

# CITY OF LOS ANGELES

CALIFORNIA



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## EL PUEBLO DE LOS ANGELES HISTORICAL MONUMENT

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Report: 21-0009

Date: September 21, 2021

To: Board of Commissioners  
El Pueblo de Los Angeles Historical Monument Authority

From: Arturo Chavez, General Manager  
El Pueblo de Los Angeles Historical Monument

Subject: **Requesting Authority to Execute a Transfer of Interest for Olvera Street Space W-17(A) and W-17(B), from La Golondrina Café, Inc., LTD to Olvera Street Merchants, Bertha A. Gomez and David R. Gomez**

## SUMMARY

La Golondrina Café, Inc. LTD (“Assignor” or “La Golondrina Café”) is requesting to transfer the Concession Agreements for Spaces W-17(A) (Contract No. C-119124) and W-17(B) (Contract No. C-119123) (“Concession Agreements”) to Olvera Street merchants, Bertha A. Gomez and David R. Gomez (“Assignees”) pursuant to Article 12, Section 12.1.1.2 of the Concession Agreement. Section 12.1.1.2. of the Concession Agreement allows for the one-time assignment of the Concession Agreement to another merchant who has been a Concessionaire since 1999. The Assignor and Assignees have demonstrated compliance with all provisions under Article 12 of the Concession Agreement.

## BACKGROUND

La Golondrina Café and the City executed the Concession Agreements on June 30, 2011 for a term commencing on November 1, 2010 and ending on October 30, 2030 to utilize Spaces W-17(B) for office/space storage for the restaurant and W-17(A) for a full service restaurant (“Premises”). The Concession Agreements include one (1) twenty-year (20-year) option to extend the term.

Ms. Vivien Bonzo is the President and Executive Officer of La Golondrina Café, Inc., LTD and is listed as the Primary Merchant on the Concession Agreements. On November 8, 2018, the Board of Directors for La Golondrina Café authorized Ms. Bonzo to engage in the sale of corporate assets. Since that time, Ms. Bonzo inquired with the City regarding her ability to sell the assets to an outside third party. She was informed that the corporation can sell the assets it owns (e.g., name, restaurant equipment, etc.), but the Concession Agreements could not be included as part of the business deal to sell the assets because the Premises are owned by the City and therefore subject to the City’s competitive bidding and contracting requirements.

Article 12 of the Concession Agreements (Attachment 1) describes the limited circumstances when the Concession Agreements can be transferred without the need for a competitive process and include: assigning it to an immediate family member (Section 12.1.1.1); assigning it to another existing Olvera Street Merchant who has been a concessionaire since 1999 (Section 12.1.1.2); or a transfer to legally formed and qualified entities (Section 12.1.3). Section 12.1.1. states that the City may consider written requests by Merchants to transfer the premises or rights and duties of the Concession Agreement consistent with this section.

In June of 2021, Ms. Bonzo engaged the Olvera Street restaurant merchants who were concessionaires since at least 1999 and are eligible for a transfer of interest under Section 12.1.1.2. She informed them of the opportunity to continue the operations of La Golondrina Café and the transfer of the Concession Agreements for the Premises. All eligible Olvera Street merchant restaurant operators declined the offer for a transfer of interest, except for Bertha A. Gomez and David R. Gomez.

On July 14, 2021, the Department received a written request from Ms. Bonzo to transfer the interest in the Concession Agreements to Bertha and David Gomez pursuant to Section 12.1.1.2 (Attachment 2). Ms. Bonzo has met with Bertha and David Gomez to discuss the sale of the business. They have an agreement to have La Golondrina Café

restaurant manager who will assist with the operation and management of the business and with Ms. Bonzo who will act as a consultant for a period of three months, pending the authorization of the transfer of interest by the El Pueblo Historic Commission and the Los Angeles City Council.

Ms. Gomez and Mr. Gomez prepared the attached presentation that provides information on their business plan for the operation of the restaurant (Attachment 3). Ms. Gomez has indicated that restaurant will open 60 to 90 days of the Los Angeles City Council approval of the Transfer of Interest. The restaurant has been closed since March of 2020 due to the issuance of COVID-19 restrictions.

