

AMENDMENT NO. 2 TO MASTER SUBLEASE AGREEMENT

THIS AMENDMENT NO. 2 TO MASTER SUBLEASE AGREEMENT (this "Amendment") dated as of November 30, 2022 (the "Effective Date"), by and between the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at One West Street, Mineola, NY 11501 (the "Agency"), and JS Commercial Realty Corp., 585 Brook Realty LLC, Brook Street Realty LLC and 557-563-579 Brook Realty LLC, each having an office at 385 Brook Street, Garden City, NY 11530 (collectively, the "Companies").

WITNESSETH:

WHEREAS, SEVIROLI FOODS, INC., a corporation duly organized and existing under the laws of the State of New York, having an office at 385 Brook Street, Garden City, NY 11530 (the "Applicant") submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in those certain parcels of land located at 585 Brook Street, 10 Commercial Avenue, 600 Commercial Avenue, 620 Commercial Avenue, 601 Brook Street and 557-563-579 Brook Street in the Village of Garden City, Town of Hempstead, Nassau County, New York (collectively, the "Land"), (2) the renovation of the existing buildings and other structures on the Land (collectively, the "Building") together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (collectively, the "Equipment"), all of the foregoing for use as manufacturing, warehousing and office facilities of the Applicant (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from real property taxes, sales and use taxes and mortgage recording taxes; and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Companies or such other entity(ies) as may be designated by the Companies and agreed upon by the Agency; and

WHEREAS, the Agency appointed the Companies as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility and the Agency has subleased the Project Facility to the Companies, all pursuant to the terms and conditions set forth in the Master Sublease Agreement dated as of November 1, 2018 between the Companies and the Agency, as amended by Amendment No. 1 to Sublease Agreement dated as of December 1, 2020 (as amended, the "Lease"), and the other Transaction Documents (as defined in the Lease); and

WHEREAS, pursuant to a consent request letter from the Applicant dated September 16, 2022, as amended by letter dated November 17, 2022 (the "Consent Request"), the Applicant requested that the Agency consent to: (a) the contribution of the assets of the Applicant to Vertullo Imports LLC, a New York limited liability company ("Vertullo Imports"), the sole member of which is Italy Acquisition LLC, a Delaware limited liability company ("Italy Acquisition"), of which an affiliate of Mill Point Capital LLC ("Mill Point") is the majority shareholder and Joseph Seviroli ("Joe") and Paul Vertullo ("Paul") are minority shareholders, and (b) the assignment by the Applicant to Vertullo Imports of the Applicant's right, title and interest in the Operating Leases

and the assumption by Vertullo Imports of the Applicant's obligations under the Operating Leases or the termination of such Operating Leases and the replacement thereof with new Operating Leases (collectively, the "Proposed Transaction"); and

WHEREAS, by resolution adopted by the members of the Agency on October 27, 2022 (the "Consent Resolution"), the Agency consented to the Proposed Transaction and authorized the execution and delivery of this Amendment and related documents, instruments and agreements;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Companies, the Applicant and the Agency mutually covenant, warrant and agree as follows:

SECTION 1. DEFINITIONS.

SECTION 1.1 Interpretation. For purposes of this Amendment, unless otherwise defined herein, all capitalized terms used herein including, but not limited to, those capitalized terms used and/or defined in the recitals hereto, shall have the respective meanings assigned to such terms in the Transaction Documents.

SECTION 2. AMENDMENTS.

SECTION 2.1 Use of Project Facility. The first sentence of Section 3.2 of the Lease is deleted in its entirety and replaced with the following:

"Subsequent to the Closing Date, the Companies shall be entitled to use the Project Facility in any manner not otherwise prohibited by the Transaction Documents, provided such use causes the Project Facility to qualify or to continue to qualify as a "project" under the Act and does not tend, in the reasonable judgment of the Agency, to bring the Project into disrepute as a public project; provided, further, however, that at no time shall any such use be other than by Vertullo Imports LLC, a New York limited liability company ("Vertullo Imports") and/or its affiliates, as its office, manufacturing, and warehousing facility for its food production and distribution business, except with the prior written consent of the Agency, which consent may be withheld in the Agency's reasonable discretion. Notwithstanding anything contained to the contrary in this Lease, as amended, or any other Transaction Documents, Vertullo Imports shall have the right, upon notice to the Agency but without requiring the Agency's consent, to change its name to "Seviroli Foods LLC" or other similar name."

