

**IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA**

CASE NO.: CACE-21-011148-25

CITY OF FORT LAUDERDALE,

Plaintiff,

vs.

SWEET MORNINGS, LLC, ET AL.,

Defendants,

_____ /

AMENDED SETTLEMENT AGREEMENT

This Amended Settlement Agreement (“Agreement”) is entered into on this ____ day of December 2021 by Petitioner, the City of Fort Lauderdale (“City”), and Defendant, Sweet Mornings, LLC (“Sweet Mornings”) (City and Sweet Mornings, collectively, will be referred to as the “Parties”). This Agreement supersedes that Settlement Agreement entered into between the Parties on December 2, 2021.

Recitals

WHEREAS City has filed the above-styled eminent domain proceeding (the “Action”) to acquire Sweet Mornings, LLC’s property (the “Property”) having the following legal description:

Lots 1, 2, 3 and 4 and the South One-half (1/2) of the vacant alley abutting said Lots in Block 125 of Waverly Place, according to the Plat thereof, as recorded in Plat Book 2, Page 19, of the Public Records of Miami-Dade County, Florida; Said Lands Lying and Being in Broward County, Florida.

WHEREAS Sweet Mornings contested the City's right to take the Property and, if the Property was taken, the amount of compensation to be paid by City for same.

WHEREAS a mediation was held on December 2, 2021, wherein City's representatives agreed to recommend to the City commission that the City pay Sweet Mornings TWO MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,100,000.00) for the Property including the compensation for the Property, attorney's fees, experts' fees and all costs and expenses and Sweet Mornings agreed to accept this sum in full settlement of their claim in the Action. This sum shall be subject to apportionment to any mortgagee(s) and taxes.

WHEREAS this settlement came before the City Commission on December 21, 2021 and the Commission approved the settlement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amicable resolve their differences as follows:

Agreement

1. The Parties expressly incorporate the recitals of this Agreement as part hereof.
2. The Parties agree to stipulate and jointly move for the entry of a Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment ("Stipulated Order") in the Action in the form attached hereto as Exhibit 1 at the hearing currently scheduled on City's Petition for an Order of Taking on January 12, 2022 or as soon thereafter as practical. If the Court does not enter the Stipulated Order in the proposed form, the parties will cooperate in proposing a substitute order as close in form as the Court will accept but, in any event, containing all material terms relating to the amount of compensation for the Property. Moreover, if there is any

objection(s) to the apportionment and disbursement of the recovery contemplated by the Stipulated Order, the Parties shall jointly move for the entry of a Stipulated Order of Taking and Final Judgment without apportionment and disbursement and Sweet Mornings will separately move for apportionment and disbursement of the recovery.

3. Sweet Mornings shall not rent any units on the Property to new tenants or renew or extend the terms of any lease to an existing tenant on the Property. Upon the receipt of written notice from the City of deposit into the court registry of the agreed upon settlement sum, as outlined within Exhibit 1, Sweet Mornings shall complete the following tasks: (1) forward or pay over to the City all pro-rated rents received from tenants of the Property corresponding to the period after the deposit into the court registry and the transfer of ownership date set forth in Exhibit 1; (2) provide to the City an up-to-date list of the leases, rental terms, and rental payments, including payment history, of all current tenants.

4. Following deposit into the court registry, the City shall have the right and power to collect all rents which were owing to Sweet Mornings as landlord prior to the deposit into the court registry.

5. Within five (5) business days of the deposit into the court registry and transfer of title of the Property to the City, Sweet Mornings shall forward or pay over to the City any money paid to Sweet Mornings by the current tenants of the Property as security deposits, advance rental payment deposits, or other deposit funds. Sweet Mornings will also fully cooperate with the City to transfer of any utility service accounts or permits related to the Property to the City.

6. Sweet Mornings shall not remove any of the personalty or fixtures associated with the Property and its residential rental units, either exterior or interior, prior to transfer of ownership of the Property to the City.

