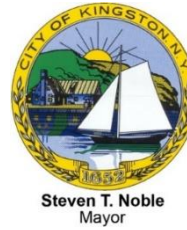


City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program



REQUEST FOR PROPOSALS

City of Kingston Right to Counsel Program

Steven T. Noble
Bartek Starodaj

Mayor of the City of Kingston
Director of Housing Initiatives

The City of Kingston, NY ("City") is pleased to issue this Request for Proposals (RFP) from qualified law firms to provide housing-related tenant legal services.

RFP # K23-09 Release Date: April 20, 2023

Proposals Due: June 9, 2023 at 2:00pm

Definitions:

An "RFP" describes the situation or object for which the goods and or services are required, how they are expected to be used and/or problems that they are expected to be addressed. Vendors are invited to propose solutions that will result in the satisfaction of the City's objectives. The proposed solutions are evaluated against a predetermined set of criteria.

The term "Respondent" means any firm or individual submitting a response for the services listed in this RFP.

The term "response" means the material submitted by a Respondent in reply to this RFP.

RFP/Project Contact Person:

Bartek Starodaj
Director of Housing Initiatives
City Hall, 420 Broadway
Kingston, NY 12401

Telephone: (845) 334-3928 **Email:** bstarodaj@kingston-ny.gov

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

RECEIPT CONFIRMATION FORM

PLEASE COMPLETE AND RETURN THIS CONFIRMATION FORM WITHIN 5 WORKING DAYS OF RECEIVING THIS RFP SPECIFICATION TO:

Bartek Starodaj
City Hall, 420 Broadway
Kingston, NY 12401
Telephone: (845) 334-3928
bstarodajk@kingston-ny.gov

Failure to return this form may result in no further communication or addenda regarding this RFP.

Company Name/Contact Person: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ EXT: _____ Fax: _____

Email: _____

I have received a copy of the above noted RFP Specification. Mark one choice below.

We plan to submit a PROPOSAL.

We DO NOT plan to submit a PROPOSAL (please indicate reason below).

Signature: _____

Title: _____

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

1.0 PROJECT PURPOSE

The City of Kingston seeks proposals from qualified attorneys and law firms to provide advice, brief service, and full representation in the City of Kingston. Contract between the Legal Provider and the City of Kingston will begin on or about August 1, 2023 and end on or about December 31, 2025.

2.0 SCOPE OF WORK

The following outlines the required tasks associated with this RFP.

Required Task 1: Coordinated Intake System

The Legal Provider shall oversee targeted outreach to inform the Kingston community of their services. The Legal Provider shall create a standardized intake system for the program that will simplify the process for tenants to seek and obtain legal assistance. This might include, but not necessarily be limited to, a centralized telephone number and/or a web-based client portal for intake. Language on the program and services offered shall be delivered in English and Spanish.

As part of the coordinated intake system, the Legal Provider must verify that program participants meet the following eligibility criteria:

Income Eligibility - Tenants

Individual tenants and tenant households are eligible to receive legal services assistance under this Agreement if they 1) reside within the City of Kingston and 2) have an annual income at or below 120% percent of the Area Median Income ("AMI"), as calculated based on household size and annually updated for Ulster County by the U.S. Department of Housing and Urban Development. At least 50% of all clients served during the contract period should have an annual income at or below 100% AMI.

Eligibility - Landlords

Landlords are eligible to receive legal services assistance under this Agreement if their building is 1) located within the City of Kingston and 2) The landlord owns five or fewer units.

Required Task 2: Tracking outcomes

Consultant shall report on the following service metrics on a quarterly basis to track the outcome of all legal services rendered under the contract with the City of Kingston, including:

- Number of clients served
- AMI level of clients served as described in "Income Eligibility"
- Geographic and demographic information on the client
- Type of legal assistance provided (advice, brief services, limited representation)

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- Type of housing issue (ETPA, rent arrears, eviction proceeding, etc.)
- If applicable, type of referral made and outcome of referrals, if known
- Outcome(s) of legal assistance provided

Required Task 3: Referrals to relevant support services

The Legal Provider shall refer the client to other supportive services, including but not limited to alternative dispute resolution services, housing counseling, employment training and placement, education and skills development, and/or credit counseling.

The following outlines the optional tasks associated with this RFP. In their response, Respondents shall indicate which combination of the following tasks they are able to perform, or which aspects of each of the below tasks they are able to perform. For example, a Respondent could choose to only apply to provide Task 6: Small Landlord Professionalization Services.

Optional Task 4: Legal Assistance - Tenants

The Legal Provider can provide tenants with the information, resources, services, advice, and representation they need to exercise their housing rights with matters including but not limited to potential eviction proceedings, landlord-tenant disputes, Warranty of Habitability claims for repairs and essential services, claims under the Emergency Tenant Protection Act, defense in holdover and nonpayment proceedings, discrimination proceedings, advocacy in mediation, and advice and representation in rent overcharge proceedings. This legal assistance can be delivered via one-on-one or group consultations in-person, via phone or video conference.

