ESCROW AGREEMENT FOR PUBLIC CONSTRUCTION BY A SCHOOL CORPORATION

The undersigned Monroe County Community School Corporation a public school corporation, located in Monroe County, Indiana ("Owner"), Tag Coatings Corporation with its principal offices in Marion County, Indiana ("Contractor"), and Community Bank Trust Department, Noblesville, IN ("Escrow Agent") hereby enter into the following escrow agreement ("Agreement");

1. **Subject Matter of the Agreement:** Owner and Contractor have entered into a public work contract in excess of One Hundred Thousand Dollars ($100,000) for the Bid Package #9 of the public work consisting of painting at the Service / Transportation Building Project, 560 E. Miller Drive, Bloomington, Indiana 47408 under a contract dated January 22, 2009 ("Contract"). The Contract provides for retainage during the course of the Project work, which shall be paid to the Escrow Agent as part of the Escrow Fund for distribution in accordance with this Agreement. The Contractor has contracted with subcontractors to perform labor and to furnish supplies and materials for the Project. This Agreement is executed in accordance with I.C. 36-1-12-14, and its terms shall have the meanings set out in I.C. 36-1-12-14.

2. **Duties and Liabilities of the Escrow Agent:** The retainage provided in the Contract shall be deposited in an Escrow Fund with the Escrow Agent in accordance with I.C. 36-1-12-14. The Escrow Agent has the following duties with respect to the Fund:

   a) To invest the principal of the Fund promptly upon receipt in investments selected by the Escrow Agent in its sole discretion, including money market funds on Escrow Agent's approved list, and deposit and nonsubsidized debt instruments of the Escrow Agent. Without limiting the discretionary power of the Trustee, the purpose of the investment is to earn the maximum rate of return consistent with the protection of the principal of the Fund and with Escrow Agent's obligations to disburse the principal of the Fund when required; and

   b) To disburse the principal and interest of the Fund as provided in Paragraph 4 of this Agreement. All income shall become a part of the Escrow Fund. In carrying out these duties, the Escrow Agent may commingle the Escrow Fund with Funds held in other escrow accounts, but a separate accounting shall be made of the Escrow Fund to show at any time upon reasonable notice the amount of principal and interest in the Fund and the credits and charges to either as permitted by this Agreement.

   The Escrow Agent may resign at any time by giving fifteen (15) days written notice to the Owner and Contractor. During that fifteen (15) day period, the Owner and Contractor shall choose a successor Escrow Agent to whom the resigning Escrow Agent shall transfer all of the Escrow Fund. If the Owner and Contractor fail to appoint a successor Escrow Agent, then the resigning Escrow Agent shall assign the Escrow Fund to the Owner.

3. **Escrow Agent's Compensation and Payment of Expenses:** The Escrow Agent shall be paid a one time fee of $250, plus $10 for each check as compensation for its services and shall be paid the following out-of-pocket expenses in the performance of its duties under this Agreement: (a) the cost of advice of legal counsel as to the duties of the Escrow Agent under this Agreement; and (b) the legal fees and other costs of any lawsuit arising out of the terms of this Agreement in which it is a plaintiff of defendant, except where the suit successfully asks for damages based on the Escrow Agent's negligence or willful misconduct. The Escrow Agent's fee shall be paid solely from the income of the Escrow Fund, and its expenses shall be paid from income to the extent there is income after payment of fees or, if there is no such income, from the principal of the Escrow Fund.
4. **Payments from the Escrow Fund:** Escrow Agent shall pay the principal of the Escrow Fund and a proportionate part of the income on that part of the principal, less the Escrow Agent’s fees and expenses provided in Paragraph 2, as follows:

a) To the person and in the amount directed by a written authorization signed by both the Owner and the Contractor delivered to the Escrow Agent at least ten (10) days prior to the date of payment.

b) The total principal and interest in the Escrow Fund, less Escrow Agent’s fees and permissible expenses, or any part of that amount, shall be paid to the Owner at least ten (10) days after receipt of its written notice requesting payment and stating that the Contractor is in default under the contract.

