



LAKE COUNTY FOREST PRESERVES
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Preservation, Restoration, Education and Recreation

DATE: June 26, 2017

MEMO TO: Craig Taylor, Chair
Operations Committee

S. Michael Rummel, Chair
Finance Committee

FROM: James E. Ballowe
Director of Facilities

RECOMMENDATION: Recommend approval of an Ordinance approving the assignment of the License Agreement for Food and Beverage Services at Independence Grove from Catering by Michael's, Inc. to CBM Catering by Michaels LLC.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: With the recommended assignment there would be no changes to the financial terms of the agreement and the District should continue to receive approximately \$475,000 in revenues from the new Licensee.

BACKGROUND: Catering by Michael's has been the exclusive food and beverage provider at Independence Grove since it opened in 2001. The present License Agreement between Catering by Michael's and the District began in January of 2012 for a four year period. Catering by Michael's has the ability to extend that agreement for two more four-year periods, and has exercised the first of those extensions. Recently, Catering by Michael's and representatives of the companies that own and operate Buona Beef negotiated a tentative deal by which CBM Catering by Michaels LLC (an affiliate of the Buona Beef companies) would acquire the assets of Catering by Michael's business, including the latter's rights under the License Agreement. However, under the Assignments and Encumbrances section of the License Agreement, Catering by Michael's may assign the License Agreement only with the District's consent. The District must grant consent if, in the District's reasonable judgment, it determines that an assignee or replacement proposed by the Licensee has demonstrated adequate and substantial experience in the successful operation of a first-class business similar to the concession at Independence Grove. Under the license agreement, even following the proposed assignment, the operation will continue to be operated by the current owner of Catering by Michael's. As such, staff believes that the assignee will have the requisition experience. Catering by Michael's and CBM Catering by Michaels LLC have requested the approval of the District to allow for the assignment of the License Agreement.

REVIEW BY OTHERS: Director of Finance, Corporate Counsel

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**AN ORDINANCE APPROVING THE ASSIGNMENT, ASSUMPTION AND AMENDMENT OF
THE LICENSE AGREEMENT GRANTING A CONCESSION BETWEEN LAKE COUNTY
FOREST PRESERVE DISTRICT AND CATERING BY MICHAEL'S, INCORPORATED**

WHEREAS, on January 1, 2012, the Lake County Forest Preserve District (the "District") entered into a license agreement (the "Agreement") with Catering by Michael's, Inc. (the "Licensee") for provision of a food, beverage, and catering concession at Independence Grove Forest Preserve; and

WHEREAS, the Licensee desires to sell the assets of its business, including its rights under the Agreement, to CBM Catering by Michaels LLC (the "Assignee") and to assign its rights and obligations under the Agreement pursuant to the Assignment, Assumption, and Amendment attached hereto (the "Assignment"); and

WHEREAS, under the License Agreement, the Licensee may assign the Agreement only with the District's consent; and

WHEREAS, the Licensee has demonstrated that the Assignee has adequate and substantial experience in the successful operation of a first-class business similar to the concession operated by Licensee at Independence Grove Forest Preserve, because, following the assignment of the Agreement to Licensee, the concession will continue to be operated by the current owner of Catering by Michael's and his key staff, who are identified in the Agreement and the Assignment; and

WHEREAS, Licensee and Assignee have both executed the Assignment; and

WHEREAS, pursuant to Section 7b of the Downstate Forest Preserve District Act, 70 ILCS 805/7b, the District is authorized to issue licenses for any activity reasonably connected with the purposes for which the District was created; and

WHEREAS, the provision of food, beverages, and catering concession services at Independence Grove is an activity that is reasonably connected to the purposes for which the District was created, including the operation of public recreational facilities; and

WHEREAS, the Board of Commissioners hereby finds that it is in the best interests of the District to approve the Assignment in the form attached;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois, **THAT**:

Section 1: Recitals. The recitals set forth above are incorporated as part of this Ordinance by this reference.

Section 2: Approval of Assignment, Assumption and Amendment. The Assignment is hereby approved in the form attached hereto. The Executive Director and Secretary of the District are hereby authorized and directed to execute and attest to the Assignment.

Section 3: Payments. The District Treasurer shall make payments under the Agreement only pursuant to and in accordance with the Agreement's terms.

Section 4: Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of _____, 2017.

AYES:

NAYS:

APPROVED this _____ day of _____, 2017.