## **CONDITIONS FOR A TRANSFER OF INTEREST**

### Status as Concessionaire Since 1999

Ms. Gomez currently operates two concessions at Olvera Street at Space C-9 and Space C-29. She added her son, David Gomez, to the Concession Agreement for Space C-9 and he is listed as the Successor Primary Merchant on that agreement. Ms. Gomez will partner with her son, David Gomez, in the operation of La Golondrina Café. Ms. Gomez has been a concessionaire since at least 1999 and is therefore eligible for a Transfer of Interest under Section 12.1.1.2 of the Concession Agreements.

Ms. Bertha Gomez and Mr. David Gomez have had an interest in owning and operating a restaurant and have been actively seeking an opportunity on Olvera Street. They previously submitted a bid to a request for proposals to operate a vacant restaurant space at Olvera Street and were subsequently awarded the contract. However, the City was unable to move forward with contract negotiations due to separate legal matter related to the space that did not involve Bertha or David Gomez.

### City's Consent to Transfer of Interest Under Section 12.1.3

Section 12.1.3 states that the "City shall not unreasonably withhold its consent to the proposed transfer of the Concession Agreement or Premises consistent with this Article." Section 12.1.3(a) – (f) further identifies when the City's failure to consent is deemed reasonable and includes when the assignment is proposed to a merchant: that does not possess the sufficient financial strength to ensure compliance with the Concession Agreement terms; intends to use the premises that is different from the Merchant's use allowed under the Concession Agreement; or the merchant owes the City any back rent.

El Pueblo staff has reviewed the conditions under Sections 12.1.3 and met with Vivien Bonzo and Bertha and David Gomez to review the various conditions required for a proper Transfer of Interest and has determined that the Assignees have met the conditions.

The transfer of interest in the Concession Agreements will take effect upon approval by the Commission and City Council and the execution of an amendment to the Concession Agreements by all parties. All terms and conditions of the Concession Agreements for Spaces W-17(A) and W17(B) (C-119124 and C-119123, respectively) will then be assigned from La Golondrina Café, Inc. to Bertha and David Gomez. However, the Department is recommending to have one agreement for the two spaces. The office/storage space (Space W-17(B)) is located directly above the restaurant and the only way it can be accessed is by going through the restaurant and could therefore not be leased separately from the restaurant.

### **CONCESSION RENTAL RATES**

Space W-17(A) is 5,003 square feet and Space W-17(B) is 1,757 square feet. The current rental rate is \$9,433.37 plus \$1,801.08 for Common Area Maintenance (CAM) for a total of \$11,234.45 per month. Space W-17(A) rent is \$2055.04 plus \$632.52 for (CAM) for total of \$2,687.56 for Space W-17(B). The Concession Agreements include information on rent Tiers that were implemented during the first year of the agreements, but are no longer applicable. These conditions were met as of 2019 and all merchants are at market rate rent.

### **FISCAL IMPACT**

Approval of the Transfer of Interest will result in continued department rental revenue as follows:

Space W-17(A): \$11,234.45 per month includes (CAM); \$134,813.40 annually\*.

Space W-17(B): \$2,687.56 per month includes (CAM); \$32,250.72 annually\*.

Currently, there is a proposal from Council District 14 to temporarily reduce the rent for the El Pueblo merchants by 60 percent for 6 months commencing July 1, 2021 through December 30, 2021. The rent reduction is pending a Council motion and approval. The rental rate for this Agreement will be adjusted accordingly upon Council approval.

## **RECOMMENDATIONS**

That the El Pueblo Commission recommend to the Los Angeles City Council to:

- 1) Approve the Transfer of Interest from La Golondrina Café, Inc., LTD to Bertha and David Gomez for Space W-17 (A) (C-119124) and Space W-17 (B) (C-119123) (collectively, "Concession Agreements"), subject to the City Attorney review as to form.
- 2) Instruct the El Pueblo de Los Angeles Historical Monument Department, with the assistance of the City Attorney, to include the terms and conditions of the Concession Agreements under one amended agreement.
- 3) Authorize the Department, with the assistance of the City Attorney, to make any technical corrections to effectuate the transfer of interest as detailed in this report.