Optional Task 5: Legal Assistance – Limited Equity Cooperatives

Limited equity housing cooperatives (LECs) are residential developments owned and managed by a nonprofit cooperative corporation. LECs can provide for long-term affordability and stability for tenants. The Legal Provider can provide tenants with advice or support in converting their building into an LEC.

Optional Task 6: Small Landlord Professionalization Services

The Legal Provider can provide a limited set of legal services to serve small landlords. Eligible legal services in this task include explaining the rights & responsibilities of being a landlord, explaining the rights & responsibilities of tenants, and/or exploring alternatives to eviction.

3.0 CONTRACT PERIOD

The award term will commence on or about August 1, 2023 and end on or about December 31, 2025.

The successful Respondent will execute a contract with the City of Kingston in substantial conformance with both this RFP and the City of Kingston Agreement for Professional Services, which is annexed hereto

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

as Schedule "A." In addition, the successful Respondent must comply with the City of Kingston's policies and procedures for contracts and procurement, including, without limitation, the Procurement Policy Manual of the City of Kingston Purchasing Department.

On March 11, 2021, the U.S. Senate-amended H.R. 1319 (P.L. 117-2), known as the American Rescue Plan Act ("ARPA") was signed into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the "SLFRF"), with the goal of providing vital federal support to local governments as they address the negative health and economic impacts of COVID-19 in their communities.

This project is funded by funds provided by the United States Treasury pursuant to ARPA. The successful Respondent must comply with applicable ARPA requirements for the contract and for post-award monitoring, including, without limitation, the Contract Provisions for Non-Federal Entity Contracts Under Federal Awards which are annexed hereto in Schedule D.

4.0 SCHEDULE OF PERTINENT DATES

Listed below are specific and estimated dates and times of actions related to this RFP. In the event it is necessary to change the return date, the City will issue a supplemental addendum.

Dates	Milestone
April 20, 2023	RFP advertised
June 1, 2023	Last day to submit written inquiries
June 2, 2023	Addendum issued if any questions
June 9, 2023 2:00 p.m.	Due Date for Proposals
Weeks of June 12-26, 2023	Selection Committee evaluates proposals & possible interviews
Week of July 10, 2023	Notice of Intent to Award
Week of August 4, 2023	Contract Start Date
On or about December 31, 2025	Contract End Date

5.0 BACKGROUND

The Department of Housing Initiatives is a newly established department dedicated to support housing planning in the City of Kingston. The Department manages housing-related grants, supports the construction of new market-rate and affordable housing, develops policies to protect existing residents, and addresses the connection between housing and sustainability, health, and mobility. The Department also reviews the disposition of city-owned property suitable for housing development and collaborates with local and regional housing organizations.

6.0 RELEVANT LINKS

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

Information regarding the City of Kingston, its departments, and Laws and Codes can be found at <https://kingston-ny.gov/>. Respondents are encouraged to review this information.

7.0 SUBMISSION REQUIREMENTS

All Respondents to this RFP are required to submit detailed information as set forth below. Responses that do not materially conform to this outline will not be considered. Additional material and information, as deemed appropriate by the Respondent, may be included in the submission package.

7.1 Receipt confirmation form which follows the cover page of this RFP should be completed and sent to the City of Kingston immediately if planning on submitting a proposal. Failure to file this form may result in no further communications regarding this RFP.

7.2 RFP submissions must be in a sealed envelope addressed to:

Bartek Starodaj
Director of Housing Initiatives
City Hall - 420 Broadway
Kingston, NY 12401

On the face of the envelope, please include:

- 1) Name and Address of Respondent
- 2) RFP Number & Name: **K23-09: Right to Counsel program**

7.3 Responses are due and must be received no later than **Friday, June 9 at 2:00 p.m.** after which they will be publicly opened. Responses will not be accepted after the due date and time. It is recommended that proposals be submitted in advance, at least one business day prior to the specified date and time to allow for timely receipt.

7.4 General Submission Guidelines:

- Proposals must be sent or delivered via a thumb drive. Printed proposals will not be accepted. Proposals sent via email will not be accepted.
- Respondents are required to complete, and include within their RFP submission, the Information Sheet and Affidavit of Non-Collusion that are included in this RFP.
- Pages should be paginated.
- Illustrations may be included.
- The response will be evaluated on the basis of its content, not length. The proposal shall be clear, concise and include sufficient detail for effective evaluation.
- The City of Kingston will not be liable for any costs incurred by Respondents in the preparation of responses or for any work performed in connection therein.