SECTION 2.2 Compliance with Applicable Laws. Subsection (A) of Section 8.7 of the Lease is hereby deleted in its entirety and replaced with the following:

"(A) The Companies agree, for the benefit of the Agency, that, during the term of this Lease, they will, and will cause the Applicant and Vertullo Imports to, promptly

comply with all Applicable Laws. The Agency agrees that, as between the Companies and Vertullo Imports, the operating lease between the Companies and Vertullo Imports shall govern and control the Companies' and Vertullo Imports' obligations."

SECTION 2.3 Employment Opportunities. Subsection (A) of Section 8.11 of the Lease is hereby deleted in its entirety and replaced with the following:

"(A) The Companies shall ensure that all employees and applicants for employment with regard to the Project, including, without limitation, the employees of and applicants for employment (with regard to the Project) with the Companies, the Applicant, Vertullo Imports, or any of their Affiliates, are afforded equal employment opportunities without discrimination."

SECTION 2.4 Employment Opportunities. The third sentence of Subsection (D) of Section 8.11 of the Lease is hereby deleted in its entirety and replaced with the following:

"The Companies shall provide such annual reports (and supporting documentation) and shall cause its Affiliates, tenants, occupants, contractors and agents and the Applicant and Vertullo Imports to provide such reports (and supporting documentation) with respect to their respective employees, if any, at the Project Facility."

SECTION 2.5 Minimum Employment Requirement. The "Minimum Employment Requirement" in Section 2.2(M) of the Lease is hereby amended, in full, as follows:

The Companies (together with the Applicant and Vertullo Imports) shall (i) maintain the current level of employment of not less than two-hundred-twenty-three (223) full-time equivalent, private sector jobs as described in the Application throughout the term of this Lease and (ii) create at least an additional thirty (30) new, full-time equivalent, private sector jobs in the County of Nassau within three (3) years after the Closing Date as described in the Application and maintain such jobs throughout the term of this Lease; all of which jobs shall, at all applicable times during the term of this Lease, be located at the Project Facility (collectively, the "Minimum Employment Requirement").

SECTION 3. CONDITIONS.

SECTION 3.1 Conditions Precedent. This Amendment shall only become effective upon the fulfillment, prior to or contemporaneously with the delivery hereof, of the following conditions precedent:

(A) the execution and delivery by the Companies, the Applicant and the Agency of an original or counterparts of this Amendment;

(B) the Companies and the Applicant shall deliver such other documents, instruments and agreements as the Agency may reasonably require in connection with the transactions contemplated by this Amendment;

(C) all other documents and legal matters in connection with this Amendment and the transactions contemplated by the Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency; and

(D) the Companies shall pay the Agency's consent and amendment fee in the amount of \$1,000 and shall pay all reasonable fees and expenses (including reasonable attorneys' fees and expenses) incurred by the Agency in connection with the preparation, execution and delivery of this Amendment and the closing of the transactions contemplated hereby.

SECTION 4. MISCELLANEOUS.

SECTION 4.1 Representations and Warranties.

(A) All terms, conditions, covenants, representations and warranties of the Companies and the Applicant contained in the Transaction Documents, except as expressly modified hereby, are ratified, confirmed and reaffirmed by the Companies and the Applicant as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment.

(B) The Companies and the Applicant represent and warrant to the Agency that they have the necessary power and have taken all necessary action to make this Amendment the valid and enforceable obligation it purports to be, and that this Amendment constitutes the legal, valid and binding obligation of the Companies and the Applicant, enforceable against the Companies and the Applicant in accordance with its terms.

(C) The Companies and the Applicant represent and warrant to the Agency that no Event of Default specified in any of the Transaction Documents has occurred that remains uncured and, to the Companies' and the Applicant's knowledge, no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Neither the Companies nor any Affiliate of the Companies (including the Applicant) has employed or retained any appointed or elected government official to solicit or secure the Agency's agreement to enter into this Amendment upon an agreement or understanding for a commission or percentage, brokerage or contingent fee.

SECTION 4.2 Additional Matters. All other documents and legal matters in connection with this Amendment and the transactions contemplated by the Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency.

SECTION 4.3 Survival of Representations and Warranties. All representations and warranties made in this Amendment or any other document furnished in connection with this Amendment shall survive the execution and delivery of this Amendment and no investigation by the Agency or any closing shall affect the representations and warranties or the right of the Agency to rely upon them.

