and change orders, is referred to hereinafter as the "Contractor's Agreement") with the Obligee for the purpose of Contractor working as a California licensed "A" or "B" general contractor on the project identified as the Golden West College Learning Resource Center Building Phase II, (F) General Construction; Bid No. 1954 (hereinafter "Project"). A true and correct copy of the Contractor's Agreement for the Project, excluding incorporated general and special conditions, plans, specifications, and contract change documents, is attached hereto as Exhibit A and is incorporated herein by this reference; and

WHEREAS, Surety issued Performance and Payment Bonds Nos. 4-057-454 on behalf of Contractor as Principal in connection with the Project (the "Bonds"). True and correct copies of these Bonds are attached hereto as Exhibits B (the "Performance Bond") and C (the "Payment Bond"), respectively; and

WHEREAS, the Obligee terminated Contractor from the Project on or about November 22, 2010 and provided Surety with notice of such termination on November 23, 2010; and

WHEREAS, on November 23, 2010 the Obligee made demand on Surety to honor its obligations under the Bonds. Said demand, and subsequent communications between the Obligee and Surety, have affirmed that Obligee, pursuant to its right under the Contractor's Agreement, has elected to not consent to Surety's use of Contractor as a Completion Contractor for Project.

WHEREAS, the Obligee certifies to Surety that the Contractor's Agreement amount was \$6,947,000 and the remaining Contractor's Agreement amount, held by Obligee at the date of its termination of Contractor was \$2,029,383.62. The Obligee further certifies that it has paid the Contractor the sum of \$4,917,616.38. Therefore, including Contractor's Agreement funds for unused Owner allowances, the Obligee certifies that the current total Contractor's Agreement balance as of the commencement date of this Takeover Agreement is \$2,029,383.62; and

WHEREAS, Contractor may be disputing its termination from the Project, and

WHEREAS, the Obligeo desires to effect timely completion of the Contractor's duties and obligations arising under the Contractor's Agreement, and

WHEREAS, Surety is willing to exercise its election to complete or to procure the completion of the Contractor's duties and obligations pursuant to the Contractor's Agreement as a measure of cooperation with the Obligeo, providing Surety can be assured that in doing so, it will receive monthly progress payments and earned retentions and final payment in accordance with Article 58 of the Project General Conditions;

Now therefore, in consideration of the promises, other good and valuable considerations, and the mutual covenants set forth herein, the receipt and sufficiency which are hereby acknowledged, the Parties hereto agree as follows:

1. The recitals set forth above are incorporated herein.
2. Surety agrees to procure the performance of the work not completed by Contractor under the Contractor's Agreement in strict conformance with the Contractor's Agreement documents, including incorporated general and special conditions, plans, specifications, and contract change documents.
3. Obligeo acknowledges that it is not aware of any significant non-conforming work on Project. Obligeo does not warrant the in-place work completed by Contractor. Obligeo does not waive its contract rights or any other legal remedies available to Obligeo.
4. Surety represents, that upon assumption of the Project, it has an equitable right to receive all further proceeds of Contractor's Agreement, not yet paid to Contractor, upon satisfactory completion of the Project, and such interim payments as are contemplated in the original Contractor's Agreement. Obligeo agrees to pay to Surety, as the performance bond and payment bond issuer, or to its designee, all amounts, not previously paid to Contractor, pursuant to the Contractor's Agreement. As of the commencement date of this Agreement, the remaining balance on the Contractor's Agreement is \$2,029,383.62. Obligeo reserves its rights to assert Liquidated Damages and other damages in accordance with Article 64 of the General Conditions incorporated as part of the Contractor's Agreement, and Contractor and Surety reserve their rights to assert defenses to any claims from Obligeo for such damages.
5. Obligeo may withhold funds, pursuant to state law or the Contractor's Agreement, including the general and special terms and conditions, including for any valid stop notices on file against the Project and Contractor. Obligeo may withhold funds, pursuant to the Contractor's Agreement for erroneous certified payroll, if any, provided by Contractor or Successor Contractor. Surety will apply best efforts to timely investigate and resolve any valid stop notices and certified payroll deficiencies, if any. If Surety can satisfy any stop notice claims or correct any certified payroll issues, the Obligeo will release any funds that may be held on account of such claims or issues.