7.5 Submittal Checklist - Submissions should include:

- 1) Proposal with content as described in Section 8.0;
- 2) One (1) copy in digital format (pdf on thumb drive);

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- 3) Fee proposal in a separate document and identified as such.
- 4) Completed Affidavit of Non-Collusion found at the end of this RFP;
- 5) Completed Information Sheet found at the end of this RFP.

7.6 Restrictions

- 1) Proposal submitted via fax or email will not be accepted;
- 2) Submissions received after the scheduled time and date will not be accepted.

7.7 Legal Provider Selection

- 1) Incomplete proposals that do not address all of the requested components described in 8.0 will not be accepted for review and consideration.
- 2) The City is not required to accept the proposal that includes the lowest fee offer.
- 3) The City will review all proposals received as a result of the RFP.
- 4) Based on the reviews of the proposals, the City will prepare a list of the top-ranked candidates. The City may organize and conduct interviews of the top-ranked candidates.
- 5) The Legal Provider will be selected by the City.

8.0 PROPOSAL CONTENT

The proposal should include the following information in the order specified:

- **TITLE PAGE:** Showing RFP number, responder's name, address, telephone, and Identification of the person(s) with the authority to represent and make legally binding commitments for the Legal Provider. Responder should also clearly identify the name(s) of the contact person responsible for inquiries, if different.
- **COVER LETTER:** A cover letter signed by the duly authorized member of the Legal Provider identified above.
- **QUALIFICATIONS AND EXPERIENCE:** Information about the Legal Provider and its qualifications for this project, including:
 - Proof that the lead person for the project is an attorney in good standing, admitted to practice in the State of New York.
 - Information about prior engagements similar to that being solicited herein by the City. Submission of previous applicable work product or case studies indicative of the Respondent's ability to provide high-quality representation is highly encouraged.
 - Information about the Legal Provider's demonstrated ability to provide high quality, culturally competent services and capacity to deliver services in Spanish.
 - Names, resumes, and roles of all staff who will be involved in the project, including a description of the experience of each employee who has worked on similar projects.
 - If applicable, description of previous experience managing grant-funded programs.
- **PROPOSED PLAN:** A project narrative that describes the Legal Provider's understanding of the City's needs and the value the Legal Provider will bring to the process. This narrative should include: :

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- Which of the tasks described in the Scope of Work they are able to perform;
 - An explanation of why the Legal Provider has capacity to perform these tasks;
 - A description of the Legal Provider’s approach to planning, organization and management;
 - If applicable, an actionable plan for leveraging services for and coordinating with other providers to increase the effectiveness of the proposed program and a description of the Legal Provider’s capacity to meaningfully connect tenants to supportive services;
 - How the Legal Provider would verify tenant and landlord eligibility to participate in the program;
 - A description of the Legal Provider’s capacity to track outcomes associated with all legal services provided under a contract with the City of Kingston; and
 - How the Legal Provider would handle any potential conflicts of interest, including all conflicts involving current, former, and organizational clients, as defined by Rules 1.7-1.13 of the New York Rules of Professional Conduct.
- **FEE/COST PROPOSAL:** Fee Proposal:
 - Based on the tasks described in the Scope of Work they are able to perform, the Legal Provider’s billing plan to accomplish the Scope of Work;
 - The disbursements or other services for which the Legal Provider would expect reimbursement; and
 - Recent audited financial statements or other proof that the Legal Provider is in good financial standing.

The Fee Proposal must be a document separate from the other parts of the proposal and appropriately identified as such.

9.0 EVALUATION CRITERIA

Only those proposals that contain complete information and required certifications will be considered. All proposals will be evaluated and examined by a committee of City of Kingston representatives using multiple criteria. The project will be awarded to a qualified Respondent who, based on the committee’s evaluation, submits the proposal that best meets the City’s needs.

Proposals will be evaluated in accordance with applicable City of Kingston procurement policies and procedures. Evaluation will be performed to determine each Respondent’s understanding of work to be performed, technical approach, and potential for completing the work as specified in the RFP components and ranking with competing Respondents.

The Selection Committee will make a selection based upon an evaluation of proposals using the following weighted criteria:

- **QUALITY OF THE PROPOSAL (10%)**
 - The extent to which the response addresses the goals/objectives of included in the RFP

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- QUALIFICATIONS AND EXPERIENCE (40%)
 - Respondent’s demonstrated expertise in providing the type of legal services they are proposing to provide (see Tasks 4-6 under 2.0 Scope of Work)
- CAPACITY (40%)
 - Respondent’s demonstrated capacity to perform the required tasks for this RFP (see Tasks 1-3 under 2.0 Scope of Work), including providing intake services, language access services, and ability to track outcomes
 - Proven staff capacity to achieve the goals of this RFP in the specified time period
- COST FACTORS (10%)
 - Competitiveness of the fee/cost proposal

Minority and women-owned business enterprises are encouraged to apply.

