

STAFF REPORT

To: Mayor and City Council

Agenda Item: J.7

Date: **10-27-2010**

Thru: Donna Dreska, City Manager

Staff Report: Discussion, possible acceptance and approval of an Agreement with RJB Development regarding Northgate Golf Course, Amendment #5 to Option Agreement, and potential direction to Staff.

From: Susan Schlerf, Assistant City Manager
Julee M. Conway, Director, PRCS

Summary: Before City Council for discussion, possible approval and acceptance is an Agreement with RJB Development (Amendment #5 to Option Agreement) to purchase Northgate Golf Course property for \$2,400,000. Under terms of the Amendment #5, RJB would extend the term of the option through December 3, receive \$2,170,000 in cash at closing, and \$230,000 in credits against future Residential Construction Tax (RCT). Staff seeks Council direction on the agreement and funding options.

Previous Council Action: May 13, 2009 - City Council approved \$1,000 to be used for interim maintenance and operation costs for Northgate Golf Course for FY09. City Council deferred approval of interim funds for FY10, until such time as the option to purchase was secured between the County and the RJB. City Council requested that a source of funds for FY09 be identified and returned to Council for review, discussion and possible approval.

June 10, 2009 - City Council approved \$1,000 from the FY 2009 Council Contingency Fund to be paid to Washoe County for the interim maintenance of the Northgate Golf Course property.

September 9, 2009 - City Council directed staff to work with homeowners and County staff, and return in 60 days with a full evaluation of the site and future options.

April 8, 2010 – City Council approved up to \$400,000 in non-General Funds for the purchase of Northgate Golf Course, contingent upon obtaining necessary Special Assessment District (SAD) signatures.

July 7, 2010 - Council directed staff to negotiate with the R.J.G. Development Co. Trust representatives. Mayor Cashell requested that Councilmember Aiazzi be involved in the negotiations.

July 14, 2010 – Council approved the Assignment of Option Agreement with Washoe County and R.J.B. Development Co.; authorized funding the extension in the amount up to \$33,000 per month from the Open Space and Trails Fund.

August 18, 2010 – Council approved Amendment #3 to the Option Agreement which extended the option term for no additional consideration.

September 22, 2010 – Council approved Amendment #4 to the Option Agreement which extended the option term for no additional consideration and moved to offer to purchase the property from RJB Development for the sum of \$2.45 million, consisting of \$1.2 million from the SAD, \$400,000 from Washoe County, \$400,000 from the City of Reno

(not general fund) and \$450,000 from future Somerset Residential Construction Tax money.

Background: The City has been working with RJB Development regarding the acquisition of the Northgate property. In May 2010, a Special Assessment District (SAD) initiative was sent to property owners, supported by a group of citizen advocates to purchase 100 acres of the total 228 acres. The SAD will raise approximately \$1,200,000 for the acquisition of 100 acres of a park project.

Amendment #5 to Option Agreement extends the term of the option through Dec. 3, 2010. The SAD petition and resolution directing the City Engineer to prepare an assessment plat and cost estimates on the proposed SAD is planned for consideration by the City Council at its Dec. 1, 2010 meeting. Adoption of this resolution is required by NRS 271.280 to initiate a Special Assessment District. In the event the City adopts the resolution, Amendment #5 further extends the term of the option through March 1, 2011. However, if at any time the City does not approve, process or otherwise abandons the SAD, the Option will expire 10 days thereafter.

The option also states the closing date shall occur no later than March 30, 2011. If the sale and closing of the bonds cannot occur by that date, an additional extension may be required.

The City of Reno and Washoe County have previously each committed \$400,000 to purchase the remaining 128 acres. For a purchase price of \$2,400,000, the City needs to identify a total of \$800,000. Discussion of the funding options appears below under Financial Implications.

Financial Implications: State law requires funding sources for acquisition be identified prior to entering a contract. Staff pursued state and federal open space funds, non-profit organizations (Nevada Land Conservancy), and Washoe County -1 funds without success. Staff continues to look for outside funding sources.

Pursuant to City Council direction, staff has identified the following non-General Fund sources, and listed issues identified. From the total of \$800,000, RJB has indicated it will accept \$230,000 in credits from the Somerset RCT, leaving a total of \$570,000 to be identified and approved by Council.