7. The parties agree to cooperate in preparing any and all pleadings or other documents and taking such other measures as needed to effectuate the above settlement.

DATED this _____ day of _____, 20____.

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**COUNSEL FOR PETITIONER
CITY OF FORT LAUDERDALE**

**CITY OF FORT LAUDERDALE
CITY COMMISSION**

By: _____
Mayor
DEAN J. TRANTALIS

By: _____
City Manager
CHRISTOPHER J. LAGERBLOOM

ATTEST:

By: _____
City Clerk
JEFFREY A. MODARELLI

APPROVED AS TO FORM AND
CORRECTNESS:

By: _____
City Attorney
ALAIN E. BOILEAU

DATED this _____ day of _____, 20____.

BARRY S. BALMUTH
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**COUNSEL FOR RESPONDENT
SWEET MORNINGS, LLC**

SWEET MORNINGS, LLC

By: _____

(Print Name)

(Title)

EXHIBIT 1

STIPULATED ORDER

**IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA**

CASE NO.: CACE-21-011148-25

CITY OF FORT LAUDERDALE,

Plaintiff,

vs.

SWEET MORNINGS, LLC, ET AL.,

Defendants,

**STIPULATED ORDER OF TAKING, ORDER OF APPORTIONMENT AND
DISBURSEMENT, AND FINAL JUDGMENT**

THIS CAUSE having come to be heard on the Joint Motion of Petitioner, the City of Fort Lauderdale (“City”), and Defendants, Sweet Mornings, LLC (“Sweet Mornings”), as owner of the subject property, City National Bank of Florida (“CNB”), as mortgagee, and the Broward County Tax Collector (“Tax Collector”), for entry of this Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment. The Court being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

1. This Court has jurisdiction of the subject matter of and the parties to this cause.
2. The property (“Property”) being acquired hereunder is described as:

Lots 1, 2, 3 and 4 and the South One-half (1/2) of the vacant alley abutting said Lots in Block 125 of Waverly Place, according to the Plat thereof, as recorded in Plat Book 2, Page 19, of the Public Records of Miami-Dade County, Florida; Said Lands Lying and Being in Broward County, Florida.

3. The pleadings in this cause are sufficient, Petitioner is properly exercising its delegated authority in furtherance of a public purpose, specifically, the Police and Public Safety Projects as described in City of Fort Lauderdale Resolution No. 20-09, that includes but is not limited to the construction of the new police and public safety headquarters building and parking garage, and the Property hereby acquired by City is reasonably necessary for this public purpose.

4. Pursuant to Sections 74.041(3) and 74.051(1) of the Florida Statutes, a defendant must request a hearing to contest the taking of property.

5. All defendants who requested a hearing, namely, Sweet Mornings and CNB, are agreeable to the entry of this Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment.

6. Subject to apportionment, Sweet Mornings, shall have and recover from City the sum TWO MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,100,000.00) as full compensation in this Action including compensation for the Property, attorney's fees, experts' fees, and all costs and expenses. This sum is apportioned to Sweet Mornings, CNB, and to pay Broward County property taxes.

7. Within twenty (20) days of the entry of this Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment, City shall deposit the sum of TWO MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,100,000.00) into the registry of this Court. Upon making such deposit, City shall notify, in writing, all attorneys of record and those Defendants not represented by counsel that the deposits have been made and that upon deposit, City shall be entitled to possession of and title to the Property described in the Petition without further notice or Order of this Court.