10.0 METHOD OF AWARD

The City will award this project to the Respondent whose total proposal, in the opinion of the City of Kingston, best meets the above-listed criteria.

A notice of award will not be binding upon the City until the contract has been fully executed by both parties; and the City’s ability to enter into a contract with the notice of award recipient is contingent upon funding available to the City.

The successful Respondent will execute a memorandum of understanding with the City of Kingston in substantial conformance with this RFP.

11.0 INQUIRIES

All questions pertaining to this RFP are required to be made in writing no later than **June 1, 2023** and must be submitted using the questionnaire form included within this specification. All questions must be **emailed to Bartek Starodaj at bstarodaj@kingston-ny.gov**. Respondents with a question directly related to this specification are required to cite the particular page and number, section, and paragraph to which the inquiry refers.

All substantive questions received by the above-mentioned deadline will receive a response in the form of an addendum issued no later than **June 2, 2023**.

The addendum will be sent to all Respondents who have registered to receive the RFP. Only an addendum from the City of Kingston will be considered official. Respondents are advised that the City of Kingston cannot ensure a response to any inquiries received after the due date for question submissions.

12.0 TERMS AND CONDITIONS

Instructions to Respondents: All submissions must be in accordance with this Request for Proposals.

RFP Information: The information provided for Respondents is for informational purposes only. It may not be relied upon and does not constitute a representation or warranty by the City of Kingston, its representatives, employees, officers, agents, or consultants that the information contained therein is accurate or complete. No legal commitment, obligation, or liability of the City of Kingston or its representatives, employees, officers, agents, or consultants will arise by use of, or the information relating to, any of these materials.

Revisions, Interpretations, Corrections: Revisions, interpretations, or corrections of specifications made by the City of Kingston will be by addendum issued before the date set forth for the submission of responses to this RFP. Interpretations, corrections, or changes made in any other manner will not be binding, and Respondents will not rely upon such revisions, interpretations, corrections or changes.

Conflict of Interest: The City of Kingston's employees and the immediate family of City of Kingston employees are not permitted to submit a response to this RFP. Furthermore, no official or employee of the City of Kingston will have any personal interest, direct or indirect, in this transaction, nor will any such elected or appointed official, department head, agent, or employee having such an interest participate in any decision, meeting, or evaluation or exert any opinion or influence relating to this transaction that affects his or her personal interests or the interests of any person or entity in which he or she is directly or indirectly interested.

RFP Award Acceptance: The City of Kingston reserves the right at all times to accept or reject in their sole discretion, any or all responses and to waive any defects or technicalities or advertise for new RFP responses where the acceptance, rejection, waiving, or advertising of such would be in the best interest of the City of Kingston. The RFP process may be terminated or modified without notice at any time.

Notice of Acceptance or Rejection: Notice by the City of Kingston regarding either acceptance or rejection of a response to this RFP will be deemed to have been sufficiently given when mailed to the Respondent, or his or her duly authorized representative, at the address indicated in the cover letter accompanying Respondent's submission of a response to this RFP.

Postponement or Cancellation: The City of Kingston reserves the right to postpone or cancel this RFP, or reject all responses if, in its judgment, it deems such action to be in the best interest of the City.

In the event of a postponement or cancellation of this RFP, the City of Kingston will not be liable for any costs incurred by the Respondent in the preparation of their response or for any work performed in connection therein.

13.0 INTERVIEWS

If the Evaluation Committee determines necessary, interviews may be scheduled with selected Respondents as soon as possible after the initial evaluation. This will permit further evaluation and allow

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

the Evaluation Committee to inquire further into the experience the Respondent has had on similar projects, willingness and ability to work closely with City of Kingston Staff and others, understanding of the various aspects of the requirements, ability to maintain a schedule and complete the services on time, and other matters deemed pertinent.

14.0 ALTERNATE PROPOSALS

The City of Kingston reserves the right to consider alternatives that are submitted by Respondents and that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in the best interest of the City. Respondents will clearly identify and explain in detail where such alternatives deviate from, or qualify the terms of, the proposal and specifications as issued.

15.0 COMPLIANCE WITH LAWS, LICENSES AND PERMITS

The Respondent(s) agree that they will fully comply with all applicable Federal, State and City policies, procedures, standards and laws, rules and regulations.

16.0 INSURANCE

The successful Respondent will bear sole liability for any claims of legal malpractice, professional misconduct or ethics charges arising out of its performance of duties specified herein.

