



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: February 24, 2015

SUBJECT: APPROVAL OF A CONCORD PAVILION MANAGEMENT AGREEMENT SIDE LETTER AND ADOPTION OF RESOLUTION NO. 15-12 AFFIRMING THE CITY'S COMMITMENT REGARDING HOFMANN FAMILY SEATING AND PARKING AT THE PAVILION

Report in Brief

The purpose of this staff report and the accompanying Side Letter and Resolution No. 15-12 is to document and formally confirm the long-standing agreement and practice by the City of Concord of requiring the Concord Pavilion operator to provide Ken Hofmann and/or the Hofmann Family with one VIP parking space and two box seats at the Pavilion during concert season. The City's commitment to the Hofmann Family originated in 1973, when Mr. Hofmann donated to the City of Concord the land on which the Pavilion and its associated structures and public areas were constructed. Since then, Mr. Hofmann has been a consistent and generous benefactor to the City, contributing to a wide variety of civic causes.

The Side Letter attached to this report, if adopted by the City Council, will contractually obligate the current operator of the Concord Pavilion, Live Nation Worldwide, Inc., to provide Mr. Hofmann and his family with one VIP parking spot and two box seat tickets throughout the duration of the Concord Pavilion Management Agreement, entered into between the City and Live Nation in December, 2013. Resolution No. 15-12 confirms that upon the expiration of that Agreement, any new Concord Pavilion Management agreement, whether entered into with Live Nation or any other entity, will contain the same requirement.

Background

During Councilmember Dan Helix's first term as Concord's Mayor in 1972, he learned that Ken Hofmann, the owner of Hofmann Construction Company, had acquired over 300 acres of undeveloped property abutting Kirker Pass Road in Concord. At the time, the City of Concord was presenting weekend jazz concerts at the Concord Boulevard Park, and planned to ultimately construct a performing arts pavilion. However, the City did not have sufficient funds to purchase the land for this purpose. Mayor Helix approached Mr. Hofmann, and inquired whether he would be willing to donate a portion of the Kirker Pass area land to the City. Mr. Hofmann agreed, and he subsequently conveyed to the City 183 acres of land at no cost, to be utilized for "park and recreational purposes, including construction of a Performing Arts Center," and the parking lot and other facilities serving the performing arts center.

In anticipation of the construction of the Frank Gehry-designed structure that would come to be known as the Concord Pavilion, Mr. Hofmann requested then City Manager, Farrell A. ("Bud") Stewart that his family be granted two premium, high-quality seats and a "close-in" parking place in perpetuity for

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performances at the Pavilion. The City of Concord readily agreed to this request, and began providing the Hofmann Family with seating and parking beginning with the first performance at the Concord Pavilion in 1975.

At the request of then General Manager of the Concord Pavilion/ Parks and Recreation Director John Toffoli, Mr. Hofmann continued to support the Pavilion by providing funds for sporting events at the Pavilion, including an Olympic boxing match featuring Sugar Ray Leonard. Mr. Hofmann also contributed to exhibitions and Olympic events at other City venues. One of those events was an exhibition match between the former USSR's national water polo team and the University of California, Berkeley team (Cal won the event).

Additionally, Mr. Hofmann endowed the Concord Community Youth Center (CYC) for athletic and training purposes, and he has since made significant and ongoing monetary and other contributions to that organization. Currently, the CYC annually serves approximately 1800 young people from Concord and the surrounding communities, participating in a variety of athletic and academic activities. Mr. Hofmann also recently sponsored a Junior High School Academy for low-income youth, under the auspices of De La Salle High School.

In 2014, Mr. Hofmann agreed to modify the Grand Deed conveying the land utilized for the Concord Pavilion, expanding the uses allowed on the property.

Discussion.

As mentioned above, the City has honored the verbal commitment made by former City Manager Bud Stewart on behalf of the City to provide the Hofmann family with two premium seats and one premium parking spot at no cost to them for all shows at the Pavilion; however, this agreement has never been reduced to writing; the goal of the Side Letter and Resolution No. 15-12 is to document this verbal agreement and on-going practice.