8. Upon deposit by City of the sum referenced in Paragraph 7 above into the Registry of the Court, the fee simple title to, and possession of, the Property shall vest in City free and clear of the interest of Sweet Mornings, CNB, Defendant (tenants) Semi El-Hila, Joannie Serana Rivera f/k/a Joannie Pinguil, Federick Chung, Sagesse Augustin, Rommell Antonio Corrales, Roy Griffins, Sierra Kuhn, and Michael Facenda, Broward County property taxes, and free and clear of any other party claiming any right, title or interest in the Property

9. After deposit of the sum referred to in Paragraph 7 above, the Clerk of Court shall disburse such sum by issuing a check in the amount of TWO MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,100,000.00) payable to the Barry S. Balmuth, P.A. Trust Account and mailing same to Barry S. Balmuth, 2505 Burns Road, Palm Beach Gardens, Florida 33410. Barry S. Balmuth, B.C.S., as counsel for Sweet Mornings, shall, within ten (10) days of receipt of the check from the Clerk of Courts resulting in cleared funds and receiving payoff information, pay the mortgage in favor of CNB and Broward County property taxes in full. CNB and the Tax Collector shall cooperate in providing payoff figures to Mr. Balmuth. CNB shall record a satisfaction of its mortgage on the Property in the public records of Broward County within twenty (20) days of receiving payment hereunder. Mr. Balmuth shall also disburse the remaining sums to pay Sweet Mornings' attorney's and experts' fees and costs with the remainder to be disbursed to Sweet Mornings.

10. The Court retains jurisdiction to enforce this Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida, this ____ day of
January, 2022.

CAROL-LISA PHILLIPS
Circuit Judge

Copies Furnished Electronically To:

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Counsel for Sweet Mornings

City Shall Furnish Copies by U.S. mail to (tenants):

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1201 SW 1st Street, Apt. 1
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Federick Chung
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Sagesse Augustin
1201 SW 1st Street, Apt. 4
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Roy Griffins
1205 SW 1st Street, Apt 2
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Sierra Kuhn
1205 SW 1st Street, Apt. 3
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Michael Facenda
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Fort Lauderdale, FL 33312

**JOINT MOTION FOR ENTRY OF STIPULATED ORDER OF TAKING,
ORDER OF APPORTIONMENT AND DISBURSEMENT, AND FINAL JUDGMENT**

Comes now the Petitioner, City of Fort Lauderdale, and the Defendants, Sweet Mornings, LLC, City National Bank of Florida, and the Broward County Tax Collector, and respectfully stipulate to the entry of the foregoing Stipulated Order of Taking, Order of Apportionment and Disbursement, and Final Judgment.

BARRY S. BALMUTH, P.A. By: /s/ Barry S. Balmuth BARRY S. BALMUTH Florida Bar No. 868991 Counsel for Sweet Mornings The Oaks Center - 2505 Burns Road Palm Beach Gardens, FL 33410 Telephone (561) 242-9400 barryb@flboardcertifiedlawyer.com karenb@flboardcertifiedlawyer.com	NABORS, GIBLIN & NICKERSON, P.A. By: /s/ Heath R. Stokley HEATH R. STOKLEY Florida Bar No. 183644 Kirsten H. Mood Florida Bar No. 115595 Counsel for City of Fort Lauderdale 1500 Mahan Drive, Suite 200 Tallahassee, FL 32308 Telephone (850) 224-4070 hstockley@ngnlaw.com kmood@ngnlaw.com legal-admin@ngnlaw.com
ANDREW J. MEYERS, BROWARD COUNTY ATTORNEY By: /s/ Adam Katzman ADAM KATZMAN Florida Bar No. 652431 Benjamin D. Crego Florida Bar No. 111437 Counsel for Andrew J. Meyers, Broward County Attorney 115 S. Andrews Ave., Suite 423 Fort Lauderdale, FL 33301 Telephone: (954) 357-7600 akatzman@broward.org bcrego@broward.org	CITY NATIONAL BANK OF FLORIDA By: /s/ Mario D. Carballo MARIO D. CARBALLO Florida Bar No. 897442 Counsel for City National Bank of Florida 100 SE 2 nd Street, 13 th Floor Miami, FL 33131 Telephone: (305) 577-7690 legaldepartment@citynational.com mario.carballo@citynational.com