Ann B. Maine, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

**Assignment, Assumption, and Amendment
of the
License Agreement Granting a Concession
between
Lake County Forest Preserve District
and
Catering by Michael's, Inc.**

This Assignment, Assumption, and Amendment (this "**Assignment**") is made as of July 12, 2017 (the "**Assignment Effective Date**") by and among the **Lake County Forest Preserve District**, a body politic and corporate and unit of local government organized and existing under the Downstate Forest Preserve District Act ("**District**"), **Catering by Michael's, Inc.**, an Illinois corporation ("**Current Licensee**"), and **CBM Catering by Michaels LLC**, an Illinois limited liability company ("**Assignee**"). (The District, Current Licensee, and Assignee are referred to, collectively, as the "**Parties**").

In consideration of the mutual covenants set forth in this Assignment, the receipt and sufficiency of which are hereby acknowledged, District, Current Licensee and Assignee mutually agree as follows:

Section 1. Recitals.

A. The District and CBM entered into a "License Agreement Granting a Concession Between Lake County Forest Preserve District and Catering by Michael's, Incorporated" dated January 1, 2012, as affected by that certain renewal notice letter from Current Licensee to the District dated June 30, 2014 (as so modified, the "**Agreement**"). All words with initial capitalized letters in this Assignment which are not defined herein shall have the meanings ascribed to them in the Agreement.

B. Pursuant to the Agreement, the District granted to Current Licensee the Concession, which, as provided in the Agreement, allows Current Licensee to provide certain indoor and outdoor food and beverage services and banquet and special event services at portions of Independence Grove Forest Preserve.

C. Section 12.A of the Agreement provides that Current Licensee may assign the Agreement and its rights and obligations thereunder only with the prior express written approval of District.

D. Current Licensee desires to sell, and Assignee desires to purchase, all or substantially all of Current Licensee's assets ("**Asset Sale**").

E. In connection with such Asset Sale, Current Licensee desires to assign, and Assignee desires to accept and assume, all of Current Licensee's rights, interests, and obligations under the Agreement, including operation of the Concession, subject to the terms and conditions hereinafter set forth.

F. The District is willing to consent to such assignment and assumption, subject to the terms and conditions hereinafter set forth.

G. The Parties further desire to amend the Agreement as set forth in this Amendment.

Section 2. Assignment, Assumption, and Consent.

A. **Assignment and Assumption.** Effective as of the Assignment Effective Date, Current Licensee hereby assigns all of its past, present, and future rights, interests, and obligations under the Agreement without limitation to Assignee; and Assignee hereby accepts and assumes all of Current Licensee's past, present, and future rights, interests, and obligations under the Agreement without limitation, and hereby warrants and agrees that all of the terms and conditions contained in the Agreement shall remain in full force and effect except as amended by Section 3 herein. Assignee shall pay, perform, and discharge when due, all duties and obligations required to be paid, performed, and discharged by the Licensee under the Agreement.

B. **Consent and Release.** The District hereby consents to the foregoing assignment and assumption of the Agreement as set forth in this Assignment. This consent by the District shall not operate as a waiver of the restriction against further assignment of the Agreement as set forth in Section 12.A of the Agreement, which restriction is hereby ratified and confirmed. Further, effective as of the Assignment Effective Date, the District hereby absolutely, unconditionally and forever releases and discharges Current Licensee from and against any and all duties, responsibilities, liabilities and obligations of any kind whatsoever under the Agreement.

Section 3. Amendment of Agreement.

A. **Section 12.** Section 12.A of the Agreement titled "*Assignments*" is deleted in its entirety and replaced with the following Section 12.A.

SECTION 12. ASSIGNMENTS AND ENCUMBRANCES.

A. **Assignments.** Licensee shall not assign or transfer, in whole or in part, any of its rights, obligations, or interests in this Agreement, or grant any other person or entity permission to occupy or use all or any part of the Licensed Premises or Subject Property, without the District's prior written consent. Without limitation, the following shall be deemed to be assignments:

- (i) If Licensee is a partnership, any withdrawal or change, voluntary, involuntary, or by operation of law, of any general partner, or the dissolution of the partnership.
- (ii) If Licensee is a sole proprietor or an association of one or more persons or entities, any purported assignment, voluntary, involuntary, or by operation of law, from Licensee to any other person or entity.

