

Attachment C to Agenda File No. 2019-0507

CONSENT

THIS CONSENT (this "Consent") is entered into by and between Ferry Landing Associates, LLC, a California limited liability company ("Landlord"), Il Fornaio (America) Corporation, a Delaware corporation, on behalf of itself, the converted entity Il Fornaio (America) LLC, and its successors and assigns ("Subtenant"), and IFCB Holding Corporation, a Delaware corporation ("Equity Owner").

WHEREAS, Landlord and the San Diego Unified Port District, a public corporation ("SDUPD"), entered into that certain Master Lease Agreement, dated October 21, 1997 (which, together with all modifications, amendments, supplements or other revisions thereto, are referred to collectively herein as the "Master Lease"), pursuant to which Landlord leased certain real property from SDUPD as described therein (the "Leased Premises").

WHEREAS, Landlord and Subtenant entered into that certain Sublease Agreement, dated October 22, 1997 (which, together with all modifications, amendments, supplements or other revisions thereto, are referred to collectively herein as the "Sublease"), pursuant to which Subtenant subleased a portion of the Leased Premises from Landlord as described therein (the "Subleased Premises").

WHEREAS, Subtenant hereby informs Landlord that Subtenant intends to enter into a Membership Interest Purchase Agreement (the "Purchase Agreement") with Create Restaurants Holdings, Inc., a Japanese corporation ("CRH") and Create Restaurants NY Inc., a New York corporation ("CRNY" and, together with CRH, "Buyer"), pursuant to which Subtenant will convert into a Delaware limited liability company and Buyer will purchase and acquire all of Subtenant's outstanding equity interests following the conversion (the "Transaction").

WHEREAS, following the mutual execution of this Consent, Landlord shall submit a request for SDUPD's consent to the Transaction in accordance with the terms of the Master Lease (the "SDUPD Consent") and shall inform Subtenant when the SDUPD Consent is received, or if not received, when the decision has been made not to provide consent.

WHEREAS, Subtenant hereby requests Landlord's consent to the Transaction in accordance with the terms of the Sublease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties represent, warrant, certify and agree as follows:

1. Consent to Transaction. Subject to the terms and conditions set forth in this Consent (including specifically, without limitation, Sections 2 and 3 below), Landlord hereby (a) consents to the Transaction, and (b) acknowledges and agrees that the Change of Control of Subtenant pursuant to the Transaction will not constitute a breach or default under the Sublease. Following the consummation of the Transaction, the Sublease will continue in full force and effect under its current terms and conditions.

2. Effectiveness of Consent. This Consent is not and shall not be effective unless and until SDUPD provides the SDUPD Consent, and Landlord's consent to the Transaction is expressly conditioned upon the receipt of the SDUPD Consent. The date of SDUPD's execution of the SDUPD Consent shall be the "Effective Date" of this Consent. Landlord expressly acknowledges and agrees that the receipt of the SDUPD Consent described in the first sentence of this Section 2 and the receipt by Landlord of the Landlord Costs described in Section 7 below, are the sole conditions to the effectiveness of this Consent, and Landlord may not revoke, withdraw, further condition, or otherwise modify this Consent following the date hereof for any reason other than the refusal of SDUPD to provide the SDUPD Consent or the failure of Subtenant to pay the Landlord Costs.

3. Additional Limitations. Unless otherwise expressly set forth herein, this Consent shall not:

(a) constitute a consent or approval by Landlord of any of the terms, covenants, or conditions of the Purchase Agreement, and Landlord shall not be bound thereby;

(b) relieve Subtenant (or its successors and assigns) of any of Subtenant's obligations, duties, liabilities, or responsibilities under the Sublease or waive any of Landlord's rights to enforce the Sublease as against Subtenant and its successors or assigns;

(c) be construed to enlarge or increase any obligations of Landlord under the Sublease; or

(d) be construed to modify, waive or affect any of the terms, covenants or conditions of the Sublease or Master Lease.