The successful Respondent will procure and maintain at his/her own expense and without expense to the City, insurance for liability for damages imposed by law, of the kinds and amounts hereinafter provided, from insurance companies authorized to do business in the State of New York covering all operations under the contract between the successful Respondent and the City. Prior to contract execution, the successful Respondent will be expected to furnish to the City a Certificate of Insurance form(s) satisfactory to the City exhibiting compliance with the City's insurance requirements and providing that the policies will not be changed or canceled until thirty (30) days written notice has been given to the City. The types and limits of insurance will be as follows:

- a) Workers Compensation as required by Law
- b) Disability Benefits as required by Law
- c) Professional Liability

17.0 DISQUALIFICATION

The City reserves the right to refuse to issue an award to Respondents that fail to comply with any pre-qualification regulations of the City, if any such regulations or requirements are cited, or otherwise included in the Request for Proposal.

Proposals received from Respondents who have previously failed to complete contracts within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A proposal may be rejected if the Respondent cannot show that it has the necessary ability, resources, and qualified employees to commence the work at the time prescribed and thereafter to perform and complete the work at the rate or within the time specified. A proposal may be rejected if the Respondent

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

is already obligated for the performance of other work that would delay the commencement, performance, or completion of the work described in this RFP.

18.0 FREEDOM OF INFORMATION

The Respondent agrees that the contents of any client file and all work product generated in performance of the duties specified herein shall be made available to the City upon request.

The Respondent further agrees to comply with the Freedom of Information Law (FOIL) and such rules and regulations as the City and the State may from time to time make, including, but not limited to, such rules as may be devised governing access to public documents pursuant to Article 6 of the Public Officers Law, popularly known as the Freedom of Information Law.

Proposals submitted in response to this RFP will be considered public documents and, with limited exceptions, all proposals, including proposals that are recommended for award, will be available for inspection and copying by the public.

All RFP submission materials become the property of the City of Kingston. Proposal submission material will generally be made available for inspection and copying by interested parties upon written request, except when exempted from disclosure under the New York State Freedom of Information Law. The City of Kingston is subject to the New York State Freedom of Information Law, which governs the process for the public disclosure of certain records maintained by the City of Kingston. Individuals or firms that submit proposals to the City of Kingston may request that the City except all or part of such a proposal from public disclosure, on the grounds that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the individual or firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for exception must be in writing and state, in detail, the specific reasons for the requested exception. It also must specify the proposal or portions thereof for which the exception is requested. If the City of Kingston grants the request for exception from disclosure, the City will keep such proposal or portions thereof in secure facilities.

20.0 AFFIDAVIT OF NON-COLLUSION

The completion AND submission of the Affidavit of Non-Collusion, which is included with this RFP and is required with the submittal, certifies that the prices in the submitted proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Respondent or competitor.

21.0 SUSPENSION AND DEBARMENT

By submitting a proposal in response to this RFP, each Respondent warrants that neither it nor any of its officers, employees, subcontractors, or agents is excluded or in any other manner barred from doing business with any federal, state, or local agency, municipality, or department. Any misrepresentation or false statement related to a Respondent's status in this regard will result in rejection of such Respondent's submission.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

In addition, if the successful Respondent or any of its officers, employees, subcontractors, or agents become excluded or barred in any manner from doing business with any federal, state, or local agency, municipality, or department, during the period in which goods and/or services are provided pursuant to this RFP, the successful Respondent agrees to immediately notify the City's Corporation Counsel of such status. Any misrepresentation or false statement related to the successful Respondent's status in this regard, or any failure by the successful Respondent to immediately notify the City's Corporation Counsel of any change in such status, will result in immediate termination of the City's business relationship with the successful Respondent in addition to such other remedies as may be provided by law, in equity, pursuant to the terms and conditions of this RFP document, or the conditions of the contract, if any, resulting from this RFP.

22.0 IMPLIED REQUIREMENTS

Products and services which are not specifically requested in this RFP, but which are necessary to provide a complete program/project as described herein, will be included in the submitted proposal.



AMERICAN RESCUE PLAN ACT OF 2021 ("ARPA") CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND ("SLFRF") SUBRECIPIENT AGREEMENT

THIS AGREEMENT is entered into by and between the **CITY OF KINGSTON**, a municipal corporation and a city of the State of New York with principal offices at City Hall, 420 Broadway, Kingston, New York 12401 (the "**City**"), and [**SUBRECIPIENT'S NAME**], a/an [**to be completed in consultation with Corporation Counsel**] with principal offices at [**enter subrecipient's business address**] (the "**Subrecipient**"), (each, a "**Party**;" together, the "**Parties**").