As set forth in the proposed Side Letter to the current Concord Pavilion Management Agreement, Live Nation has agreed to continue to provide two premium seats and the VIP parking spot to the Hofmann Family throughout the duration of that Agreement (and any extension thereof), and has also agreed to grant the Hofmann Family an option to purchase the two remaining seats in Box B-13 (the box in which their current seats are located) and to give the Hofmann Family first rights to two seats in Box B-10 (which is a preferable seating location) should seating in that box become available. (In the event the Box B-10 seats are utilized by the Hofmann Family, they would be substituted in place of the Hofmann Family's present seats in Box B-13.)

While the current Concord Pavilion Management Agreement potentially may extend through December 31, 2028, staff recommends that the City Council adopt Resolution No. 15-12, which confirms that if, at the conclusion of the current Management Agreement, a different operator is selected by the City to manage the Pavilion, the agreement documenting the terms of operation of the Pavilion shall include the same

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obligation. The purpose of that resolution would be to memorialize in perpetuity the City's commitment to the Hofmann Family.

Fiscal Impact

The adoption of the proposed Side Letter and Resolution No. 15-12 would not fiscally impact the City, inasmuch as the contemplated VIP parking spot and two dedicated seats are being provided by Live Nation at no cost to the City, and the same arrangement would be carried forth in future Pavilion management agreements.

Public Contact

Notice of the meeting has been posted as required by law.

Recommendation for Action

Enter into the proposed Side Letter Agreement with Live Nation and adopt Resolution No. 15-12.



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City Manager

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City Attorney

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Attachment 1: Proposed Side Letter to December 10, 2013 Concord Pavilion Management Agreement

Attachment 2: Resolution No. 15-12 Confirming City of Concord's Commitment Regarding Hofmann Family Seating and Parking at the Concord Pavilion

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January 21, 2015

Matt Prieshoff
C.O.O. - Northern California - Live Nation
251 Rhode Island St., Suite 200
San Francisco, CA 94103

Re: Side Letter to December 10, 2013 Concord Pavilion Management Agreement

Dear Mr. Prieshoff:

This Side Letter will memorialize Live Nation's gracious agreement that throughout the term of the December 10, 2013 Concord Pavilion Management Agreement between Live Nation and the City of Concord (and any extension thereof), Live Nation will provide the Hofmann Family with Seats 1 and 2 in Box B-13 at the Concord Pavilion. Additionally, the Hofmann family shall have the first rights option to purchase the remaining two seats in Box B-13 for the current season and for future seasons. Live Nation will also give the Hofmann Family first rights to Box B-10 seats 1 and 2 if they become come available in the future. If said seats do become available, the Hofmann family shall substitute those seats in place of the seats in Box B-13.

Finally, Live Nation shall continue to provide the Hofmann Family with the VIP parking spot which currently is allocated to them. If for any reason that parking spot becomes unavailable due to a reconfiguration of the parking lot or the Concord Pavilion facility, Live Nation shall provide the Hofmann Family with a VIP parking spot that is as close to the seating area as the current VIP parking spot allocated to the Hofmann Family.

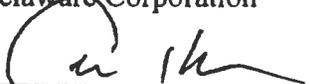
Assuming you are in agreement with the foregoing, please execute this side letter where indicated below.

Thank you in advance.

Yours truly,
Mark S. Coon
Concord City Attorney

We Have Reviewed and Agree to the Foregoing

Live Nation Worldwide, Inc.
A Delaware Corporation

By: 
Matt Pricshoff

~~C.O.O. Northern California - Live Nation~~
AARON HAWKINS
GENERAL MANAGER - CONCORD PAULION

Date: 2/3/2015

City of Concord

By _____
Valerie Barone
City Manager

Date:

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Confirming the City of Concord’s
Commitment to Require Live Nation and any Future
Concord Pavilion Operator to Provide the Hofmann
Family with VIP Parking and Seating at the Pavilion**