SECTION 4.4 Reference to Lease. The Lease, the Transaction Documents and any and all other agreements, documents, or instruments heretofore, now or hereafter executed and delivered

pursuant to the terms hereof or pursuant to the terms of the Lease, as amended hereby, are hereby amended so that any reference to the "Lease" in the Lease, the Transaction Documents or such other agreements, documents or instruments executed in connection with the Lease shall mean a reference to the Lease, as amended hereby.

SECTION 4.5 Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

SECTION 4.6 Successors and Assigns. The Companies, the Applicant and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties.

SECTION 4.7 Counterparts; Electronic Transmission. This Amendment may be executed in any number of counterparts and by the Companies, the Applicant and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or email shall be effective as delivery of a manually executed counterpart of this Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Companies, the Applicant and the Agency.

SECTION 4.8 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

SECTION 4.9 Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the Lease, the terms and provisions of this Amendment shall govern.

SECTION 4.10 No Waiver. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Lease, the PILOT Agreement, the PILOT Mortgage, any other Transaction Document or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency's rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Amendment shall not be construed to constitute a consent to other or further action by the Companies or the Applicant or to entitle the Companies or the Applicant to any other consent.

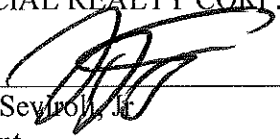
SECTION 4.11 Entire Agreement. This Amendment constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

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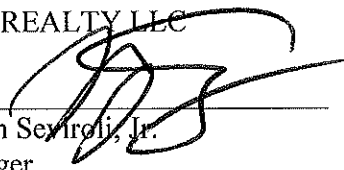
IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Companies:

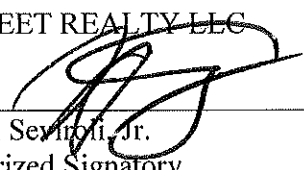
JS COMMERCIAL REALTY CORP.

By: 
Joseph Seviroli, Jr.
President

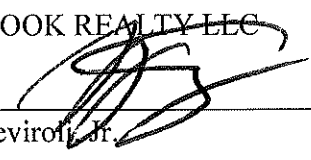
585 BROOK REALTY LLC

By: 
Joseph Seviroli, Jr.
Manager

BROOK STREET REALTY LLC

By: 
Joseph Seviroli, Jr.
Authorized Signatory

557-563-579 BROOK REALTY LLC

By: 
Joseph Seviroli, Jr.
Manager

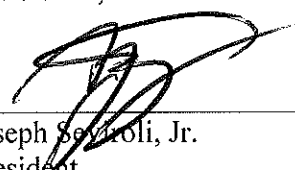
Agency:

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Colleen Pereira
Administrative Director

Accepted and Agreed by Applicant:

SEVIROLI FOODS, INC.

By: 
Joseph Seviroli, Jr.
President

[NCIDA/ Seviroli - Signature Page to Amendment No. 2 to Master Sublease Agreement]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Companies:

JS COMMERCIAL REALTY CORP.

By: _____
Joseph Seviroli, Jr.
President

585 BROOK REALTY LLC

By: _____
Joseph Seviroli, Jr.
Manager

BROOK STREET REALTY LLC

By: _____
Joseph Seviroli, Jr.
Authorized Signatory

557-563-579 BROOK REALTY LLC

By: _____
Joseph Seviroli, Jr.
Manager

Agency:

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: Colleen Pereira
Colleen Pereira
Administrative Director

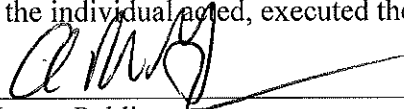
Accepted and Agreed by Applicant:

SEVIROLI FOODS, INC.

By: _____
Joseph Seviroli, Jr.
President

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the 30 day of November, 2022, before me, the undersigned, personally appeared Joseph Seviroli, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

ALEXANDER M. GAYER
Notary Public, State of New York
No. 02GA6020638
Qualified in Suffolk County
Commission Expires March 1, 2023

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the ____ day of November, 2022, before me, the undersigned, personally appeared Colleen Pereira, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

[NCIDA/Seviroli - Acknowledgement Page to Amendment No. 2 to Master Sublease Agreement]

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the ____ day of November, 2022, before me, the undersigned, personally appeared Joseph Seviroli, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the 30th day of November, 2022, before me, the undersigned, personally appeared Colleen Pereira, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

Paul V O'Brien
Notary Public State of New York
No. 020B6235944
Qualified in Nassau County
Commission Expires February 14, ~~2025~~ 2026 >>

[NCIDA/Seviroli - Acknowledgement Page to Amendment No. 2 to Master Sublease Agreement]

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