### **Attachments:**

- 1) Excerpt of Article 12 – Transfer of Interest from the Concession Agreements (The language in Article 12 is identical for C-119123 and C-119124.)
- 2) Written request from merchant to transfer the interest for Spaces W-17(A) and W-17(B)
- 3) Presentation from Bertha and David Gomez titled "Casa La Golondrina Café: Continuing a Legacy"

## ARTICLE 12. TRANSFER OF INTEREST

**12.1. Prohibitions and Limits on Transfer of Concession Agreement Interests.**

Merchant shall not involuntarily transfer by operation of law, or voluntarily transfer (either by assignment, use agreement, license or concession) the Concession Agreement or Premises, in whole or in part, nor sublet the use of, or license the use of all or any part of the Premises, except as provided herein.

**12.1.1. Transfers of Interest - Conditions.** City will consider written requests by Merchant to transfer the Premises or rights and duties of the Concession Agreement consistent with this Article and, after such consideration, may consent to such transfer at its reasonable discretion, as described in Section 12.1.3 below. Notwithstanding this consideration or consent, the proposed transfer will not take effect until all City contracting approvals and formalities are observed, and an amended Concession Agreement is executed by all parties.

**12.1.1.1.** If Merchant pays Tier One A rent, Tier One B rent or Tier Two rent, then Merchant may make an assignment to an immediate family member (spouse, registered domestic partner, children, adopted children and blood relative in the second degree) provided the Concession Agreement is assigned to, or placed in trust with, a single designee for all concession purposes.

**12.1.1.2.** If Merchant pays Tier One A rent, Merchant may also make a one-time assignment to another existing Olvera Street merchant (merchant to whom assignment is proposed must have been a concessionaire since at least 1999). However, if Merchant requesting the assignment at any time paid Tier One B rent or Tier Two rent, then said Merchant may only make the one-time assignment described in the preceding sentence if said Merchant paid Tier One A rent for at least 12 consecutive months prior to the requested assignment.

**12.1.2. Transfers to Qualified Entities.** Any assignment permitted in this Article may be made to a legally formed and legally qualified entity (corporation, limited liability company or partnership) provided that such an assignee includes an assignee authorized by this Article who is the Majority Owner. The Majority Owner must be the day-to-day operator of the concession.

**12.1.3. City's Consent.** City shall not unreasonably withhold its consent to a proposed transfer of the Concession Agreement or Premises consistent with this Article. The parties hereby agree that City may take into consideration the following in granting or withholding its consent to a requested assignment. City's failure to consent to a transfer

otherwise authorized by this Article shall be deemed reasonable as a matter of law where one or more of the following apply:

- (a) Only applicable to an assignment sought to another merchant under Section 12.1.1.2: The merchant to whom the assignment would be made (the assignee) has made three consecutive late or partial rent payments with respect to other City property including, but not limited to, on Olvera Street, without the City's prior written permission;
- (b) The merchant to whom assignment is proposed does not possess sufficient financial strength to assure compliance with the Concession Agreement terms;
- (c) The merchant to whom assignment is proposed has been convicted, pled guilty, or pled nolo contendere of a crime of moral turpitude, or is engaged in a business which is incompatible with the Monument's business plan or historical significance;
- (d) The merchant to whom assignment is proposed intends to use the Premises in manner different from Merchant's use of the Premises allowed under the Concession Agreement;
- (e) The Merchant owes the City any monies including, but not limited to, back Rent; or
- (f) The transfer of the Concession Agreement or Premises is requested within one (1) year of expiration of the Concession Agreement.

**12.1.4. Improper Transfer.** If Merchant agrees, orally or in writing, to transfer, assign, sublet or license any portion of the Premises in any manner inconsistent with this Concession Agreement, then any such transfer, assignment, sublease or license shall be void and be of no legal effect, and the City shall not recognize or grant any rights to any other party relating to said improper transfer, assignment, sublease or license. In the event of such an improper transfer, Merchant shall forfeit any remaining option to extend the term of the Concession Agreement as provided herein-above in Section 1.3, page1. The City may also seek all damages and remedies available under the Concession Agreement and available in law and equity for any such improper transfer. Merchant also shall defend, indemnify and hold harmless City and any and all of City's boards, commissions, officers, agents, employees, assigns, and successors in interest and, at the option of City, defend by counsel satisfactory to City, from and against all suits and causes of action, claims, losses, demands, and expenses, including, but not limited to, attorneys' fees and cost of litigation, arising out of or relating to Merchant agreeing to transfer, assign, sublet or license any portion of the Premises. Rights and remedies available to City under this Section are cumulative of those provided for elsewhere in the Concession Agreement.

