



Legislation Text

File #: 130354., **Version:** 2

NEW SETTLEMENT AGREEMENT FOR MOGAS INVESTMENTS, INC., NALBANDIAN PROPERTIES, LLC, AND ROPEN NALBANDIAN (B)

The City Commission 1) consider the new Settlement Agreement 2) if acceptable to the Commission, authorize the City Manager to execute the Settlement Agreement subject to review as to form and legality by the City Attorney.

In 2010 and 2012, Mogas Investments, Inc., Nalbandian Properties, L.L.C., and Ropen Nalbandian (hereinafter "Nalbandian") filed four court actions challenging various aspects of the City's plan to locate a one-stop homeless center on property located in the vicinity of 820 NW 53rd Avenue (the "ADC property"). The City defended these actions.

In the fall of 2012, as two of the cases were set to go to trial, Nalbandian made an offer of settlement to the City. In that offer of settlement and the continuance and settlement agreement that followed, Nalbandian irrevocably offered to convey fee simple title to 41 acres known as the Gain Parcel to the City. Upon acceptance of the Gain Parcel, the City would agree to not develop a homeless center on the ADC property and not to file a petition to seek a land use or zoning change in connection with developing a homeless center on any property within a mile of Nalbandian's property. On June 12, 2013, pursuant to Commission direction on June 6, the City notified Nalbandian that the City Commission was accepting Nalbandian's offer to convey the Gain Parcel to the City and that, upon receipt of the conveyance, the City would move forward with its remaining obligations under the agreement.

Under the agreement, Nalbandian was to convey the Gain Property to the City within 10 days of the City's acceptance of the Gain Property Donation offer. Nalbandian did not make the conveyance, claiming that the City breached the settlement agreement. On July 18, 2013, the City Commission authorized the City Attorney to initiate litigation to enforce the settlement agreement.

In September 2013, Nalbandian proposed alternative offers to settle the litigation to enforce the original settlement agreement. On October 3, 2013, the City Commission directed the City Attorney to negotiate a new settlement agreement with Nalbandian and bring the new agreement back to the City Commission for consideration. The new Agreement would supersede all previous agreements.

In summary, the new Agreement provides for the payment of \$250,000 to the City, paid in \$50,000 increments over 5 years. The payment is secured by a mortgage and note on the Gain Parcel. In the event that the City does not close on the Gainesville Correctional Institution property or if negotiations cease regarding the City's purchase of said property, Nalbandian will transfer the Gain Parcel to the City and the City will return any payments made under the Agreement.

In exchange, the City agrees to stop all efforts to develop the Homeless Center on the ADC parcel (which condition all parties acknowledge has been complied with). The City also agrees that it, or an agent on its behalf, will not file a petition to change the land use category or to change the zoning district for the purpose of

locating a homeless center on a specific piece of property located within a mile of Nalbandian's Properties on 53rd Avenue, as long as Nalbandian owns the properties in fee simple.

A copy of the proposed new Settlement Agreement, the mortgage and the note are provided in the back-up to this agenda item.