

**PLACER COUNTY**  
**REDEVELOPMENT AGENCY**

**MEMORANDUM**

**TO:** Honorable Members of the Redevelopment Agency Board  
**FROM:** Thomas M. Miller, Director  
James LoBue, Deputy Director   
**DATE:** October 25, 2011  
**SUBJECT:** Exclusive Negotiating Rights Agreements with Mountain Smart, LLC for the Kings Beach Eastern Gateway and Swiss Mart Sites

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**ACTION REQUESTED**

Approve the execution of two separate Exclusive Negotiating Rights Agreements between the Redevelopment Agency and Mountain Smart, LLC for the Redevelopment Agency Kings Beach Eastern Gateway and Swiss Mart properties by adopting the following resolutions:

- a. Adopt a resolution authorizing the Redevelopment Director or designee to execute an Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for the planning of a mixed-use project on Redevelopment Agency property located on the southwest corner of Chipmunk Street and North Lake Boulevard, Kings Beach (Assessor Parcel Numbers 090-370-005, 090-370-006, 090-221-012, 090-221-013, 090-221-014, 090-221-018, 090-221-020, 090-221-021, 090-221-026, and 090-221-027).
- b. Adopt a resolution authorizing the Redevelopment Director or designee to execute an Exclusive Negotiating Rights Agreement for a commercial / retail project on Redevelopment Agency property located at 8797 North Lake Boulevard, Kings Beach (Assessor Parcel Number 090-192-041 and 090-192-055).

**BACKGROUND**

In 2007, the Agency embarked on a land acquisition strategy for the Kings Beach Eastern Gateway area. In multiple transactions, the Agency acquired Assessor Parcel Numbers: 090-370-005, 090-370-006, 090-221-013, 090-221-014, 090-221-020, 090-221-018, 090-221-021, 090-221-026, 090-221-027, and 090-221-012, fronting the south side of State Highway 28 west of Chipmunk Street (collectively, the Kings Beach Eastern Gateway site or KBEG). The site totals approximately 1.3 acres. The Agency also acquired the former Swiss Mart gasoline station located across the road on the northwest corner of State Highway 28 and Chipmunk Street (Assessor Parcel Number 090-192-041 and 090-192-055). The Agency's goals are to remove blight to effectuate redevelopment on these sites and create a strong community entry statement for Kings Beach.

The tenant relocation program and demolition of all structures on the Kings Beach Eastern Gateway site were completed in August 2010. The Agency is continuing its remediation efforts at the former Swiss Mart gas station site under the oversight of the Lahontan Regional Water Quality Control Board.

The Agency issued a Request for Proposals (RFP) to select a development team that could ultimately develop the KBEG in October 2010. Proposals were due December 6, 2010. The Agency received one proposal from Mountain Smart, LLC (Developer). No other development teams submitted proposals.

Since that time, the Agency has met with the Developer to vet out their proposal. The Developer has submitted additional information to the Agency regarding their development proposal and requested that the Agency enter into an Exclusive Negotiating Rights Agreement (ENRA). On August 11, 2011 the Agency convened a selection committee to meet the Developer and review the proposal. The selection committee participated in a question and answer period with the Developer and unanimously recommended that the Agency proceed forward with an ENRA with milestones for the Developer performance. Agency staff and the Developer also presented this item at the September 8, 2011 North Tahoe Regional Advisory Council (NTRAC) meeting. NTRAC concurred with the selection committee's recommendation to proceed with an ENRA.

The Developer's proposal for the KBEG site consists of a mixed-use development focusing on retail, lodging, and hostel components with related amenities including landscaping and parking. Key elements of the proposal include high quality design and an environmentally sustainable development promoting energy and water efficiency while conserving a maximum amount of the natural landscape. The proposal is conceptual and the purpose of entering into an ENRA is to study this proposal in detail, including design and financial feasibility. The specific details of the proposal will be negotiated with the developer during the ENRA period.

The Developer is also seeking an ENRA for the former Swiss Mart gasoline station. The Developer is seeking to explore development of a small commercial/retail building with design elements that complement the adjacent KBEG project.

