Public Contract
Retainage Escrow Agreement

THIS Escrow Agreement made and entered into this ___________ day of ____________, 2009, by
and between Monroe County Community School Corporation ("Owner"), and Fox Construction
Co, Inc. ("Contractor"), and Monroe Bank as Escrow Agent ("Agent"), witnesseth:

WHEREAS, Owner and Contractor entered into a contract dated ____________, 20__,
providing for the construction by Contractor of a public building, work or improvement subject to
the provisions of:
IC 36-1-12-14: Contract to be referred to as “__________________________”

WHEREAS, pursuant to said statute said construction contract provides that portions of payments
by Owner or Contractor shall be retained by Owner (the “Retainage”) and placed in an escrow
account.

NOW, THEREFORE, it is agreed as follows:

1. Owner will deliver or cause to be delivered to Agent the Retainage, to be held in escrow
   in accordance with the terms in this agreement.

2. Agent shall promptly deposit the Retainage in a separate account designating the names
   of Owner and Contractor; however, Agent is expressly authorized to commingle the
   Retainage with other funds held by the Agent for investment purposes.

   Agent shall invest all cash proceeds held pursuant to this Agreement in any short-term of
   money market fund available to such accounts through corporate affiliates and which are
   considered prudent to safeguard principal, to earn reasonable interest and to make funds
   available within a reasonable time for distributions when required. Agent shall in its sole
   discretion vote any and all proxies in connection with such invested funds.

3. Agent shall hold the escrowed principal until receipt of written authorization from Owner
   specifying the portion or portions of the escrowed funds to be released from the escrow to
   Contractor. Upon receipt of such authorization, Agent shall consider it a direction and
   remit the designated portion of escrowed principal as directed.

4. Income shall normally be accrued until termination; however, upon written direction of
   Owner, income may be remitted to Contractor in proportion to the amount of principal
   disbursed.

   Before any remittance of income received hereunder, Agent shall deduct its fee, which
   shall be computed in accordance with its published Retainage Escrow Fee Schedule in
   effect from time to time.

5. In event of controversy, Agent shall pay over the net sum held by it hereunder as follows:

   a. Payment pursuant to joint authorization: Upon receipt of a joint written
      authorization executed by Contractor and Owner, Agent shall make distribution
      in accordance with such authorization.
b. Payment to Owner: Upon receipt from Owner of a copy of the architect’s certificate pursuant to the General Conditions of the Owner’s contract with said architect, showing that the owner has terminated the employment of Contractor, Agent shall pay over to Contractor such sum, if any, as Owner directs in writing and shall pay over to Contractor such sum, if any, as Owner directs in writing, and shall pay the balance to owner.

c. Payment pursuant to court order: Upon receipt of a certified or file-stamped copy of a court order resolving the disputed claim or directing a specified distribution of all or any portion of said funds, Agent shall make distribution in accordance with such order.

6. This Agreement and anything done or performed hereunder by either Contractor or Owner shall not be construed to prejudice or limit the claims which either party may have against the other arising out of the aforementioned construction contract.

7. The duties and responsibilities of Agent shall be limited to those expressly set forth herein, to hold such money and to pay and deliver to such person and under such conditions as herein set forth. Agent shall act in good faith using its best judgment. Agent shall not be liable for any act taken or omitted in good faith and shall be fully protected when relying on any written notice, demand, certificate, or document which it believes to be genuine.

8. This instrument constitutes the entire Agreement between the parties regarding the duties of Agent with respect to the investment and payment of the escrowed funds.

Fox Construction Co, Inc.  
(CONTRACTOR)  
By  
EIN: 35-1939283  
Address: 207 W. Tenth Street  
Bloomington, IN 47404  
Telephone: 812-323-4342

Monroe County Community School Corporation  
(OWNER)  
By  
EIN:  
Address: 315 North Drive  
Bloomington, IN 47401  
Telephone: 

Monroe Bank  
(ESCROW AGENT)  
By  
Address: PO Box 2229  
Bloomington, IN 47402  
Telephone: (812) 331-3425  
Fax: (812) 331-3422  
Email: hashl@monroebank.com

To be assigned with first deposit  
(Account Number)