

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: August 8, 2011
	Agenda Item No. [] Roll Call No. <u>11-1404</u> Communication No. <u>11-521</u> Submitted by: Richard A. Clark, City Manager

AGENDA HEADING:

Agreement for Sharing of Gaming Revenue with Polk County and Prairie Meadows

SYNOPSIS:

A new Agreement for Sharing of Gaming Revenue among Polk County ("Polk County"), Prairie Meadows Racetrack and Casino, Inc. ("Prairie Meadows") and the City of Des Moines (the "City") has been negotiated. The initial agreement was approved in 2004 and expires this year. A team led by the Mayor and Council Member Coleman has been working to negotiate a renewal of the Agreement. The new Agreement provides for gaming revenues to continue to be received by the City of Des Moines for the period extending to December 31, 2018. The amount of annual gaming funds to be received by the City of Des Moines is projected at about \$6 million for the current calendar year (2011) and is calculated using a formula that is essentially unchanged from the prior agreement. With the economic uncertainty that has arisen since the first agreement was negotiated and drafted, both the County and Prairie Meadows insisted on a reopener to the Agreement in the case of a significant economic downturn that results in decreased revenues in the first instance to Prairie Meadows or the County.

2/3 of the annual payment is paid by Prairie Meadows, and 1/3 is paid by Polk County. The City of Des Moines has used the money for bridges, streets and roads.

FISCAL IMPACT:

Annual gaming revenues provided to the City are projected to be in excess of \$6 million through 2018.

ADDITIONAL INFORMATION:

The new Agreement calls for the City to receive 5.1% of Adjusted Gross Receipts less taxes, Lease Payments and other contractual payments by Prairie Meadows to Polk County, or a projected amount of about \$6,011,888 for calendar year 2011. Polk County Public Schools—including Des Moines Public Schools—receives .9% of the Adjusted Gross Receipts which equates to a projected annual payment for calendar year 2011 of slightly over \$1 million.

If there is an economic downturn based on increased taxes, increased horse purses, or decreased gross receipts of 10% or more for two consecutive quarters compared to prior years, then the Agreement would be reopened:

- In the case of Prairie Meadows, the parties would agree to negotiate equitable changes to payments.
- If such negotiations fail, the matter is referred to a Polk County District court judge for an equitable resolution.

- In the case of Polk County upon reopening, the formula for sharing gaming revenues would change such that once the County has received enough to cover its already obligated debt service (approximately \$20.1M) then the City and County would split anything which the County receives above that amount 50/50 (the current split roughly equates to 60% County and 40% City).
- Once the amount returns to \$26M received by the County, the City would receive its full percentage amount due from the County.

All parties agree to renegotiate in good faith for an extension to the agreement in 8 years.

PREVIOUS COUNCIL ACTION(S):

Date: July 26, 2004

Roll Call Number: 04-1610

Action: Moved by Coleman to adopt with the following provisions. 1) A letter of appreciation to be sent to all developers by the Mayor on behalf of the Mayor and Council. 2) The City Attorney is to address the concerns of Council Member Hensley before the final agreement. 3) Move and accept the joint proposal. 4) City Manager and Mayor to present proposal for prioritizing funding and include neighborhoods and citizen leaders in the process. Motion Carried 6-1. Pass: Hensley.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

It is expected that Polk County Board of Supervisors will approve this agreement at their regular meeting on August 9, and the Prairie Meadows Board will approve the agreement at their next meeting as well.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.