Washoe County	\$400,000
SAD bonds	\$1,200,000
Somerset RCT	<u>\$230,000</u>
	\$1,830,000

Options for the remaining \$570,000 from currently available non-General Funds would include:

Open Space & Greenways	\$131,860
Sensitive Lands	\$68,000

Park RCT-District 2

\$733,559

Private Loan

Council discretion

Discussion of funding sources:

SAD Bonds: Per the amendment, the SAD process must be concluded by the end of March 2011, unless otherwise agreed. If the SAD covers only the \$1,200,000 portion of the purchase price, the estimated \$24,000 cost of issuance would need to be funded from an alternative source.

Somerset RCT: This fund is expected to reach \$450,000 upon final build out. RJB will only accept \$230,000 from this source. NRS restricts RCT use to neighborhood parks of 25 acres or less. This fund has also been discussed for building the remaining neighborhood park in Somerset.

There are no restrictions or issues associated with the \$131,860 from Open Space and \$68,000 Sensitive Lands (\$199,860). The Open Space and Trails fund was created for trails and lands purchase with the approval of the Open Space and Greenways Plan in 2007. The available balance is approximately \$156,860. Staff recommends that \$25,000 be retained from this balance as match funds for an outstanding grant application that has been submitted to the State of Nevada for a trail project, resulting in \$131,860 available for the project. The Sensitive lands fund was created through sale of small City parcels and has accumulated over the years to \$68,000.

Park RCT-District 2: This fund (\$733,559) is comprised of RCT. The NAB has been working to plan and build the Keystone/Van Ness Park and Trailhead with funding from this source. NRS restricts RCT use to neighborhood parks of 25 acres or less.

Councilmember Aiazzi indicated at the April 28, 2010 City Council meeting that a private group has proposed to loan the City funding at 5% interest rate with a 10-year term. Any borrowing that the City may undertake must be accomplished under Chapter 350 of the NRS (NRS 350.087 and 350.089) and Chapter 350 of the NAC. Any obligation to pay debt, even from a private entity, must be issued as a municipal debt per Chapter 350 of the NRS under the allowed debt tools, such as General Obligation, Medium Term debt (10 years or less), or Revenue Bonds. In either case, the source of payment must be identified as the City needs to dedicate a revenue source for the life of the debt. Grants sources cannot be used for repayment of debt service. In addition, for a 10-year or less debt, the City would need to obtain Department of Taxation approval, which requires the City to show affordability.

Once acquired, Reno becomes responsible for maintenance and operational costs, utilities, liability insurance coverage, and costs associated with closing. Estimated maintenance and operational costs have been discussed in previous staff reports. Annual costs start at an estimated \$40,000 per year for basic noxious weed abatement and trail

maintenance, and increase depending upon the level of service to be provided to the public.

RJB proposes that additional lot line adjustments be made if individual property owners purchase adjacent property prior to closing. RJB will bear all costs associated with the individual boundary adjustments. Any additional costs to subdivide the remaining 128 acres as needed to meet NRS requirements would be borne by the City.

Liability insurance would be covered under the City's liability policy. The City's property insurance premiums may increase as a result of adding the property, but the amount is estimated to be minimal and would be paid from the Risk Fund. The City has assumed control of the Northgate buildings and property since the July 14, 2010 City Council action.

Legal Implications: The City has now assumed the County's rights, and obligations under the option agreement with RJB along with the terms set forth in the Assignment, together with all liabilities for the property. By entering into the attached Amendment #5 to the Option Agreement, the City would be proceeding with the purchase in accordance with the terms, conditions, limitations and contingencies set forth in Amendment #5 to the Option Agreement.

The creation of the SAD would need City Council acceptance and approval and to proceed through the public hearing process per NRS Chapter 271. This process will commence in December of 2010, and the first public hearing will be held in January of 2011.

Recommendation: Council accept and approve the Amendment #5 to Option Agreement with RJB Development regarding the Northgate Golf Course, provide direction regarding funding, and authorize the Mayor to sign the Agreement.

Proposed Motion: I move to accept the recommendation.