6. Obligee is not waiving its rights to assert Liquidated Damages or other damages under the Contractor's Agreement. Surety is not waiving its defenses or those of the Contractor to dispute offsets to Contractor's Agreement balance for Liquidated Damages or other damages as contemplated by the Contractor's Agreement. Obligee may withhold project funds as set forth in Article 64 of the Project General Conditions, incorporated into the Contractor's Agreement. Following Substantial Completion (defined herein as the recorded "Notice of Substantial Completion" with the Orange County Recorder's Office), the Parties agree to negotiate in good faith to resolve any outstanding liquidated damages issues.

7. Surety is not a licensed California contractor. Surety intends to complete its obligations undertaken herein (as held by Contractor pursuant to the Contractor's Agreement) through the use of a licensed and insured California contractor or contractors as the Surety may elect, subject to review and approval by Obligee. This contractor shall be identified as the "Successor Contractor." Obligee staff may coordinate and interact on a daily basis with the Successor Contractor selected by Surety. Obligee shall not unreasonably withhold consent for the Surety to undertake its obligations herein with respect to the hiring and supervision of the Successor Contractor, subject to any Successor Contractor meeting the owner controlled insurance program requirements for the Project. Surety is strictly prohibited from using Contractor in any manner whatsoever, including as a subcontractor to the Surety or its designated Successor Contractor, except for those services (i.e. site cleanup) already agreed upon by Surety and Obligee.

8. Surety will engage a local contract administrator to represent Surety in the day to day administration of the Project. This contract administrator will be Sage Associates, of Newport Beach, CA (hereinafter "Sage" or "Contract Administrator") unless Surety, in consultation with Obligee, elects to substitute another contract administrator for Sage. Surety represents to Obligee that the Successor Contractor shall be properly licensed by the State of California, at all times, for its scope of work on the Project. Surety further acknowledges Sage will not carry the same insurance as Successor Contractor.

9. All documents pertaining to Payment Applications, Change Orders, notices and other routine paperwork on the Project shall be sent primarily by Successor Contractor and/or alternatively by Obligee, to Sage Associates with copy to Surety at addresses as follows:

Sage Associates
Attention: Rick Tasker
1301 Dove Street, Suite 820
Newport Beach, CA. 92660
Telephone: (949) 724-9600, Ext. 16
Fax: (949) 724-9601
Email: sageret@aol.com

American Fire and Casualty Company
Attention: Curtis Brookbank, AIC
Liberty Surety First
9450 Seward Road
Fairfield, OH 45014
Telephone: (513) 867-3020
Fax: (866) 442-4060
Email: Curtis.Brookbank@LibertyMutual.com

Coast Community College District
Attention: Jerry Marchbank
1370 Adams Avenue
Costa Mesa, CA 92626
Telephone: 714-438-4731
Fax: 714-438-4893
Email: jmarchbank@cccd.edu

10. It is understood and agreed that Surety, by entering this Takeover Agreement, is not acting as a Contractor, but instead is acting within the capacity of a Performance Bond Surety. Surety will have no employees on the project and shall have no obligation to furnish insurance under the Contract. Any and all Successor Contractors working for the Surety, as well as all subcontractors, shall provide insurance coverage as required by the Contractor's Agreement documents, with both Obligor and Surety as co-insureds.

11. Surety, in entering this Takeover Agreement is not waiving or in any way prejudicing the rights of Contractor and/or Surety to dispute the termination or pursue its legal rights, if any, against Obligor.

12. This Takeover Agreement is made without prejudice to Obligor's, Contractor's or Surety's rights to prosecute claims arising under the Contractor's Agreement prior to commencement of this Takeover Agreement. This Takeover Agreement is made without prejudice to either Party's right to prosecute claims which may subsequently arise under either the Contractor's Agreement or this Takeover Agreement for the acts, omissions, or other occurrences arising after the effective dates of these Agreements, unless expressly stated herein.

13. Obligor will issue a new Notice to Proceed no less than five calendar days, and no later than ten calendar days, from the commencement date of this Agreement. The Parties acknowledge and agree that Obligor has not waived its possible claim for Liquidated Damages for all applicable periods since the commencement of the Project. The Parties acknowledge and agree that Surety has not waived Contractor's or its defenses to possible claims for Liquidated Damages for all other applicable periods since commencement of the Project.

14. Surety shall act promptly to investigate and resolve any properly submitted Payment Bond claims. Except as provided for in the Contractor's Agreement, the Obligor agrees

that it will not honor any claim or charges against the remaining Contractor's Agreement balance by any alleged assignees, successors, creditors, or transferees of Contractor, or any other party making claim to any such proceeds or balances, without the prior written consent of Surety, except by order of a court of competent jurisdiction after due notice to Surety.