Resolution No. 15-12

WHEREAS, in the early 1970’s, the City of Concord desired to construct a performing arts pavilion for civic use, but did not have sufficient funds; and

WHEREAS, in 1973, at the request of then Mayor Dan Helix, Ken Hofmann donated approximately 183 acres of unimproved land to the City of Concord to be utilized for construction of a performing arts center, and for parking and recreational purposes. Construction subsequently commenced on what would become known as the Concord Pavilion, which was designed by renowned architect Frank Gehry. The Concord Pavilion formally opened in 1975, and has been hosting a wide range of entertainment and notable performing artists ever since; and

WHEREAS, at the request of the City, in 2015 Mr. Hofmann modified the grand deed conveying the unimproved land on which the Pavilion was constructed, expanding the permissible uses of that property. That grand deed reformation has since been finalized and recorded; and

WHEREAS, in addition to donating the land on which the Pavilion was constructed, Mr. Hofmann has consistently been a generous benefactor to the City of Concord. By way of example, shortly after the Pavilion opened, Mr. Hofmann provided funding for sporting events at the Pavilion, such as Olympic boxing. Mr. Hofmann also helped fund exhibitions and Olympic events at other City venues, including an exhibition match between the former USSR’s national water polo team and the University of California, Berkeley’s team. Additionally, Mr. Hofmann endowed the Concord Community Youth Center (“CYC”) for athletic and training purposes, and he has since made significant and ongoing monetary and other contributions to this organization, which annually serves approximately 1800 young people from Concord and the surrounding communities, who participate in a variety of athletic and academic activities. Mr. Hofmann also recently sponsored a Junior High School Academy for low-income youth, under the auspices of De La Salle High School; and

WHEREAS, concurrent with Mr. Hofmann’s donation of the land on which the Pavilion was

1 constructed, then City Manager Farrell A. (“Bud”) Stewart, on behalf of the City, agreed in perpetuity
2 that present and future operators of the Pavilion would be required to provide Mr. Hofmann and/or his
3 family with two premium seats and a parking spot next to the Pavilion for all performances at that
4 venue. Although this agreement was never reduced to writing, it has been honored by the City ever
5 since the opening of the Pavilion. In fact, the current operator of the Pavilion, Live Nation Worldwide,
6 Inc. has set aside a VIP parking spot for the Hofmann family’s exclusive use, along with two seats for
7 all performances, located in the reserved box seating area. Live Nation has agreed to continue to
8 provide these accommodations for the entire term of the 2013 Concord Pavilion Management
9 Agreement between the City and Live Nation, which, if extended by the parties, may continue through
10 2028; and

11 **WHEREAS**, although the City’s commitment to Mr. Hofmann to obligate the Pavilion
12 operator to provide Mr. Hofmann/The Hofmann Family with two premium seats and a VIP parking
13 spot for all performances during the Pavilion concert season is documented in that certain Side Letter
14 to the December 2013 Concord Pavilion Management Agreement between the City and Live Nation
15 Worldwide, Inc., the City of Concord desires to ensure that this commitment will be honored in all
16 future agreements regarding the operation of the Pavilion; and

17 **WHEREAS**, given that the above-described parking and premium seats are and shall continue
18 to be provided by the operator of the Pavilion and not the City of Concord, this commitment has no
19 fiscal impact on the City.

20 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
21 **RESOLVE AS FOLLOWS:**

22 **Section 1.** Throughout the remaining term of the December 2013 Concord Pavilion Management
23 Agreement and in all future Pavilion Management Agreements, the City of Concord shall require the
24 operator of the Concord Pavilion to provide Ken Hofmann/The Hofmann Family, at no cost, with two
25 premium seats during the Pavilion’s concert season comparable to the seats currently allocated to the
26 Hofmann Family (Box B-13). Additionally, Live Nation and any future operator of the Pavilion shall
27 be obligated to provide to Ken Hofmann/The Hofmann Family with one VIP parking spot comparable
28 to the location presently reserved for the Hofmann family, also at no cost.