The Developer is a subsidiary of Shatterhand Holding Company (SHC). SHC is a real estate investment office headed by Ulrich Schmid-Maybach. Mr. Schmid-Maybach has developed other housing and mixed-use projects including a loft style condominium project located at 419 Fulton Street in San Francisco. He also owns the Soda Springs Station near Donner Summit and plans to develop the 32,000 square foot site into a mixed-use development.

The Agency proposes to enter into ENRAs for both the KBEG and Swiss Mart properties in order to establish a formal relationship and provide an opportunity to negotiate comprehensive development plans. The Agency proposes two separate ENRAs, one for each site. If the Developer's investigation reveals that one or the other site is not viable for development, that ENRA can be terminated and the other ENRA can continue without having to delay its progress for amendments. Key elements of the ENRA's for both sites include:

- Term: The proposed term is 6 months with an option to extend the term two (2) additional six month periods.
- Financing: There is no commitment of Agency funds or land conveyance in this action.
- Milestones: The Agency is requiring that the Developer vet out the development proposal further with Placer County and other local regulatory agencies, and hold community

meetings to discuss the development concept to the community. In addition, the Developer will be required to prepare a financial feasibility analysis for each site.

On June 29, 2011, the California Governor signed into law ABx1-26 and ABx1-27, which required the elimination of all local redevelopment agencies in California unless the legislative bodies for those agencies adopted ordinances to commit to making substantial payments to local school districts and other special districts. The legislation also prohibited redevelopment agencies from entering into any new financial obligations and taking numerous other actions until such time that the agencies' legislative bodies adopted the mandated ordinances. On August 9, 2011, the Placer County Board of Supervisors adopted an ordinance committing the County of Placer to making the payments mandated by ABx1-27.

On August 11, 2011, the California Supreme Court accepted review in the lawsuit that challenged the constitutionality of ABx1-26 and ABx1-27 ("Lawsuit"). On the same date the Court issued a partial stay of the provisions of ABx1-26. The Court stayed the effect of ABx1-27 in its entirety. As of the date of the Court stay, which stay was further clarified by the Court on August 17, 2011, and until further notice, the Agency as well as all other existing redevelopment agencies in the state of California is subject to those provisions of ABx1-26 which were not stayed. Those provisions prohibit the Agency from entering into new contracts for the disposition of agency-owned properties or new agreement which would incur new financial obligations. The restrictions include a prohibition on the execution of new disposition and development agreements and transfer of real property interests.

The proposed ENRA's include no financial commitment on the Agency's part. Nor do the ENRA's commit the Agency to conveyance of its properties to the Developer or to a particular development project or design of its properties. As a result, the proposed ENRA's are not contrary to the restrictions of ABx1-26.

#### **FISCAL IMPACT**

The proposed ENRA's include no commitment for Agency financial or land contributions for potential future projects. No expenditure authorization is associated with this action.

#### **ENVIRONMENTAL STATUS**

The action requested is a request for authority to enter into two Exclusive Negotiating Rights Agreements and is an activity taken in furtherance of the Redevelopment Plan for the North Lake Tahoe Redevelopment Project Area, for which an environmental impact report was prepared and certified pursuant to the California Environmental Quality Act (CEQA). Therefore, no further environmental review is required for this action (CEQA Guidelines Section 15180). Nor does the entering into this Agreement commit the Agency to a particular course of action.

Attachment: Maps

Resolution (2)

Exclusive Negotiating Rights Agreements (2) Available for review at the  
Clerk of the Board Office

cc: Karin Schwab, Agency Counsel

**Before the Placer County  
Redevelopment Agency Board of Directors  
State of California**

**In the matter of:**

Authorizing the Redevelopment Director or designee to execute an Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for the planning of a mixed-use project on Redevelopment Agency property located on the southwest corner of Chipmunk Street and North Lake Boulevard, Kings Beach (Assessor Parcel Numbers 090-370-005, 090-370-006, 090-221-012, 090-221-013, 090-221-014, 090-221-018, 090-221-020, 090-221-021, 090-221-026, and 090-221-027)

Resol. No:.....

Ord. No:.....

First Reading: .....