15. Obligee agrees that the Surety's total liability on the Project shall not exceed the penal sum of the Performance Bond (\$6,947,000) and that all payments made by Surety to any person or entity on account of the work covered by the Contractor's Agreement shall be deemed to be payments under the Performance Bond and shall reduce the penal sum of said bond in an equal amount.

16. The Parties herein agree to cooperate fully with each other and their designated agents so that the Project may be completed as efficiently and quickly as reasonably possible with Successor Contractor and Contract Administrator applying diligent and best efforts.

17. The Parties and their signatories hereto warrant that each has the power and authority to execute the Takeover Agreement. The Parties hereto have voluntarily executed this Takeover Agreement based upon their independent investigation and both have been afforded the opportunity to seek legal counsel, should they so elect.

18. If for any reason any provision of this Takeover Agreement is unenforceable or invalid, such provision shall be deemed severed from this Takeover Agreement and the remaining provisions shall be carried out with the same force and effect as if the severed portion had not been a part of this Takeover Agreement.

19. This Takeover Agreement shall extend to and be binding upon the Parties hereto and their respective successors and assigns. NO rights accrue hereunder to or for the use of any third party, person, firm, corporation or governmental entity other than the Parties hereto and their respective successors, assigns, and reinsurers.

20. This Takeover Agreement is not a release of the Payment Bond naming Obligee and Contractor in the penal sum of \$6,947,000.

21. Surety reserves to itself any and all claims of any kind that Contractor could have brought against Obligee pursuant to the Contractor's Agreement. Obligee reserves to itself any and all claims that it may have against Surety or Contractor.

22. This Takeover Agreement is made, executed, and performed in Orange County, California and shall be governed by the laws of California. The venue for any disputes under the Takeover Agreement will be in Orange County, California.

23. This written agreement shall constitute the entire agreement between the Parties concerning the subject matter thereof and it is expressly understood and agreed that this agreement has been freely and voluntarily entered into by each of them with and upon the advice of counsel. This agreement may not be altered, modified, or otherwise changed in any respect except in writing duly executed by each of the Parties or by an authorized representative of each of the Parties.

IN WITNESS WHEREOF, the Parties hereto have hereunder set their hand and seal the date and year first hereinafter written.

Coast Community College District,
a California Public Education entity

By Oblige: _____
Title: President, Board of Trustees
Date: _____

American Fire and Casualty Company, a corporation

By Surety: _____
Title: _____
Date: _____

Exhibit A
(Contractor's Agreement)

AGREEMENT**ORIGINAL**

THIS AGREEMENT, dated the 17th day of September, 2008, in the County of Orange, State of California, is by and between Coast Community College District (hereinafter referred to as "DISTRICT"), and Tadros and Youssef Construction Inc. dba T and Y Construction, (hereinafter referred to as "CONTRACTOR").

The DISTRICT and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. CONTRACTOR agrees to complete the Project known as **Golden West College Learning Resource Center Building Phase II, (F) General Construction; Bid No. 1954** according to all the terms and conditions set forth in the Project Documents, including but not limited to the Notice Calling For Bids, Information for Bidders, Bid Form, Bid Security, Designation of Subcontractors, Information Required of Bidder, all prequalification forms submitted pursuant to Public Contract Code Section 20111.5, if any, Noncollusion Affidavit, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Escrow Agreement, if applicable, Drug-Free Workplace Certification, Change Orders, Shop Drawing Transmittals, Insurance Certificates and Endorsements, Guarantees, Contractor's Certificate Regarding Non-Asbestos Containing Materials, District's Labor Compliance Program, if applicable, General Conditions, Special Conditions, if any, Drawings, Specifications, and all modifications, addenda and amendments thereto by this reference incorporated herein. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. CONTRACTOR shall perform within the time set forth in Paragraph 4 of this Agreement everything required to be performed, and shall provide, furnish and pay for all the labor, materials, necessary tools, expendable equipment, and all taxes, utility and transportation services required for construction of the Project. All of said work shall be performed and completed in a good workmanlike manner in strict accordance with the drawings, specifications and all provisions of this Agreement as hereinabove defined and in accordance with applicable laws, codes, regulations, ordinances and any other legal requirements governing the Project. The CONTRACTOR shall be liable to the DISTRICT for any damages arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, Division of State Architect, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project Documents. Such protest shall not be effective unless reduced to writing and filed with the DISTRICT within three (3) working days of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project Documents.