RECITALS

WHEREAS, on March 11, 2021, the U.S. Senate-amended H.R. 1319 (P.L. 117-2), known as the American Rescue Plan Act ("ARPA") was signed into law; and

WHEREAS, on May 10, 2021, the U.S. Treasury issued an interim final rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (the "CFR"); and

WHEREAS, Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the "SLFRF"), with the goal of providing vital federal support to local governments as they address the negative health and economic impacts of COVID-19 in their communities; and

WHEREAS, the City, as a SLFRF recipient, desires to utilize a portion of the SLFRF funds to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) and/or its negative economic impacts, including [**enter description of program purpose**]; and

WHEREAS, the City, as a SLFRF recipient, is authorized to issue subawards for the purpose of carrying out a portion of the administration of the SLFRF; and

WHEREAS, the City desires to issue a subaward to the Subrecipient to [**enter description of program purpose**]; and

WHEREAS, the Subrecipient is experienced in providing the desired services, having [**enter description of Subrecipient's relevant experience**]; and

WHEREAS, the City has agreed to engage the Subrecipient, and the Subrecipient has agreed to contract with the City, for the purpose of [**enter description of program purpose**] in accordance with the terms and conditions set forth in this Agreement.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties agree as follows:

ARTICLE 1 – WORK PLAN

The Subrecipient agrees to utilize the funds provided through this Agreement to perform the work identified in Schedule A, the Work Plan (the “Work”), which is attached to and made a part of this Agreement. The Subrecipient agrees to perform the Work in accordance with the terms and conditions of this Agreement. Subrecipient specifically agrees that the City will not compensate the Subrecipient for any work not included in Schedule A without prior authorization, evidenced only by a written Change Order, Amendment, or Addendum to this Agreement, which is executed by the Mayor of the City of Kingston (the “Mayor”), after consultation with the head of the City Department responsible for the oversight of this Agreement (the “Department Head”), and upon review by the City’s Corporation Counsel.

ARTICLE 2 – TERM OF AGREEMENT

The Term of this Agreement shall begin on [**enter begin date of the work described in Schedule A**] and end on [**enter end date of the work described in Schedule A**].

ARTICLE 3 – COMPENSATION

A **not-to-exceed** amount of (**WRITE OUT DOLLAR AMOUNT IN CAPS**) AND **00/100 (\$NUMERIC AMOUNT) DOLLARS** has been established for the Work to be performed by the Subrecipient. Costs in excess of this not-to-exceed amount may not be incurred without the prior written authorization of the Mayor, after consultation with the Department Head, and evidenced only by a written Change Order, Amendment, or Addendum to this Agreement. Subrecipient specifically agrees that the City will not be responsible for any additional costs, or costs in excess of the above cost, if authorization by the Mayor is not given in writing prior to the performance of any work giving rise to such excess or additional costs. The Subrecipient shall invoice the City and the City shall make payments to the Subrecipient as described in Schedule B, “Fees, Expenses, and Submissions for Payment.”

In the event that the Subrecipient receives payments, from any source whatsoever, in consideration for the same Work under this Agreement, the monetary obligation of the City under this Agreement will be reduced by an equivalent amount; provided, however, that nothing contained in this Agreement will require such reimbursement where additional similar work is provided and no duplicative payments are received.

If this is an Agreement for which the Subrecipient will, in whole or in part, be compensated with New York State funds, the Subrecipient agrees to comply with Executive Order Number 38, which sets limits on state-funded administrative costs and executive compensation contracts.

Executive Order Number 38 can be found at the following website address:

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

<https://opwdd.ny.gov/regulations-guidance/executive-order-38>.

ARTICLE 4 – EXECUTORY CLAUSE

The City will have no liability under this Agreement to the Subrecipient or to anyone else beyond funds appropriated and available for this Agreement. The City may terminate this Agreement if funds are not appropriated, available, or are reduced for this Agreement.

The Subrecipient understands and agrees that the dollar amounts identified in this Agreement are based upon funding allocations from the State of New York and/or the Federal Government, which are the basis for any payments made by the City under this Agreement. In the event that the anticipated amount of funding changes, or is reduced or denied, in part or in full, the City, where appropriate, will not be liable to the Subrecipient for the difference. If the full state and/or federal funding to the City for any payment to be made or which has been made under this Agreement, by the City to the Subrecipient, is reduced for any reason whatsoever, then the City may (i) deduct and withhold from any future payment(s) an amount equal to the reduction in funding, or (ii) otherwise recover from the Subrecipient the amount of the reduction. It is understood that based upon changes in the state and/or federal funding process, the actual amounts in this Agreement may change throughout the Term. The amounts in this Agreement will be amended to reflect the actual amounts to be paid upon notification to the City by the state and/or Federal Government, as necessary.

ARTICLE 5 – CONFLICT OF INTEREST

The Subrecipient represents and warrants that neither it, nor any of its directors, officers, members, partners, or employees, have any interest, nor will they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the Work to be performed pursuant to this Agreement. The Subrecipient further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest will be employed by it, and that no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, by the City, or any corporation, partnership, or association in which such official, officer, or employee is directly or indirectly interested, will have any such interest, direct or indirect, in this Agreement, or in the proceeds thereof, unless such person (i) is required by the Code of the City of Kingston, as amended from time to time, to submit a disclosure form to the City's Board of Ethics, and amends such disclosure form to include their interest in this Agreement, or (ii) if not required to complete and submit such a disclosure form, either voluntarily completes and submits said disclosure form, disclosing their interest in this Agreement, or seeks a formal opinion from the City's Board of Ethics, as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the City will have the right to annul this Agreement without liability, entitling the City to recover all monies paid hereunder, and the Subrecipient shall not make claim for, nor be entitled to recover any sum or sums otherwise due under this Agreement. This remedy, if effected, will not constitute the sole remedy afforded to the City for such breach or violation, nor will it constitute a waiver of the City's right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity, or pursuant

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

to this Agreement.

