Title: Solicitation for Oversight Board Legal Counsel

Recommendation: Review Request for Qualifications for Legal Counsel, pass a motion directing RASA staff to issue the RFQ, and appoint Ad Hoc Subcommittee for Legal Counsel Selection

Contact: Sheryl Patterson, Attorney for Redevelopment Agency Successor Agency (916) 808-7292, City of Sacramento Office of the City Attorney

Presenter: Sheryl Patterson, Attorney for Redevelopment Agency Successor Agency

Issue: RASA staff believes that the Oversight Board needs Legal Counsel to advise it on matters pertaining to AB 1X 26 implementation. Many of the provisions in AB 1X 26 are conflicting, ambiguous and may violate other laws. The Supreme Court found that AB 1X 26 did not violate the Constitution, but many other legal issues were not addressed in their decision. Since legal counsel for the agencies making appointments to the Oversight Board, as well as the other taxing entities, have a fiduciary duty to serve the interests of their respective agency clients, the counsel to the Oversight Board should be independent from such agencies.

The actions of the Oversight Board may conflict with the recommendations from the RASA board, the Housing Successor Agency board, and the County Auditor Controller, so there may be legal challenges over such actions. RASA staff and other practitioners believe that some of the guidance that the State Department of Finance (DOF) has issued and the comments that have been provided thus far are contrary to the express provisions of AB 1X 26. DOF guidance has stated that litigation may be required to address such conflicting opinions or to enforce DOF directives. Also, some third parties that hold enforceable agreements may challenge the Board’s decisions with regard to what directives the Board issues to RASA to implement or terminate such agreements. Therefore, the Oversight Board may need legal representation if the Board is sued by such entities. The selected legal counsel may provide both advisory and litigation services, or it may oversee outside counsel with regard to any litigation that may be filed.

RASA staff have prepared the attached Request for Qualifications (Attachment 1) for the Board’s consideration, which format is based on a similar recruitment for counsel for the Downtown Sacramento Revitalization Corporation. The Board may wish to appoint an Ad Hoc subcommittee (not more than three members) to review the proposals and interview counsel, and to make a recommendation to the full Board. Otherwise, RASA staff would handle such reviews and make a recommendation.

Attachments:

1- Request for Qualifications for Oversight Board Legal Counsel
REQUEST FOR QUALIFICATIONS (RFQ)
FOR

LEGAL SERVICES

FOR THE

OVERSIGHT BOARD

FOR THE REDEVELOPMENT AGENCY SUCCESSOR AGENCY
FOR THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

Under AB 1x 26 (Chapter 5, Statutes of 2011), an Oversight Board was established to oversee the actions of the Redevelopment Agency Successor Agency for the dissolved Redevelopment Agency of the City of Sacramento (RASA). The Oversight Board is seeking the services of an attorney with a professional law firm or an experienced sole practitioner to serve as Legal Counsel to the Board to provide oversight of Board operations, lending practices for development projects and other corporation services and activities. Information which provides some background and summarizes the provisions in AB 1x 26 is attached.

The term of the engagement would be for fiscal year 2012-2013, but could commence sooner than July 1st, and the contract would likely be extended from year to year until the Oversight Board completes its work and is dissolved or is merged with the other oversight boards in Sacramento County in 2016 as required under AB 1X 26. Either party could terminate the engagement with 90 days prior written notice.

Interested firms should have some experience advising public bodies on the Brown Act, Political Reform Act and the Public Records Act. It would be desirable if the firm also has experience with public contracting, public finance (bonds), and redevelopment funded development projects and activities, as well as loans and property dispositions.

The selected Legal Counsel would advise the Board and be supported by RASA staff, and would be expected to work closely with counsel from the various taxing entities with appointments to the Board or who receive property tax revenues. The Oversight Board members are as follows:

Jon Sharpe, Deputy Chancellor
Los Rios Community College

Jay Schenirer, Councilmember, District 5
City of Sacramento

LaShelle Dozier, SHRA Executive Director
City of Sacramento representing former Redevelopment Agency Employees

Dave Tomayo, Board Member
Mosquito Vector Control Board

Troy Givans-Economic Development Manager
County of Sacramento
Due to conflicts of interest, the Legal Counsel and its firm could not be in an adversary position with the agencies that appointed the Oversight Board members, nor could it represent private developers under existing contracts with the prior dissolved Redevelopment Agency of the City of Sacramento for redevelopment projects which have not yet been completed. The Board Rules of Procedure provide that the Legal Counsel may not be employed by: (i) the Redevelopment Agency Successor Agency; (ii) any of the other entities with appointments to the Board; or (iii) any of the affected taxing entities which may receive funding pursuant to AB 26. Any law firm currently under contract with the agencies that appointed the Oversight Board members and the other taxing entities may apply, but it is desirable that the Legal Counsel be independent from such agencies. For firms that represent agencies in litigation matters only, it is anticipated that the applicable entity would waive any conflict to allow for Oversight Board to select such firm.

The scope of the services of the Legal Counsel would include, but is not limited to, the following:

- Advise the Board on legal authority and liability for actions taken in the ordinary course of business.
- Advise the Board on actions necessary to protect the Board members from personal liability and protect the assets of the dissolved agency from liability and attachment.
- Review and advise the Board on the recommendations from RASA staff regarding contracting issues.
- Review and advise the Board on recommendations from RASA staff on refinancing matters, overseeing completion of redevelopment projects, and disposition of property and other assets.
- Provide advice on legislative matters which may affect the Board (exclusive of lobbying).
- Represent the Board in connection with any inquiry, investigation, audit or other proceedings of state regulatory agencies.
- Represent the Board in any litigation brought by or against or otherwise involving the Board, or assist the Board in contracting for specialized litigation counsel and overseeing outside counsel’s work.
- Engage in any other legal matter reasonably requested by the Board.

**Experience/Qualifications:**

The Legal Counsel must have knowledge and experience in the following areas of law: Brown Act, Political Reform Act, Public Records Act, contracts, and bond financing and lending. It would also be beneficial if the firm had experience with real property development and disposition and redevelopment law. Knowledge and experience in the other areas of public law would also be desirable.

**Submittal Content:**

1) A one-page cover letter with the name and contact information for the proposed lead attorney.

2) Description of the qualifications and experience of the proposed lead attorney and any associates to be assigned to work for the Board in the areas of law listed above.
3) Three client references.

4) List of current hourly rates for each attorney and support staff proposed to be assigned to work for the Board.

Submittal Procedures
Please submit three (3) copies your proposals by 4:00 p.m. Friday May 4, 2012:

Personal Delivery: Sheryl Patterson
City Attorney’s Office
City of Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

Mail Delivery: Sheryl Patterson
City Attorney’s Office
City of Sacramento
PO Box 1984
Sacramento CA 95812-1198

Proposals may also be submitted via e-mail to spatterson@cityofsacramento.org. All inquiries should be directed to Sheryl Patterson at 916-808-5346.

RASA staff, along with members of the Board or representatives from the other taxing entities will conduct an initial review and evaluation of all proposals to determine interview candidates. Interviews are tentatively scheduled for Monday May 14, 2012.

The Board reserves the right to reject any and all submittals and to waive minor inconsistencies. The cost of preparing responses to this Request for Qualifications shall be borne by the respondents and will not be reimbursed by the Board.