3. DISTRICT shall pay to the CONTRACTOR, as full consideration for the faithful performance of this Agreement, subject to any additions or deductions as provided in the Project Documents, the sum of **Six Million Nine Hundred Forty Seven Thousand Dollars (\$6,947,000)**.

4. The work shall be commenced on or before the fifteenth day after receiving the DISTRICT'S Notice to Proceed. Substantial Completion of the Work shall be achieved within the consecutive calendar days noted in Exhibits and Construction Schedule.

5. **Time is of the essence.** If the work is not completed in accordance with Paragraph 4 above, it is understood that the DISTRICT will suffer damage. It being impractical and infeasible to determine the amount of actual damage, in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to DISTRICT as fixed and liquidated damages, and not as a penalty, the amount specified in Special Conditions for each calendar day of delay until work is completed and accepted. Time extensions may be granted by the DISTRICT as provided in Article 63 of the General Conditions. Liquidated damages shall be imposed as set forth in Article 63 of the General Conditions.

6. **Termination for Cause or Nonappropriation.** In the event CONTRACTOR defaults in the performance of the Agreement as set forth in General Conditions Article 13(a) or if there is a nonappropriation of funds or insufficient funds as set forth in General Conditions Article 13(d), then this Agreement shall terminate or be suspended as set forth in General Conditions Article 13.

Termination for Convenience. DISTRICT has discretion to terminate this Agreement at any time and require CONTRACTOR to cease all work on the Project by providing CONTRACTOR written notice of termination specifying the desired date of termination. Upon receipt of written notice from DISTRICT of such termination for DISTRICT's convenience, CONTRACTOR shall:

- (i) Cease operations as directed by DISTRICT in the notice;
- (ii) Take any actions necessary, or that DISTRICT may direct, for the protection and preservation of the work; and
- (iii) Not terminate any insurance provisions required by the Project Documents.

In case of such termination for DISTRICT's convenience, CONTRACTOR shall be entitled to receive payment from DISTRICT for work satisfactorily executed and for proven loss with respect to materials, equipment, and tools, including overhead and profit for that portion of the work completed. In the case of Termination for Convenience, DISTRICT shall have the right to accept assignment of subcontractors. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the DISTRICT.

7. The CONTRACTOR agrees to and does hereby indemnify and hold harmless the DISTRICT, its Governing Board, officers, agents, and employees from every claim or demand made, and every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

- (a) Any injury to or death of any person(s) or damage to, loss or theft of any property sustained by the CONTRACTOR or any person, firm or corporation employed

by the CONTRACTOR, either directly or by independent contract, upon or in connection with the work called for in this AGREEMENT, except for liability resulting from the sole active negligence, or willful misconduct of the DISTRICT.

(b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off DISTRICT property, if the liability arose due to the negligence or willful misconduct of anyone employed by the CONTRACTOR, either directly or by independent contract,

The CONTRACTOR, at CONTRACTOR'S own expense, cost, and risk shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its Governing Board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its Governing Board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. PLEASE SEE OCIP ATTACHMENT TO CONSTRUCTION AGREEMENT

~~8. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this Agreement, and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain the insurance coverages set forth below and in Articles 16, 17, 18 and 19 of the General Conditions. CONTRACTOR agrees to provide all evidences of coverage required by DISTRICT including certificates of insurance and endorsements.~~

Comprehensive General Liability and Automobile	
Liability Insurance for injuries to persons	
including accidental death, to any one person	
in an amount not less than	<u>\$ 1,000,000</u>
Subject to the same limit each person	
on account of one accident, in an amount	
not less than	<u>\$ 1,000,000</u>
Aggregate	<u>\$ 3,000,000</u>
 Property Damage Insurance covering losses	
arising out of damage or destruction to	
Property whether directly or indirectly	
Arising out of or in connection with	
Performance of work under the Contract	
Documents, including explosion and	
Collapse in an amount not less than	<u>\$ 1,000,000</u>
 Workers' Compensation Insurance	
in accordance with limits established by law.	
 Employer's Liability Insurance	<u>\$ 1,000,000</u>

