

**OFFICE OF THE CITY MANAGER
DES MOINES, IOWA**

**CITY COUNCIL COMMUNICATION 97-435
AUGUST 25, 1997 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
SIXTH SUPPLEMENT TO THE INTEGRATED COMMUNITY AREA (ICA) AGREEMENT	◆ RESOLUTION ORDINANCE RECEIVE/FILE	HAROLD SMITH CITY ENGINEER

SYNOPSIS —

A major portion of Polk County's share of the Integrated Community Area (ICA) costs to construct the Wastewater Reclamation Authority (WRA) sewage treatment and conveyance system has been deferred by virtue of the ICA Agreement because Polk County does not have enough sewer users to generate sufficient funds to pay its full share of the ongoing WRA debt service. Representatives of Polk County have inquired as to the possibility of using gaming revenues to pay its deferred debt. The ICA Agreement and Supplements thereto as presently written do not allow Polk County to finance its share of the ICA system capital costs and consequently payment of its deferred debt by using gaming revenues as a source of funds. On Tuesday, July 22, 1997, the WRA Management Agency took action to approve the Sixth Supplement to the ICA Agreement which will allow Polk County to use gaming revenues as a source of funds to pay its WRA deferred debt. The Sixth Supplement to the ICA Agreement must now be approved by the WRA constituent communities.

FISCAL IMPACT —

There may be no immediate fiscal impact as this agreement only allows Polk County the opportunity to pay its WRA deferred debt with gaming revenues. In the event that Polk County does choose to use gaming revenues as a source of funds to pay its WRA deferred debt, it would pay \$1,737,627 (subject to final audit) to the City of Des Moines for its share of funding Polk County's deferred debt.

RECOMMENDATION —

Approval of the Sixth Supplement to the ICA Agreement.

BACKGROUND —

The ICA Agreement is an agreement by 14 governmental entities to construct, finance, operate, and maintain the areawide wastewater treatment and conveyance system located in the ICA, currently known as the Des Moines Metropolitan WRA. The ICA Agreement was filed for record on June 1, 1979, and since that time five supplements were added to facilitate construction, financing, operation, and maintenance of areawide wastewater facilities and to change the name to the present WRA. Certain constituent communities were recognized by the ICA Agreement as being unable to immediately pay for their share of the costs of the necessary improvements because they had a limited number of sewer users that would immediately be connected to the system. The ICA Agreement contains provisions that allow such constituent communities to defer payment of their share of the construction and financing costs until such time as they could connect enough sewer users and consequently develop sufficient revenue that would allow them to pay their deferred debt. The language in the ICA Agreement was written such that it prohibited Polk County in particular from using its taxing ability to spread the cost of construction and financing wastewater treatment and conveyance facilities for a localized benefited area over the entire county. The Third Supplement

provides that "Polk County will act to finance its Project share acquisition from the other Communities by issuing revenue bonds or other bonds payable from levies or charges made solely against residents, taxpayers or property owners located within the Polk County Service Area" and "Polk County agrees that it will not finance its share of project costs or any costs for local sewers from general taxes or general funds or revenues unless the same are levied against and derived solely from the residents, taxpayers, property owners or sewer users of the Polk County Service Area and are not paid by residents, taxpayers or property owners within Polk County generally". WRA legal counsel has determined that Polk County gaming revenues can be considered as being part of the Polk County general funds. It should be recognized, however, that at the time the ICA Agreement was signed there were no gaming revenues and none were contemplated, consequently, potential issues related to the use of gaming revenues were not addressed in the agreement.

The constituent communities of Polk County, Warren County, and Johnston were not able to immediately pay their share of the ongoing debt service and consequently their debt was deferred. Representatives of Polk County have met with City staff, as well as with the WRA Management Agency, and have indicated a desire to pay their deferred debt with funds derived from gaming revenues. It was determined by WRA legal counsel that such action would not be possible under the existing ICA Agreement and Supplements thereto because of the language in the agreement previously mentioned. The WRA Management Agency has determined that it would be beneficial to the constituent communities to allow Polk County the opportunity to use gaming revenues to pay its deferred debt as well as the non-assessable portions of the cost of local sanitary sewer systems pursuant to certain terms and conditions described in the agreement, and the Agency has approved the Sixth Supplement to the ICA Agreement as an instrument to accomplish that purpose. The ICA Agreement and Supplements thereto provide that the Sixth Supplement must be approved by a 90 percent population weighted vote. The WRA Management Agency is requesting that all WRA constituent communities approve the Sixth Supplement to the ICA Agreement and authorize the appropriate individual to sign the 28E Agreement.