- (iii) If Licensee is a corporation, any dissolution, merger, consolidation, change in control transaction or other reorganization of Licensee, or the sale or other transfer of a controlling percentage of the capital stock of Licensee, or the sale or other transfer of more than fifty percent (50%) of the value of the assets of Licensee. For purposes of this paragraph, the phrase "controlling percentage" means the ownership of, and the right to vote, stock representing more than fifty percent (50%) of the total combined voting power of all classes of Licensee's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to (i) corporations the stock of which is traded through an exchange or over the counter; or (ii) transfers of stock by the persons listed on *Exhibit E* (if applicable), which persons are the current owners of stock of Licensee's parent company, to such persons' siblings, spouses, or children.
- (iv) If Licensee is a limited liability company, any dissolution, merger, consolidation, change in control transaction or other reorganization of Licensee, or the sale or other transfer of a controlling percentage of the equity interests of Licensee, or the sale or other transfer of more than fifty percent (50%) of the value of the assets of Licensee. For purposes of this paragraph, the phrase "controlling percentage" means the ownership of, and the right to vote, equity interests representing more than fifty percent (50%) of the total combined voting power of all classes of equity interests in Licensee outstanding and entitled to vote. This paragraph shall not apply to transfers of equity interests by the persons or entities listed on *Exhibit E-1* (if applicable), which persons or entities are the current owners of equity interests of Licensee, to the siblings, spouses, or children of such persons or of the persons that own such entities.
- (v) Any assignment that includes the withdrawal, retirement, termination, or transfer of any of the persons listed on *Exhibit F* from Licensee or from Licensee's operation of the Concession, which persons are considered by the District to be key management personnel.

The District shall withhold its consent to an assignment if, in its reasonable judgment, it determines that an assignee, transferee or replacement proposed by Licensee has not demonstrated adequate and substantial experience in the successful operation of a first-class business similar to the Concession. Notwithstanding the provisions of this Section 12, Licensee may enter into contracts with third parties to provide concession services on the Licensed Premises, as Licensee's subcontractors, including food and beverage services and banquet and special event services, provided that such contracts are approved in advance by the District's Executive Director. Such contracts shall not be deemed to be assignments of Licensee's rights.

B. Section 18. Sections 18.c and 18.d of the Agreement titled "*Notice*" are deleted in their entirety and replaced with the following Sections 18.c and 18.d.

- c. If to Licensee: CBM Catering by Michaels LLC
6203 Park Avenue
Morton Grove, IL 60053
ATTN: Joseph or Carlo Buonavolanto

- d. With a copy to: The Lansu Law Firm
2250 Southwind Boulevard
Bartlett, IL 60103
ATTN: Brian F. Lansu, Esq.

C. Exhibit C. Exhibit C of the Agreement titled "*Management Plan*" is deleted in its entirety and replaced with the new Exhibit C attached to this Assignment.

D. Exhibit E. Exhibit E of the Agreement titled "*Current Stockholders of Licensee's Parent Company*" is deleted in its entirety and replaced with "Intentionally Omitted". A new Exhibit E-1 titled "*Current Owners of Equity Interests in Licensee*" in the form attached hereto is hereby added to the Agreement.

E. Exhibit F. Exhibit F of the Agreement titled "*Key Personnel*" is deleted in its entirety and replaced with the new Exhibit F attached to this Assignment.

Section 4. Full Force and Effect; Conflicts.

Except as amended hereby, the terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the terms and conditions of this Assignment and the terms and conditions of the Agreement, the terms and conditions of this Assignment shall control.

Section 5. Governing Law.

This Agreement shall be governed and construed under the laws of the State of Illinois without regard to any conflict of law provisions which could apply.

Section 6. Counterparts.

This Agreement may be executed in any number of counterparts and by each of the undersigned on separate counterparts, which counterparts taken together shall constitute one and the same instrument. Counterparts to this Agreement may be executed and delivered by facsimile or e-mail transmission, and for purposes of this Agreement signatures transmitted by facsimile or e-mail shall be deemed to be original signatures.

[Signature Page Follows]

The Parties are executing this Assignment as of the Assignment Effective Date.

Attest/Witness

Lake County Forest Preserve District

By: _____
Julie Gragnani
Board Secretary

By: _____
Ann B. Maine
President

Attest/Witness

Catering by Michael's, Inc.