The following Resolution was duly passed by the Redevelopment Agency Board of the County of Placer at a regular meeting held \_\_\_\_\_,

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:  
Clerk of said Board

\_\_\_\_\_  
Chair, Agency Board

WHEREAS, the Placer County Redevelopment Agency (Agency) has adopted the North Lake Tahoe Redevelopment Plan (Plan);

WHEREAS, the Agency is responsible for administering the plan to carry out redevelopment efforts within the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency wishes to encourage and support development in the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency owns real property located on Assessor Parcel Numbers (APNs) 090-370-005, 090-370-006, 090-221-013, 090-221-014, 090-221-020, 090-221-018, 090-221-021, 090-221-026, 090-221-027, and 090-221-012 (Property) in Kings Beach, California;

WHEREAS, the Agency is desirous of exploring development potential of the Property;

WHEREAS, Mountain Smart, LLC submitted a proposal to develop the Property and requested Agency enter into a Exclusive Negotiating Rights Agreement (ERNA) to assess the feasibility of development of a mixed-use, lodging, hostel, and commercial project on the Property;

WHEREAS, entering into an ERNA is an activity taken in furtherance of the Redevelopment Plan for the North Lake Tahoe Redevelopment Project Area, for which an environmental impact report was prepared and certified pursuant to the California Environmental Quality Act (CEQA). Therefore, no further environmental review is required for this action (CEQA Guidelines Section 15180); and

WHEREAS, the proposed ERNA includes no financial commitment on the Agency's part. Nor does it commit the Agency to conveyance of its properties to the Developer or to a particular development project or design of its properties. As a result, authorization and execution of the proposed ENRA will not contravene the provisions of ABx1-26.

NOW, THEREFORE, BE IT RESOLVED by the Agency Board of Directors that

The Redevelopment Director or designee is authorized to execute an Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for Agency-owned real property located on Assessor Parcel Numbers (APNs) 090-370-005, 090-370-006, 090-221-013, 090-221-014, 090-221-020, 090-221-018, 090-221-021, 090-221-026, 090-221-027, and 090-221-012 in Kings Beach, California.

**Before the Placer County  
Redevelopment Agency Board of Directors  
State of California**

**In the matter of:**

**Authorizing the Redevelopment Director or designee to execute an Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for the planning of a commercial / retail project on Redevelopment Agency property located at 8797 North Lake Boulevard, Kings Beach, California (Assessor Parcel Numbers 090-192-041 and 090-192-055)**

**Resol. No:.....**

**Ord. No:.....**

**First Reading: .....**

**The following Resolution was duly passed by the Redevelopment Agency Board of the County of Placer at a regular meeting held \_\_\_\_\_,**

**by the following vote on roll call:**

**Ayes:**

**Noes:**

**Absent:**

**Signed and approved by me after its passage.**

**Attest:  
Clerk of said Board**

\_\_\_\_\_  
**Chair, Agency Board**

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WHEREAS, the Placer County Redevelopment Agency (Agency) has adopted the North Lake Tahoe Redevelopment Plan (Plan);

WHEREAS, the Agency is responsible for administering the plan to carry out redevelopment efforts within the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency wishes to encourage and support development in the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency owns real property located on Assessor Parcel Numbers (APNs) 090-192-041 and 090-192-055 in Kings Beach, California (Property);

WHEREAS, the Agency is desirous of exploring development potential of the Property;