ARTICLE 6 – REPRESENTATIONS BY THE SUBRECIPIENT

The Subrecipient represents that it is experienced, and properly qualified to perform the Work under this Agreement, and that it is properly permitted, equipped, organized, and financed to perform such Work.

The Subrecipient understands that it may become necessary for the City to submit to governmental agencies and/or authorities, or to a court of law, part or all of the data, analyses, and/or conclusions developed as a result of its performance of the Work. The Subrecipient is aware that there are significant penalties for submitting false information to governmental agencies, including the possibility of fines and imprisonment. The Subrecipient shall be responsible for such penalties resulting from false information submitted to the City by the Subrecipient.

By signing this Agreement, the Subrecipient is attesting to that fact that neither it nor any of its employees, agents, representatives, officers, subcontractors, or any other entity or individual performing the Work pursuant to this Agreement has been sanctioned, excluded, or in any other manner barred from doing business with any federal, state, or local agency, municipality, or department. If the Subrecipient or any of its officers, employees, subcontractors, or agents become excluded or barred in any manner from doing business with any federal, state, or local agency, municipality, or department during the Term of this Agreement, the Subrecipient agrees to provide immediate and detailed notice to the City's Corporation Counsel regarding such status. Any misrepresentation or false statement related to the Subrecipient's status in this regard, or any failure by the Subrecipient to immediately notify the City's Corporation Counsel of any change in such status will result in immediate termination of this Agreement, in addition to such other remedies as may be provided by law, in equity, or pursuant to this Agreement.

ARTICLE 7 – CORPORATE COMPLIANCE

The Subrecipient agrees to comply with all federal, state, and local laws, rules, and regulations governing the provision of goods and/or Work under this Agreement. In particular, the Subrecipient agrees to comply with the laws, rules and regulations of the City of Kingston. The City strongly encourages all healthcare providers contracting with the City to implement their own compliance programs that address each of the elements of compliance recommended by the Office of the Inspector General, as well as the elements as recommended and/or mandated by the New York State Office of the Medicaid Inspector General.

The City will conduct appropriate screening of providers, independent contractors, vendors, and agents to ensure and verify that they have not been sanctioned and/or excluded by any federal or state law enforcement, regulatory, or licensing authority. The City will also verify that entities and businesses that provide and/or perform the Work have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.

ARTICLE 8 – INDEPENDENT CONTRACTOR

In performing the Work and incurring expenses under this Agreement, the Subrecipient shall

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

operate as and have the status of an independent contractor and shall not act as agent for or on behalf of the City, nor will the Subrecipient represent the City, or bind the City in any manner. As an independent contractor, the Subrecipient is solely responsible for determining the means and methods of performing the Work, and shall have complete charge and responsibility for the Subrecipient's personnel engaged in the performance of the same.

In accordance with such status as independent contractor, the Subrecipient covenants and agrees that neither it, nor its employees or agents, will proclaim themselves to be officers or employees of the City, or of any department, agency, or unit thereof, by reason hereof, and that the Subrecipient's employees or agents will not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the City including, but not limited to, Workers' Compensation coverage, health insurance coverage, Unemployment Insurance benefits, Social Security benefits, or employee retirement membership or credit.

Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership, joint venture, or any other fiduciary relationship.

ARTICLE 9 – ASSIGNMENT

The Subrecipient shall not assign any of its rights, interests, or obligations under this Agreement, or assign any of the Work to be performed by it under this Agreement, without the prior express written consent of the Mayor, upon review by the City's Corporation Counsel. Any such assignment, transfer, conveyance, or other disposition without such prior consent will be void, and any Work provided thereunder will not be compensated. Any assignment properly consented to by the Mayor will be subject to all of the terms and conditions of this Agreement.

Failure of the Subrecipient to obtain any required consent to any assignment will be grounds for termination for cause at the option of the City, and if this Agreement be so terminated, the City will thereupon be relieved and discharged from any further liability and obligation to the Subrecipient, its assignees, or transferees; and all monies that may become due under this Agreement shall be forfeited to the City, except so much thereof as may be necessary to pay the Subrecipient's employees for past Work.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the Subrecipient for the benefit of its creditors made pursuant to Article 2 of Chapter 12 of the New York Debtor and Creditor Law, except where the Federal Supremacy Clause requires otherwise.