By: _____
Name: _____
Title: _____

By: _____
Name: Stewart Glass
Title: President

Attest/Witness

CBM Catering by Michaels LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT C

“Management Plan”

Management Plan
For
Independence Grove Forest Preserve

CBM Catering By Michael's LLC
June 21, 2017

CBM Catering By Michaels LLC

ABOUT THE ORGANIZATION

CBM Catering by Michael's LLC

6203 Park Ave

Morton Grove, IL 60053-2636

Phone: (847) 966-6555

Fax: (847) 966-6626

CBM Catering by Michael's LLC (CBM) has purchased substantially all of the assets of Catering By Michaels, Inc., the largest and most acclaimed caterer on Chicago's North Shore, and has secured agreements with all key personnel from Catering by Michael's, Inc. to ensure continuity of operation. Catering by Michaels has been in operation since 1980 and is now one of the most respected indoor/outdoor caterers and foodservice providers in the State of Illinois. Catering by Michael's has always taken tremendous pride in the quality of its food and the high level of service we provide to its clients.

Formerly based in Highland Park, Catering by Michael's relocated to Morton Grove in 1991 to accommodate its rapid and constant growth. CBM will occupy a 15,000 square foot commissary and warehouse which, combined with nine trucks and one to fifteen rental/lease vehicles provides the perfect location to efficiently service Cook, DuPage and Lake County clientele.

CBM staff includes an administrative/sales/management team of twenty, a kitchen staff of 60-75, a delivery staff of ten, fifteen event supervisors (nine of which are full-time employees) and more than one hundred twenty on-call party personnel. CBM does not believe in heavily staffing its events with temporary personnel and does not hire temporary event supervisors.

Catering by Michael's developed training and practice manuals for all employees and had a substantial percentage of its personnel on staff for four years or longer. CBM has adopted these manuals for employee training and plans to continue the practice of staff continuity.

CBM is capable of working with many different types of clients. Our diverse options include drop-off catering, full service "middle and high end" catering

and full service picnic catering. These options work hand in hand with customized price and menu options for each catering type. Our event planning staff also assists customers who are planning events ranging from box lunches to cocktail parties, hot dog and hamburger lunches to rack of lamb dinners and everything in-between. Our event capabilities cover the entire spectrum - social and corporate, casual and formal. Our repertoire includes sit-down dinners, cocktail receptions, company picnics, themed events and at-home parties of all kinds.

Our key personnel are all members of the International Special Events Society, the National Restaurant Association, the Illinois Restaurant Association and the Morton Grove Chamber of Commerce. In 1994 and 1997, Catering by Michael's was honored by North Shore Magazine's readers when it was named Best Caterer on the North Shore.

CBM's service is not limited to the wonderful food that we provide. We have a very eclectic collection of tabletop props, including; Roman Busts; Children's Toys; Ethnic Displays; Sports Paraphernalia; and Antiques. Our service personnel can be attired to suit the event; whether that event requires full tuxedo, themed costumes or bistro aprons and funky ties. Our relationships with the finest equipment and linen companies in the Chicago Metropolitan area allow us to provide our clients and associated venues with timely service and access to the best supplies in the industry. These close affiliations also enable us to enjoy immediate response to emergency on-site situations. Clients can also receive assistance in procuring all different forms of entertainment through our "Suggested Entertainment" file which we constantly expand and update.

In the past, Catering by Michael's did not have the opportunity to bring a significant amount of business to any particular venue. Due to their outstanding reputation, the vast majority of their business was generated by "word-of-mouth" referrals and recommendations from a large network of event planners. As a result, most clients were seeking only off-premise catering, not a venue for an event. As the business matured, advertising increased and Catering by Michael's expanded its exposure through preferred caterer lists and repeat business, opportunities to create on-site corporate and social events increased as well. Accordingly, use of the Independence Grove venue filled a critical void in the Catering by Michael's business model.

CBM is committed to continuing the tradition of uniqueness and flexibility cultivated by Catering by Michael's. Every effort will be made to make every event spectacular - from a Fortune 500 company picnic celebrating their employees and their families to that same company's cocktail reception. With each event we are inspired to provide the most creative and highest

quality food, to have the food presented and served by the best personnel, and to attend to every detail to ensure that our client's special day is perfect. That same effort will be expended for a corporate box lunch, a Mother's Day brunch at home for 12 guests, a garden wedding or a themed ethnic event that requires weeks of research into props and new foods. Each event and each client is critically important in its own way. That is why we firmly believe that we are only as good as our last performance.