~~Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:~~

~~Automotive and truck where operated in amounts as above~~

~~Material hoist where used in amounts as above~~

~~8.2 Contractor's Builder's Risk Insurance. Contractor shall obtain and maintain Builder's Risk "All Risk" Insurance, in accordance with Article 17 of the General Conditions; as set forth in Article 17 of the General Conditions; the coverage under the Contractor's Builder's Risk Insurance shall include coverage for damage arising out of earthquakes.~~

9. Public Contract Code Section 22300 permits the substitution of securities for any retention monies withheld by the DISTRICT to ensure performance under this Agreement. At the request and expense of the CONTRACTOR, securities equivalent to the monies withheld shall be deposited with the DISTRICT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the CONTRACTOR. The DISTRICT retains the sole discretion to approve the bank selected by the CONTRACTOR to serve as escrow agent. Upon satisfactory completion of the Agreement, the securities shall be returned to the CONTRACTOR. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the CONTRACTOR may request DISTRICT to make payment of earned retention monies directly to the escrow agent at the expense of the CONTRACTOR. Also at the CONTRACTOR's expense, the CONTRACTOR may direct investment of the payments into securities, and the CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the Agreement, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by escrow agent from DISTRICT pursuant to the terms of Section 22300.

10. CONTRACTOR agrees that the work required to be performed by the Contractor and each subcontractor on the Project shall be subject to the payment of general prevailing rates of per diem wages, as described in the Labor Code. Refer to Section 30 in "Information to Bidders Section."

11. If CONTRACTOR is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of California

and that MAKRAM YOUSSEF, whose title is President, is authorized to act for and bind the corporation.

12. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

13. This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Governing Board of the District. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

DISTRICT

CM Brahmbhatt
Signature

CM Brahmbhatt
Print Name

Vice Chancellor, Administrative Services
Title

Tadros and Youssef Construction Inc.
dba T and Y Construction

[Signature]
Signature

MAKRAM YOUSSEF
Print Name

President
Title

698182
Contractor's License No.

95-4439202
Tax ID/Social Security No.

09/23/2008
Date

(CORPORATE SEAL OF CONTRACTOR,
if corporation)

Note: All insurance provisions will be reviewed by DISTRICT's Risk Management.

Exhibit B
(Performance Bond)

Bond No. 4-057-454
Premium: \$54,116.00
Issued in five original counterparts

FAITHFUL PERFORMANCE BOND

CWC I PC Phase II

The obligation of Surety hereunder shall continue so long as any obligation of Contractor remains.

Whenever Contractor/Principal shall be, and is declared by the DISTRICT to be, in default under the contract, the DISTRICT having performed the DISTRICT's obligations thereunder, the Surety shall within twenty (20) days after written notice from the Obligor to remedy the default, or shall promptly:

1. Complete the contract in accordance with its terms and conditions; or
2. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder and the DISTRICT, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth above. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor/Principal by the DISTRICT under the contract and any modifications thereto, less the amount previously properly paid by the DISTRICT to the Contractor/Principal.

Surety expressly agrees that the DISTRICT may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Surety shall not utilize Contractor/Principal in completing the contract nor shall Surety accept a bid from Contractor/Principal for completion of the work if the DISTRICT, when declaring the Contractor/Principal in default, notifies Surety of the DISTRICT's objection to Contractor's/Principal's further participation in the completion of the work.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the DISTRICT named herein or the successors or assigns of the DISTRICT. Any suit under this bond must be instituted within the applicable statute of limitations period.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Project documents, or of the work to be performed thereunder, shall in any way affect its obligations on this bond; and it does hereby waive notice of any change, extension of time, alteration or modification of the Project documents or of work to be performed thereunder.

Contractor/Principal and Surety agree that if the DISTRICT is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay DISTRICT's reasonable attorney's fees and costs incurred, with or without suit, in addition to the above amount.

Continued Next Page

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 23rd day of
September, 2008.

