



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: **Exclusive Negotiating Agreement with Sacramento Area Event Facility Group, LLC for the Siting and Development of an Entertainment Facility**

MEETING DATE: **June 10, 2015**

PREPARED BY:

DEPARTMENT HEAD: **Laura S. Gill, City Manager**

RECOMMENDED ACTION:

Authorize the City Manager to sign an Exclusive Negotiating Agreement (ENA) with Sacramento Area Event Facility Group, LLC (SAEFG) for the siting and development of an entertainment facility.

BACKGROUND INFORMATION:

Representatives of Sacramento Area Event Facility Group, LLC have approached the City with the possibility of developing an entertainment facility for the Sacramento region in Elk Grove. The ENA allows the City to work with SAEFG through December 31, 2020 to analyze sites for potential entertainment facility development and negotiate a franchise agreement regarding the development and use of an entertainment facility. This ENA prohibits SAEFG from negotiating for a site anywhere else within Sacramento County or any county adjoining Sacramento County. In addition, the ENA also includes a provision that prohibits SAEFG from developing a Major League Soccer facility or a regional soccer facility. The ENA may be terminated by either party upon 180 days notice, without the need to show cause for termination.

An entertainment facility has the potential to be an economic benefit to Elk Grove, as various sporting and entertainment events would attract visitors travelling from throughout and beyond the region would stay in the local hotels and eat in Elk Grove restaurants, creating an economic impact to the area.

As a part of conducting due diligence, staff will schedule site tours of entertainment facilities.

FISCAL IMPACT:

There is no fiscal impact associated with this agreement. Travel costs related to entertainment facility site visits will come from the currently budgeted travel expenses out of the City Council and City Manager budgets, respectively.

ATTACHMENT:

1. Exclusive Negotiation Agreement

ATTACHMENT 1

EXCLUSIVE NEGOTIATION AGREEMENT

This Exclusive Negotiation Agreement (“**ENA**”) is made as of June ___, 2015 (“**Effective Date**”) by and between Sacramento Area Event Facility Group, LLC, a California limited liability company (“**SAEFG**”) and the City of Elk Grove, a municipal corporation (“**City**”) with respect to the following facts.

- A. SAEFG intends to develop a major entertainment facility (“**Facility**”) in the Sacramento metropolitan area.
- B. City and SAEFG (jointly, “**Parties**”) wish to work cooperatively to (i) identify property or properties within the City and/or within the City’s control that appear to be suitable for the development of the Facility and (ii) prepare a plan for funding the costs associated with developing and operating the Facility.

NOW, THEREFORE, THE PARTIES HERETO AGREE TO AS FOLLOWS:

1. Agreement to Negotiate Exclusively and in Good Faith. During the “Negotiation Period”, as defined below, City and SAEFG, and their agents, affiliates, and assigns, agree to (a) negotiate exclusively and in good faith with each other regarding the content of an agreement for the development and use of the Facility (“**Agreement**”) and (b) not undertake, directly or indirectly, any act (including soliciting or entertaining offers or proposals from any other party or parties) concerning the development of an entertainment facility anywhere in Sacramento County or counties adjoining Sacramento County; provided that the forgoing is limited in the manner set forth in Section 7, below.
2. Negotiation Period. Unless this ENA is sooner terminated, the Parties agree to negotiate in good faith during the period commencing on the Effective Date and ending on December 31, 2020 (“**Negotiation Period**”). The Negotiation Period reflects the time required to develop the Facility. The Parties may mutually agree to extend the Negotiation Period.
3. Site Analysis. During the Negotiation Period, the Parties shall analyze various properties to assess their suitability for the development of the Facility. The Parties shall endeavor to select a specific property as the site for the Facility (“**Site**”). The Site may be developed by the City, SAEFG, or jointly.
4. Site Information. City shall provide SAEFG with access to all non-privileged City information, studies, reports or other documents in its possession or control relating to the Site. City shall also provide SAEFG with access to City’s staff and consultants that are familiar with the Site.
5. Confidentiality. To the extent permitted by law, City shall keep all information relating to SAEFG’s activities confidential.
6. No Commitment to Enter into the Agreement. This ENA is an agreement to negotiate exclusively. City and SAEFG each reserves the right to not enter into the Agreement. Except as expressly provided in this ENA, City and SAEFG shall have no liability in the event they fail to execute the Agreement. This ENA does not obligate City to do any act requiring the exercise of discretion by City.

7. NCS Agreement. On November 14, 2011, the City entered into an Exclusive Negotiation Agreement with Northern California Soccer, LLC (“NCS ENA”) regarding certain activities specified therein. Notwithstanding any other provision of this ENA, the Parties agree that:

- a. Nothing in this ENA shall require the City to violate any of its obligations under the NCS ENA;
 - b. Nothing in this ENA shall prevent the City from fully performing all of its obligations under the NCS ENA; and
 - c. The Agreement will expressly prohibit the use of the Facility for Major League Soccer or as a regional soccer facility.

By its acknowledgment below, NCS agrees that entry into this ENA by the parties hereto, and the pursuit of the terms thereof, do not constitute a breach or violation of the NCS ENA.

8. Termination. This ENA may be terminated by either party, without cause, provided that the terminating party provides the other party not less than one hundred and eighty (180) calendar days' written notice of its intent to terminate.

9. Entire Agreement. This ENA represents the entire agreement of the Parties with respect to the matters set forth herein. This ENA may not be amended except in writing signed by both Parties.

10. Notices. All notices required or permitted hereunder shall be delivered in person, by overnight courier, or by registered or certified mail, postage prepaid, return receipt requested to such Party at its address shown below, or to any other place designated in writing by such Party. Any such notice shall be deemed received upon delivery, if delivered personally, the next business day after delivery by a courier, if delivered by courier, and three (3) days after deposit into the United States Mail, if delivered by registered or certified mail.

City: City of Elk Grove
Attn: City Manager
Elk Grove City Hall
8401 Laguna Palms Way
Elk Grove, CA 95758

SAEFG: Sacramento Area Event Facility Group, LLC
Attn: Richard Hyde
1100 N Street, Suite 1-D
Sacramento, CA 95814

IN WITNESS WHEREOF, the City and SAEFG have signed this ENA as of the dates set forth below.

City of Elk Grove,
a municipal corporation

By: _____
Laura S. Gill,
City Manager

Date: June 2015

Sacramento Area Event Facility Group, LLC,
a California limited liability company

By: _____
Richard Hyde
Managing Member

Date: June __ 2015

Approved to as form:

By: _____
Jonathan P. Hobbs,
City Attorney

Attest:

Jason Lindgren, City Clerk

Acknowledged and Agreed as to Paragraph 7:

Northern California Soccer, LLC,
a California limited liability company

By: _____

Its _____

Date: June __ 2015