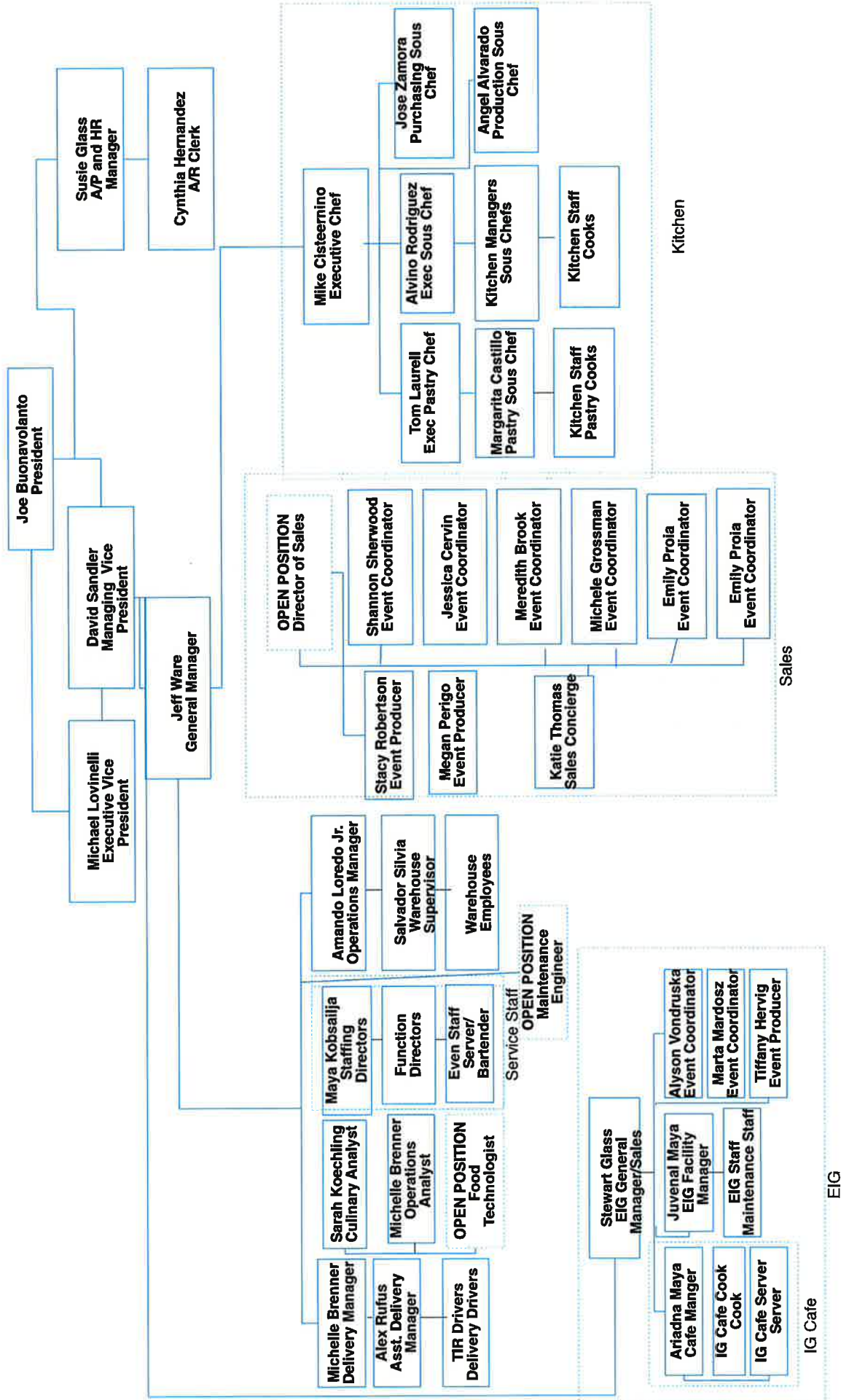


Exhibit E-1 – Current Owners of Equity Interests in Licensee

OWNERS	
CB & SB LLC	Carlo Buonavolanto
J S P J, LLC	John Buonavolanto
BUONA-APPETITO, LLC	Joseph Buonavolanto
JIM BUONAVOLANTO LLC	James Buonavolanto
DG & J LLC	Donald Buonavolanto

Exhibit F - Key Personnel

Licensee's Key Personnel

NAMES	TELEPHONE NUMBERS
Joseph Buonavolanto (President)	(708) 749-2333
Mike Iovinelli (Executive Vice-President)	(708) 749-2333
Stewart Glass (EIG General Manager)	(847) 913-9389
David Sandler (Managing Vice President)	(847) 253-1616
Jeff Ware (General Manager)	