CORPORATE SEAL, IF

APPLICABLE, AND NOTARIAL
ACKNOWLEDGEMENT OF
CONTRACTOR

Tadros and Youssef Construction Inc.

dba T and Y Construction

Contractor/Principal

By: 
Signature

MAKRAM YOUSSEF

Typed or Printed Name

Title

President

SEAL AND NOTARIAL
ACKNOWLEDGEMENT OF
SURETY

SEE ATTACHED ACKNOWLEDGEMENT

American Fire and Casualty Company

Surety

By: 
Signature

(Mailing Address, Telephone
No. and Facsimile No. of Surety)

Shaunna Burchfiel

Typed or Print Name

American Fire and Casualty Company

Title Attorney-In-Fact

136 N Third Street, Hamilton, Ohio 45011

Telephone No. 513-867-3000 Fax No. 513-867-3440

(Attach Attorney-in-Fact Certificate
and Required Acknowledgement)

ACKNOWLEDGMENT

State of California
County of Los Angeles

On September 23rd, 2008 before me, Traci Larson, Notary Public
(insert name and title of the officer)

personally appeared Shaunna Burchfiel, Attorney-in-Fact
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Traci Larson (Seal)



Exhibit C
(Payment Bond)

Premium for contract term and
is subject to adjustment based
on final contract price

Bond No. 4-057-454
Premium Included in Performance Bond
Issued in five original counterparts

Pay Bond

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENT:

WHEREAS, the Coast Community College District of Orange County, California (hereinafter referred to as "DISTRICT"), awarded to Tadros and Youssef Construction Inc. dba T and Y Construction (hereinafter referred to as the "Contractor/Principal") the contract for the work described Golden West College Learning Resource Center Building Phase II; Bid No. 1954. Category (F) General Construction;

WHEREAS, the Oblige, by approval of its Board of Trustees passed on September 17, 2008 has awarded to the Principal a Contract for the Work commonly described as Golden West College Learning Resource Center Building Phase II; Bid No. 1954. Category (F) General Construction;

WHEREAS, the Principal, on or about September 17, 2008, entered into a contract with the Oblige for performance of the Work; the Agreement and all other Contract Documents set forth

Therein are incorporated herein and made a part hereof by this reference.

WHEREAS, said Contractor/Principal is required by Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code to furnish a bond in connection with said contract;

NOW, THEREFORE, we, the Contractor/Principal and American Fire and Casualty Company, as Surety, a California admitted surety insurer, are held firmly bound unto the DISTRICT for one hundred percent (100%) of the total amount payable by the DISTRICT in the penal sum of Six Million Nine Hundred Forty Seven Thousand Dollars (\$6,947,000) under the terms of the contract awarded by the DISTRICT to the Contractor/Principal lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 3181 or fail to pay for any materials, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind, or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount hereinabove set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court, awarded

Pay Bond

and taxed as provided in Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such person or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the DISTRICT and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 and 3112 of the California Civil Code, and has not been paid the full amount of his/her or its claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

Any claims under this bond may be addressed to:

Surety: American Fire and Casualty Company

(Name and address of Surety)

136 N Third Street, Hamilton, Ohio 45011

(Name and address of agent or representative in California, if different from above)

Telephone No. 513-867-3000 Fax No. 513-867-3440

Agent: Risk Transfer Associates Insurance Agency, Inc

(Telephone and facsimile number of Surety or agent or representative in California)

462 Corona Mall, Suite 102, Corona, CA 92879

Telephone No. 951-520-8700 Fax No. 951-520-9979

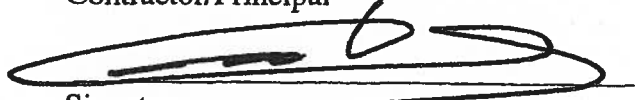
Continued Next Page

IN WITNESS HEREOF, we have hereto set our hands and seals on this 23rd day of September, 2008.

CORPORATE SEAL, IF

APPLICABLE, AND NOTARIAL
ACKNOWLEDGEMENT OF
CONTRACTOR

Tadros and Youssef Construction Inc.
dba T and Y Construction
Contractor/Principal


Signature

MAKRAM YOUSSEF
Typed or Print Name

Title President

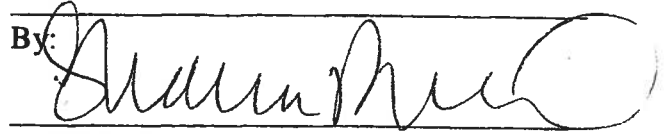
SEAL AND NOTARIAL
ACKNOWLEDGEMENT OF
SURETY

American Fire and Casualty Company
Surety

American Fire and Casualty Company
136 N Third Street, Hamilton, Ohio 45011

Telephone No. 513-867-3000 Fax No. 513-867-3440
(Mailing Address, Telephone and
Facsimile No. of Surety)

(Attach Attorney-in-Fact Certificate and
Required Acknowledgement)