**12.1.5. Re-set to Market Rate.** If the City approves a transfer to a merchant pursuant to Section 12.1.1.2, upon the transfer, the Rent due hereunder from transferee re-sets to a market rate. A transfer to a merchant pursuant to Section 12.1.1.2 during the first year after Concession Agreement Commencement Date will result in a Rent due from the transferee at the level set by the Commission on April 1, 2010. Commencing with the second year after Concession Agreement Commencement Date, and each year thereafter through the fifth year, transferee's Rent will be the April 1, 2010 Commission-approved rent, adjusted by the Consumer Price Index for All Items, All Urban Consumers for the Los Angeles-Riverside-Orange County, California Area (1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics, with a cap on such CPI increase of 5% yearly. Thereafter, for all transfers approved by the City after the first 60 months of this Concession Agreement, transferee's Rent will be computed pursuant to Article 7.

Attachment 2

Written request to transfer the interest for Spaces W-17(A) and W-17(B)

July 14, 2021

Dear Arturo,

As you know I have pursued the sale of my business over the past six months and have sought to understand and comply with all City requirements to that end.

I finalized my agreements with pre-qualified, long term Olvera Street tenants Bertha and David Gomez in July and wish to seek the City's approval of this transfer.

If you need any other information, please don't hesitate to ask.

Best regards,  
Vivien Bonzo  
La Golondrina Cafe



# CASA LA GOLONDRINA CAFE: CONTINUING A LEGACY

Presentation to  
Los Angeles City Council

09.23.2021

**Co-Owners:**

Bertha Gomez  
rmexicandy@aol.com  
626.922.5282

David Gomez  
dgomez@stealthinv.com  
626.922.5283



## ABOUT US

As proprietors of Rudy's Mexican Candy, the Gomez family has maintained a long-time presence at Olvera Street. We understand the historic and cultural importance of the area, and of continuing the success of key anchors like La Golondrina.

We take that very seriously and will do our part to secure its enduring legacy.



BERTHA GOMEZ

Co-owner



DAVID GOMEZ

Co-owner

About



BUSINESS PLAN

# OVERVIEW

## TYPE

- Full-service restaurant

## STAFF

- Hire 18 employees
  - 1 head chef
  - 4 kitchen staff
  - 6 full-time servers
  - 7 part-time servers

## HOURS OF OPERATION

- Open 5-6 days per week
- Weekdays: 11 am to 6 pm
- Weekends: 10 am to 7 pm

## MENU

- Keep traditional dishes
- Modify to reflect current trends, such as vegan and vegetarian options
- Menu and plate presentation will be finalized with hired chef





## OVERVIEW (CONTINUED)

### LICENSES & PERMITS

- Employer Identification Number
- City license
- California payroll tax account
- Sellers permit
- ABC liquor license transfer
- Food handlers permit

### COVID-19

- Continue to follow and enforce all regulations

### MARKETING

- Work with social media consultant
- Develop and implement marketing plan

## SET UP FOR SUCCESS



EXPERTISE

Vivien de Bonzo will  
consult for 3 months



CONTINUITY

Current manager will  
remain for a minimum of  
2 months



DEDICATION

Owners will be hands-on,  
working onsite full-time

# Rep

REPRESENTATIVES

## INSURANCE

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State Farm  
David Briano  
562.692.0363

## FINANCIAL

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Merrill Lynch  
Anthony McMahon  
213.236.2088

## ATTORNEY/ CPA

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Mark Fetzer  
435. 586.9366





## SUMMARY

We are excited to continue the legacy established by the de Bonzo family in 1924 and carry it forward for generations to come. We love being part of the Olvera Street family!

- Bertha Gomez and David Gomez

09.23.2021

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## THANK YOU

Bertha Gomez  
rmexicandy@aol.com  
626.922.5282

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