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Carol "Cindy" Hol, Recorder  
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R.M.F. \$ 5.00

NICKI UTSLER  
RECORDER  
MADISON COUNTY, IOWA

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### FIRST AMENDMENT TO 28E AGREEMENT FOR LOCAL OPTION SALES TAX REVENUE SHARING

This First Amendment amends the 28E Agreement for Local Option Sales Tax Revenue Sharing (the "28E Agreement") entered into between the City of Van Meter (the "City") and the Van Meter Community School District (the "School").

WHEREAS, the School and the City have previously agreed that Revenues received from the Sales Tax shall be distributed and utilized 75% by School and 25% by City.

WHEREAS, the City has agreed to receive, utilize and expend sales tax revenues received from the School for development and improvement of the youth athletic/recreation complex and the City and School have entered into an Agreement Regarding the Scope and Definition of the Youth Athletic/Recreation Complex that defines the term "youth athletic/recreation complex" (the "Complex".)

WHEREAS, the Van Meter Recreation Foundation (the "Foundation") has received the formal support of each the City and the School as the entity responsible for the purchase of real estate, design and development of the Complex and for fund raising and arranging for financing for the Complex; and

WHEREAS, the lender for the Foundation, as a prerequisite to the closing of a financing arrangement, requires an agreement between the City and the School setting forth certain clarifying terms to the 28E Agreement.

NOW, THEREFORE, the City and School agree as follows:

- Paragraph 6 shall be amended by adding the additional language:  
  
During any design, development or construction phase of the youth athletic/recreation complex, the Oversight Committee shall meet at least monthly solely to ensure that Sales Tax Revenues are expended in compliance with the Iowa Code and in accordance with the 28E Agreement and on more frequent occasions shall the majority of the members of the Oversight Committee so request.

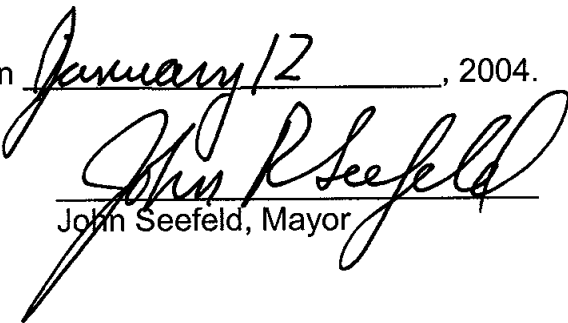
For clarity, the role of the Oversight Committee is not to evaluate the merits or need of any particular aspect of the proposed Complex but rather to evaluate whether the particular aspect being proposed is, in fact, a part of the Complex. For example, the role of the Oversight Committee is not to determine whether an asphalt or concrete road should be constructed but it is the role of the Oversight Committee to evaluate whether such road is being proposed to serve as part of the Complex or

not. The Oversight Committee is empowered to prohibit the expenditure of funds for proposed construction of items that are not designed to serve the Complex.

Paragraph 6 shall be further amended by replacing this language: "The five members will include a board member and business member from the School and a council member and city clerk from the City. The fifth member will be selected by the School Board." with this language: "The five members will include three selected by the school board and two selected by the city council."

2. Paragraph 7 shall be amended by deleting subparagraph A.
3. **The City and the School waive the right to a trial by jury of any matters arising out of this Agreement.**
4. All terms not defined in this First Amendment shall have the meaning set forth in the 28E Agreement. Other than specifically stated above, all terms and conditions of the 28E Agreement shall remain the same. The recitals set forth above are incorporated herein and become a part of this Agreement.
5. The clerk of the City of Van Meter shall cause this amendment to be recorded in the office of the County Recorder in each county in which the School or City are located and filed with the Secretary of State.

Approved by the City of Van Meter on January 12, 2004.

  
John Seefeld, Mayor

ATTEST:

  
Sondra Sittner, City Clerk

Approved by the Van Meter Community School District

on January 19, 2004.

Dan Phillips

Dan Phillips, Board President

ATTEST:

Shonna Trudo

Shonna Trudo, Board Secretary