By: 
Signature

Shaunna Burchfiel, Attorney-In-Fact
Typed or Print Name

ACKNOWLEDGMENT

State of California
County of Los Angeles

On September 23rd, 2008 before me, Traci Larson, Notary Public
(insert name and title of the officer)

personally appeared Shaunna Burchfiel, Attorney-in-Fact
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Traci Larson (Seal)



**CERTIFIED COPY OF POWER OF ATTORNEY
AMERICAN FIRE AND CASUALTY COMPANY**

No. 41-370

Know All Men by These Presents: That THE AMERICAN FIRE AND CASUALTY COMPANY, an Ohio Corporation, pursuant to the authority granted by Article III, Section 9 of the Code of Regulations and By-Laws of American Fire And Casualty Company, does hereby nominate, constitute and appoint: George Burchfiel, Shauma Burchfiel or Catherine Burchfiel of Corona, California its true and lawful agent(s) and attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES, not exceeding in any single instance TWENTY FIVE MILLION (\$25,000,000.00) Dollars, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Fairfield, Ohio, in their own proper persons.

The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(s)-in-fact.

In WITNESS WHEREOF, the undersigned officer of the said American Fire and Casualty Company has hereunto subscribed his name and affixed the Corporate Seal of the said American Fire and Casualty Company this 14th day of July, 2008.



Sam Lawrence

Sam Lawrence, Assistant Secretary

STATE OF OHIO,
COUNTY OF BUTLER

On this 14th day of July, 2008 before the subscriber, a Notary Public of the State of Ohio, in and for the County of Butler, duly commissioned and qualified, came Sam Lawrence, Assistant Secretary of AMERICAN FIRE AND CASUALTY COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn deposes and says, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Hamilton, State of Ohio, the day and year first above written.



Cheryl S. Gregory

Notary Public in and for County of Butler, State of Ohio
My Commission expires August 5, 2012.

This power of attorney is granted under and by authority of Article III, Section 9 of the Code of Regulations and By-Laws of American Fire And Casualty Company, extracts from which read:

Article III, Section 9. Appointment of Attorneys-in-Fact. The Chairman of the Board, the President, any Vice-President, the Secretary or any Assistant Secretary of the corporation shall be and is hereby vested with full power and authority to appoint attorneys-in-fact for the purpose of signing the name of the corporation as surety to, and to execute, attach the seal of the corporation to, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of suretyship and policies of insurance to be given in favor of any individual, firm, corporation, partnership, limited liability company or other entity, or the official representative thereof, or to any county or state, or any official board or boards of any county or state, or the United States of America or any agency thereof, or to any other political subdivision thereof.

This instrument is signed and sealed as authorized by the following resolution adopted by the Boards of Directors of the Companies on October 21, 2004:

RESOLVED, That the signature of any officer of the Company authorized under Article III, Section 9 of its Code of Regulations and By-laws and the Company seal may be affixed by facsimile to any power of attorney or copy thereof issued on behalf of the Company to make, execute, seal and deliver for and on its behalf as surety any and all bonds, undertakings or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment. Such signatures and seal are hereby adopted by the Company as original signatures and seal and shall, with respect to any bond, undertaking or other written obligations in the nature thereof to which it is attached, be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATE

I, the undersigned Assistant Secretary of American Fire and Casualty Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Company and the above resolution of its Board of Directors are true and correct copies and are in full force and effect on this date.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Company this 23rd day of September A.D. 2008



Mad S. Schmidt

Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call

RESOLUTION # 11-03

A Resolution of the Board of Trustees of the Coast Community College District Authorizing Payment to Trustee Absent from Board Meeting

WHEREAS, California Education Code Section 72024(d) provides that “a member (of the Board of Trustees) may be paid for any meeting when absent if the Board by Resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the community college district, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the Board”; and

WHEREAS, on January 5, 2011 the Board of Trustees of the Coast Community College District held a Special Board meeting; and

WHEREAS, Trustee David Grant was not present at the Board meeting; and

WHEREAS, the Board has determined that Trustee Grant’s absence was due to hardship;

NOW, THEREFORE, BE IT RESOLVED, that Trustee David Grant shall be paid at the regular rate of compensation for the Special Board meeting on January 5, 2011.

I, Christian Teeter, Secretary of the Board of Trustees of Coast Community College District hereby certify that on January 5, 2011 this Resolution was adopted by the Board by a vote of

_____.

Aye:

No:

Absent:

Abstain:

Christian Teeter, Ed.D., Board Secretary, Board of Trustees