Attachment: Amendment #5 to Option Agreement

**AGREEMENT WITH RJB DEVELOPMENT REGARDING
NORTHGATE GOLF COURSE
AMENDMENT #5 TO OPTION AGREEMENT**

This Amendment is made and entered into this _____ of October, 2010, by and between R.J.B. Development Co., a Nevada corporation (RJB), and the City of Reno a municipal corporation in the State of Nevada (City);

WHEREAS, on July 15, 2010, an Assignment of Option Agreement was entered into by RJB, City and the County of Washoe (County);

WHEREAS, by the terms of the Assignment of Option Agreement, City accepted and assumed County's rights, title and interest in the Option Agreement;

WHEREAS, on July 15, 2010, pursuant to paragraph 5.3 of the Assignment of Option Agreement, City paid option consideration to RJB in the sum of \$33,000.00 to extend the Option Term until August 19, 2010;

WHEREAS, on August 18, 2010, City and RJB entered into Amendment #3 to extend the Option Term until October 1, 2010 for no additional consideration;

WHEREAS, on September 22, 2010, City and RJB entered into Amendment #4 to extend the Option Term until November 1, 2010 for no additional consideration; and

WHEREAS, the parties have agreed to further amend the Option Agreement as more fully set forth below.

NOW, THEREFORE, in consideration of the terms and conditions hereof, the parties agree as follows:

1. Purchase Price.

The Purchase Price under the Option Agreement is hereby agreed to be \$2,400,000.00. The Purchase Price shall be subject to adjustment for the Option Consideration and Extension Consideration paid by County and City in accordance with the terms of the Option Agreement.

2. Allocation of Purchase Price.

Subject to credits for Option Consideration and Extension Consideration, the Purchase Price shall be paid from the following proceeds:

- a. \$1,200,000.00 cash from the Special Assessment District to be established by City to be placed upon benefited residential property surrounding the Northgate Property (SAD).
- b. \$400,000.00 cash from County.
- c. The balance of the Purchase Price in the amount of \$800,000.00 shall be paid by City as follows:

- i) \$570,000.00 to be paid in full in cash on closing.
- ii) \$230,000.00 shall be paid by the assignment of the City's share constituting 48% of the Residential Construction Tax (RCT) to be paid pursuant to the terms of that certain agreement entitled First Amendment by and between Somerset Development Company, Ltd., Somerset, LLC, and Somerset Owners Association and the City of Reno dated September 22, 2010 (RCT Agreement). RJB shall receive the full amount of City's share under said Agreement until the full payment of \$230,000.00. City shall provide RJB with a quarterly accounting of the RCT paid pursuant to the RCT Agreement together with payment of amount received by City during such period of time. RCT is to be for the creation of a neighborhood park.

3. Additional Consideration.

In addition to the Purchase Price, RJB shall be entitled to sell certain portions of the Northgate Property to adjoining landowners by Boundary Line Adjustment generally in the location and configuration depicted on Exhibit A hereto. RJB shall be entitled to keep all proceeds from such sales. The size and configuration of the property to be acquired by adjoining residents in accordance with this paragraph shall be subject to approval of the City. RJB shall have through the later of December 31, 2010 and ten (10) days after written notice from the City that the City needs to finalize the legal descriptions for the SAD to enter into purchase agreements with adjoining residents which transactions shall close on or before the Closing Date as set forth herein (Lot Sale Proceeds).

The City will not be responsible for any costs associated with the sale or subsequent work or permits involved or required in creating the new parcel.

4. Extension of Option Term.

The Option Term is hereby extended through December 3, 2010 for no additional option extension consideration.

In the event that City adopts the first resolution for the creation of the SAD on or before December 1, 2010, the Option Term shall be extended through March 1, 2011, provided, however, that, if at any time the City does not approve, process or otherwise abandons the SAD, the Option will expire ten (10) days thereafter.

5. Closing Date.

The Closing Date for the transaction shall occur within ten (10) days of the funding of the Special Assessment District, but not later than March 30, 2011, unless otherwise agreed to by the City and RJB.

6. Supplemental Payment Obligation.

In the event that after the close of the transaction the City sells any portion of the property acquired by the City pursuant to the Option Agreement, as amended, the City shall pay to RJB the amount of \$450,000.00 less the Lot Sale Proceeds. This obligation and condition shall exist so long as RJB or an affiliate remains in existence under the laws of the State of Nevada.

7. Except as otherwise specifically provided herein, all other provisions of the Assignment of Option Agreement and Option Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

RJB: R.J.B. DEVELOPMENT CO.,
a Nevada corporation

Dated: _____, 2010 By: _____
James H. Bordycott, Vice President

CITY OF RENO:

By: _____ Dated: _____, 2010
Robert A. Cashell, Sr., Mayor

ATTEST:

Reno City Clerk

EXHIBIT A