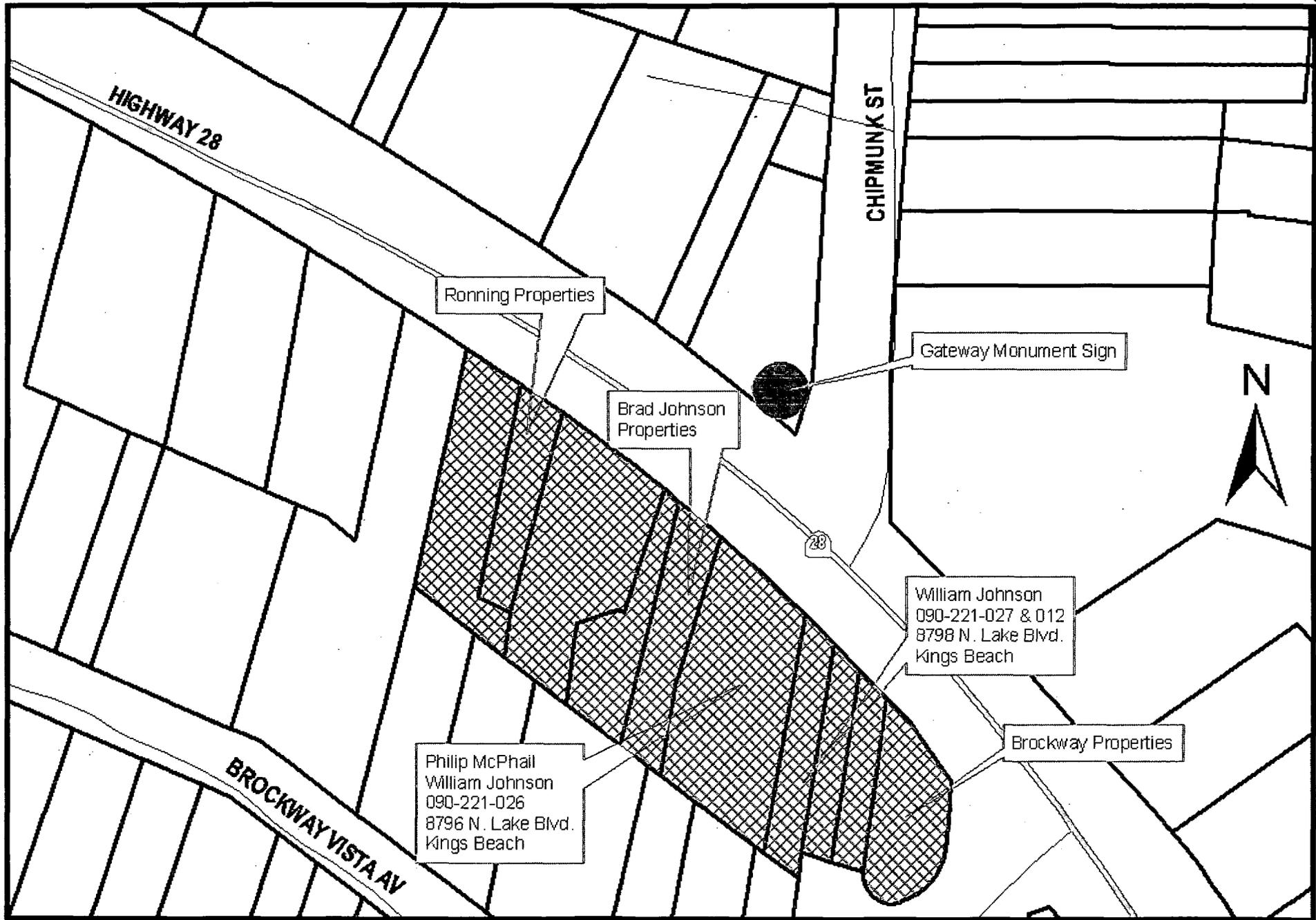
WHEREAS, Mountain Smart, LLC proposes to enter into an Exclusive Negotiating Rights Agreement (ERNA) with the Agency to explore potential development of the Property;

WHEREAS, entering into an ENRA is an activity taken in furtherance of the Redevelopment Plan for the North Lake Tahoe Redevelopment Project Area, for which an environmental impact report was prepared and certified pursuant to the California Environmental Quality Act (CEQA). Therefore, no further environmental review is required for this action (CEQA Guidelines Section 15180); and