4. No Discharge. Nothing in this Consent shall release or discharge Subtenant or its successors and assigns from any liability under the Sublease, and Subtenant and its successors and assigns shall remain liable and responsible for the full payment, performance, and observance of all the terms, covenants, and conditions contained in the Sublease on the part of Subtenant to be performed and observed thereunder.

5. Indemnity. Subtenant, Equity Owner, and their successors and assigns shall indemnify, defend, and hold Landlord and SDUPD harmless with respect to any and all liability to and claims by any party in connection with the Transaction, the Purchase Agreement, the SDUPD Consent, or the subject matter hereof, including without limitation, any claims or liability to SDUPD arising out of or relating to this Consent or the subject matter hereof. The provisions of this Section 5 shall survive any expiration or earlier termination of the Sublease.

6. Representation by Subtenant. Subtenant represents and warrants to Landlord that all financial statements and other documents supplied to Landlord and SDUPD by Subtenant in connection with the Transaction accurately and completely disclose the financial condition of Subtenant and Buyer as of the date of such statements, and there has been no material adverse change in the financial condition of Subtenant or Buyer subsequent to the date of the most recent financial statement supplied to Landlord.

7. Consideration. As consideration for Landlord entering into this Consent, Subtenant and Equity Owner shall pay Landlord, on demand, all fees and costs incurred by Landlord in connection with this Consent, the Transaction, the SDUPD Consent, or the subject matter hereof, including without limitation, any and all charges, fees, and costs required or assessed by SDUPD relating to the Transaction, the SDUPD Consent, or the subject matter hereof (collectively, the "Landlord Costs"). Contemporaneous with Subtenant's delivery of the executed Consent to Landlord, Subtenant will tender payment to Landlord in the amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) ("Estimated Landlord Costs"), as initial payment toward the Landlord Costs. In the event the Estimated Landlord Costs exceed the actual Landlord Costs, Landlord shall return such excess to Subtenant. In the event that the Landlord Costs exceed the Estimated Landlord Costs, Subtenant and Equity Owner shall pay such excess amount to Landlord within seven (7) days of Landlord's written demand therefor. The failure to pay such amounts within seven (7) days of Landlord's demand shall constitute a breach of the Sublease and a default by Subtenant thereunder, without requirement for any further notice from Landlord to Subtenant or Equity Owner, and Landlord may exercise all of the rights and remedies available to Landlord under the Sublease in connection with Subtenant's default.

8. No Further Transfer. This Consent shall not be construed as Landlord's consent to, or as permitting, any other or further assignment, subletting, transfer, or Change in Control by Subtenant or its successors or assigns without Landlord's prior written consent.

9. Successors and Assigns. This Consent shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Without limiting the generality of the foregoing, Subtenant expressly agrees that Subtenant is executing this Consent on behalf of itself and any successor in interest resulting from the Transaction, and Subtenant and any such successor in interest shall be subject to and bound by all obligations under the Sublease.

10. Amendments. This Consent may not be amended except by a written instrument signed by Landlord and Subtenant.

11. Further Assurances. The parties agree that each of them and their successors in interest will execute any and all agreements, assumptions, consents, or other documents necessary to effect the consummation of the transactions contemplated by this Consent or to carry out the terms and conditions of this Consent.

12. Attorneys' Fees. Should any party initiate any action at law or in equity to enforce or interpret the terms of this Consent, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and necessary disbursements against the non-prevailing party or parties, in addition to any other appropriate relief.

13. Execution in Counterparts. This Consent may be executed in counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, but all such counterparts shall together constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Consent on this 26th day of September, 2019.

LANDLORD:

FERRY LANDING ASSOCIATES, LLC

DocuSigned by:
By: Arthur Engel
Name: Arthur Engel
Title: Managing Member

SUBTENANT:

IL FORNAIO (AMERICA) CORPORATION,
on behalf of itself, the converted entity IL FORNAIO
(AMERICA) LLC, and its successors and assigns

By: [Signature]
Name: Blake Bernet
Title: Secretary

EQUITY OWNER:

IFCB HOLDING CORPORATION

By: [Signature]
Name: David Lee
Title: _____