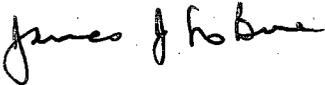


PLACER COUNTY
REDEVELOPMENT AGENCY

MEMORANDUM

TO: Honorable Members of the Redevelopment Agency Board
FROM: Thomas M. Miller, Director
James LoBue, Deputy Director 
DATE: November 15, 2011
SUBJECT: Exclusive Negotiating Rights Agreement with Mountain Smart, LLC for the former Swiss Mart Site

ACTION REQUESTED: Approve an Exclusive Negotiating Rights Agreement between the Redevelopment Agency and Mountain Smart, LLC for the Redevelopment Agency Swiss Mart Property located at 8797 North Lake Blvd., Kings Beach (Assessor Parcel Numbers 090-192-041 and 090-192-055) and authorize the Redevelopment Director or designee to execute the same. (Continued from October 25, 2011 agenda.)

UPDATE: On October 25, 2011, the Board considered two proposed Exclusive Negotiating Rights Agreements (ENRAs) between the Redevelopment Agency (Agency) and Mountain Smart LLC (Developer). The first agreement considered by the Board was for the Agency-owned property known as the "Kings Beach Eastern Gateway" and located on the south side of State Highway 28 west of Chipmunk Street (Assess or Parcel Nos. 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). The Board adopted a resolution to approve this agreement and authorized the Redevelopment Director to execute it.

The second proposed ENRA between the Agency and Developer is for the Agency-owned Swiss Mart site 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 Board continued this item to the November 15, 2011 agenda and directed the Agency to take this proposed agreement to the North Tahoe Regional Advisory Council (NTRAC) on November 10, 2011.

The Agency will provide a verbal report of the NTRAC discussion and recommendation during the November 15th Board meeting.

BACKGROUND: In 2007, the Redevelopment Agency (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 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 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 develop the Eastern Gateway property in October 2010. The Developer submitted a proposal and was selected. During discussions of the Developer's proposal for the Eastern Gateway property, the Developer expressed an interest in studying the feasibility of a project on the Swiss Mart site. The Developer is seeking to explore development of a small commercial/retail building with design elements that compliment the adjacent KBEG project. California Health and Safety Code Section 33000 et. Seq. (California Redevelopment Law) provides redevelopment agencies several tools to negotiate with developers for the ultimate development of agency-owned property. The tools consist of placing the property up to the highest bidder, negotiating with a single developer without a selection process, or issuing a request for proposals or qualifications or a combination thereof. For the Swiss Mart property, Agency staff is recommending to work with this Developer without a selection process due to the small scale of the Swiss Mart site, and to provide for design continuity with the KBEG site and complimentary uses that will serve the KBEG site as well as other surrounding developments.

The purpose of entering into these ENRAs 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 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 an ENRA for the Swiss Mart property in order to establish a formal relationship and provide an opportunity to negotiate a comprehensive development plan. If the Developer's investigation reveals that the site is not viable for development, the ENRA can be terminated. Key elements of the ENRA 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 with the community. In addition, the Developer will be required to prepare a financial feasibility analysis.

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 includes no financial commitment on the Agency's part. Nor does the ENRA commit the Agency to convey its properties to the Developer or to a particular development project or a particular design of its properties. As a result, the proposed ENRA is not contrary to the restrictions of ABx1-26 and the Court stay.

Agency staff has received comments regarding the selection process for both the KBEG and Swiss Mart sites and has striven to respond and clarify the process in both public meetings and in correspondence with individuals. As mentioned above, California Redevelopment Law provides agencies several tools to negotiate with developers for the design and ultimate development of agency-owned property. In this case, Agency staff utilized two different processes in order to meet the unique design challenges that each property presents. Staff utilized the formal RFP selection process tool to solicit a development team for the KBEG site, however due to the small size of the Swiss Mart property, Agency staff believes that direct negotiations with the same development team on the Swiss Mart site will provide for optimal design and use compatibility with the KBEG site.

FISCAL IMPACT: The proposed ENRA includes no commitment for Agency financial or land contributions for any potential future project. No expenditure authorization is associated with this action.

ENVIRONMENTAL STATUS: The action requested is a request for authority to enter into an Exclusive Negotiating Rights Agreement 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: Resolution
Map
Exclusive Negotiating Rights Agreements

cc: Karin Schwab, Agency Counsel

CONTRACT/AGREEMENT
FOR REVIEW ONLY AT
THE CLERK OF THE BOARD

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

In the matter of:

Approval of an Exclusive Negotiating Rights Agreement between the Redevelopment Agency and Mountain Smart LLC for the Redevelopment Agency Swiss Mart Property located at 8797 North Lake Blvd., Kings Beach (Assessor Parcel Numbers 090-192-041 and 090-192-055) and authorizing the Redevelopment Director or designee to execute the same.