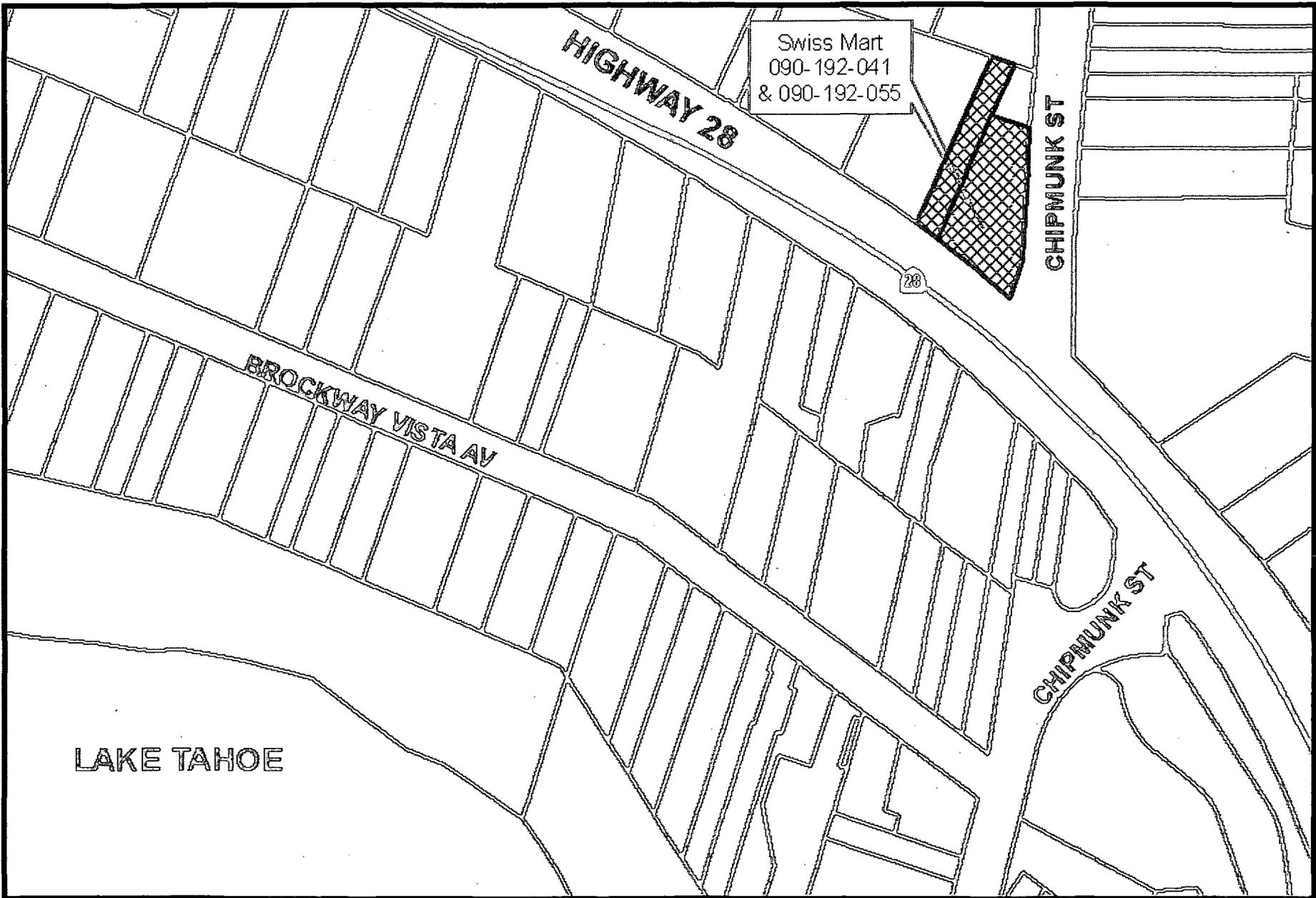
WHEREAS, the proposed ENRA includes no financial commitment on the Agency's part. Nor does it commit the Agency to conveyance of its properties to the Developer or to a particular development project or design of its properties. As a result, authorization and execution of the proposed ENRA will not contravene the provisions of ABx1-26.

NOW, THEREFORE, BE IT RESOLVED by the Agency Board of Directors that

The Redevelopment Director or designee is authorized to execute an Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for the Agency-owned real property located at 8797 North Lake Boulevard, Kings Beach (Assessor Parcel Number 090-192-041 and 090-192-055).



**Redevelopment Owned Properties  
Kings Beach Eastern Gateway**



**CHEVRON/SWISS MART**  
**APN: 090-192-041 & 090-192-055**



Map Drawn by J. Pope  
8-25-06