c) Escrow Agent shall pay the principal and interest in the manner directed by a certified copy of a judgment of a court of record establishing the rights of the parties to the Escrow Fund, without the consent of either the Owner or Contractor.

d) Escrow Agent shall pay the Contractor in full the amount of principal, less Escrow Agent’s fee and expenses, within sixty-one (61) days after substantial completion of the Project, subject to I.C. 36-1-12-11. However, if there remain uncompleted minor items within that period, the Escrow Agent shall retain 200% of the value of each item, as determined by the Architect or Architect/Engineer employed by the Owner in connection with the Project, until Escrow Agent is notified by Owner and Contractor that those items are completed. In no event, however, shall the Escrow Agent be required to make payment from the Escrow Fund under this paragraph in the absence of an authorization by both the Owner and Contractor or by an order of court, as provided in items (a) and (c) above.

In the event of a distribution under subparagraph (b): (i) neither the Owner nor the Contractor on account of that distribution waives any right it has under the Contract or otherwise against the other; (ii) the Owner may specify in its notice whether the Escrow Fund and this Agreement shall continue in part and to what extent; and (iii) upon total payment of the Escrow Fund by the Escrow Agent to the Owner, this Agreement shall terminate.

5. **Exculpation of the Parties as Respects the Contract:** This Agreement and any act performed under or related to it shall not change the rights or duties of the Owner or Contractor under Contract, except as is provided in this Agreement. Payment by the Owner to the Escrow Fund is in lieu of and constitutes payment to the Contractor under the Contract. The Owner is not liable to the Contractor for any loss, damages or diminution in the Escrow Fund resulting to the Contractor by reason of fees, cost, omission, claims or any other reason unless it is caused by or results from the negligence or willful misconduct of the Owner. The Escrow Agent is not liable to the Owner or the Contractor for any loss, damages or diminution to the Escrow Fund or any other loss or damage unless it was caused or resulted from the Escrow Agent’s negligence or willful misconduct.

6. **Agreements between Contractor and Subcontractor:** The Contractor agrees to enter into an agreement similar to this Agreement in accordance with IC 36-1-12-14 with each of its subcontractors. The Contractor agrees to save the Escrow Agent harmless from any loss, legal or other cost, or liability of any nature whatsoever, arising out of any obligation or dispute between the Contractor and any of its subcontractors so long as the Escrow Agent acts in good faith and without negligence in carrying out its duties under this Agreement.

7. **Termination of Escrow Agreement: Definition of its Scope:** This Agreement shall terminate when, in accordance with its terms, the Escrow Agent has distributed the entire principal and interest of the Escrow Fund. This Agreement constitutes the entire agreement between the parties regarding the duties of the Escrow Agent with respect to the investment and payment of the Escrow Fund. This Escrow Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and legal representatives.
8. **Notices:** All payments and notices to and between the parties to this Agreement shall be effectively made by delivering or mailing to the authorized agent of the other party at the address set out below. Any party may change the identity or address of its authorized agent by a written notice to the other parties.

Executed this 5th day of May, 2009.

**ESCROW AGENT**

Community Bank Trust Department  
P.O. Box 1990  
Noblesville, IN 46061-1990  
Phone: (317) 776-6972  
Fax: (317) 776-7675  
trust@communitybankindiana.com

Nancy Arce  
Vice President & Trust Officer

Escrow Account No. 904-3853  
(Please include this number on all checks)

Dated

**OWNER**

Monroe County Community School Corporation  
315 North Drive  
Bloomington, IN 47401  
Phone (812)330-7700  
Fax (812)330-7813

Signature/Title/Date  
"Owner"

Printed

**CONTRACTOR**

Tag Coatings Corporation  
2601 N Sherman Drive  
Indianapolis, IN 46218  
Phone: (317) 591-7077  
Fax: (317) 591-7080  
E-mail: jburleson@tagcoatings.com

Signature/Title/Date  
"Contractor"

Printed