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;

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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;

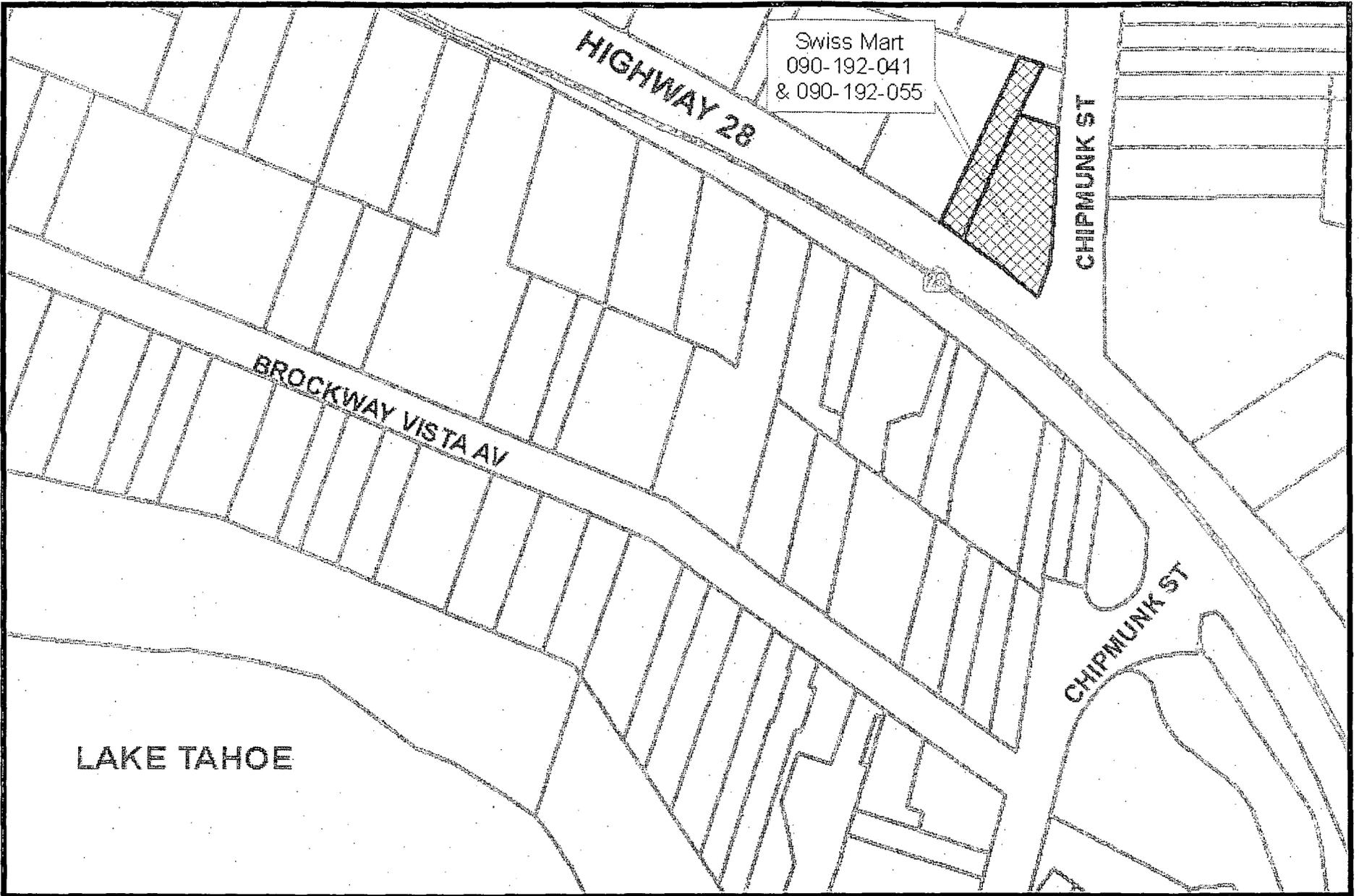
WHEREAS, Mountain Smart, LLC proposes to enter into an Exclusive Negotiating Rights Agreement (ENRA) with the Agency to explore potential development of the Property;

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).



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



Map Drawn by J. Pope
8-25-06

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