This Agreement may be assigned by the City to any corporation, agency, municipality, or instrumentality having authority to accept such assignment.

**ARTICLE 10 – SUBCONTRACTING [ADJUST BASED ON WHETHER OR NOT
SUBRECIPIENT IS PERMITTED TO USE SUBS]**

The Subrecipient agrees to include the following provisions in any and all subcontract agreements for Services to be

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

performed pursuant to this Agreement:

- A. That the work performed by the subcontractor must be in accordance with the terms and conditions of this Agreement between the City and the Subrecipient, including but not limited to the insurance requirements set forth in Schedule C; and
- B. That nothing contained in the subcontractor agreement shall impair the rights of the City; and
- C. That nothing contained in the subcontractor agreement, or under this Agreement between the City and the Subrecipient, shall create any contractual relation in law or equity, between the subcontractor and the City; and
- D. That the subcontractor specifically agrees to be bound by the Confidentiality provision as set forth in
Article 11 of this Agreement between the City and the Subrecipient.

Upon signing this Agreement, the Subrecipient shall provide the Department Head with the names and scopes of work of any and all subcontractors to be used in the performance of the Subrecipient's obligations pursuant to this Agreement. Furthermore, upon request by the City, the Subrecipient shall provide copies of any and all subcontract agreements for Services to be performed pursuant to this Agreement.

The Subrecipient agrees that it is fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, to the same extent as it is for the acts and omissions of persons employed by the Subrecipient. The Subrecipient shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

[The Subrecipient shall not subcontract any of its obligations under this Agreement.]

ARTICLE 11 – CONFIDENTIALITY

For purposes of this Article:

- A. The term “Confidential Information” as used in this Agreement means all material and information, whether written or oral, received by the Subrecipient from or through the City or any other person connected with the City, or developed, produced, or obtained by the Subrecipient in connection with its performance of the Work under this Agreement. Confidential Information includes, without limitation: samples, substances and other materials, conversations, correspondence, records, notes, reports, plans, drawings, specifications and other documents in draft or final form, including any documentation or data relating to the results of any investigation, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations, and/or comments relating thereto.
- B. The term “Subrecipient” as used herein includes all officers, directors, employees, agents,

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

subcontractors, assignees, or representatives of the Subrecipient.

The Subrecipient shall keep all Confidential Information in a secure location within the Subrecipient's offices. The City will have the right, but not the obligation, to enter the Subrecipient's offices in order to inspect the arrangements of the Subrecipient for keeping Confidential Information secure. The City's inspection, or its failure to inspect, will not relieve the Subrecipient of its responsibilities pursuant to this Article 11.

The Subrecipient shall hold Confidential Information in trust and confidence, and must not disclose Confidential Information, or any portion thereof, to anyone other than the City without the prior written consent of the Mayor, and must not use Confidential Information, or any portion thereof, for any purpose whatsoever except in connection with its performance of the Work under this Agreement.

The Subrecipient shall notify the City immediately upon its receipt of any request by anyone other than the City for, or any inquiry related to, Confidential Information. The Subrecipient is not prohibited from disclosing portions of Confidential Information if and to the extent that: (i) such portions have become generally available to the public other than by an act or omission of the Subrecipient, or (ii) disclosure of such portions is required by subpoena, warrant, or court order; provided, however, that in the event anyone other than the City requests all or a portion of Confidential Information, the Subrecipient shall oppose such request and cooperate with the City in obtaining a protective order or other appropriate remedy, unless and until the Mayor, upon consultation with the City's Corporation Counsel, in writing, waives compliance with the provisions of this Article 11, or determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the City waives compliance with this Article 11, or determines that such disclosure is legally required, the Subrecipient shall disclose only such portions of Confidential Information that, in the opinion of the City, the Subrecipient is legally required to disclose, and the Subrecipient shall use its best efforts to obtain from the party to whom Confidential Information is disclosed, written assurance that confidential treatment will be given to any such Confidential Information disclosed, to the extent permitted by law.

Prior to the performance of any Work in connection with this Agreement, the Subrecipient shall obtain from each of its subcontractors, a confidentiality agreement running to the benefit of the City that is substantively identical to this Article 11. Further, at any time, if requested by the City, the Subrecipient shall obtain such an agreement from the officers, directors, agents, representatives, or employees of the Subrecipient.

ARTICLE 12 – OWNERSHIP OF CONFIDENTIAL INFORMATION

Notwithstanding any other provision herein to the contrary:

- A. All Confidential Information, as defined in Article 11, including all copies thereof, is the exclusive property of the City regardless of whether or not it is delivered to the City. The Subrecipient shall deliver Confidential Information and all copies thereof to the City upon request.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- B. To the extent that copies of Confidential Information are authorized by the City to be retained by the Subrecipient, such information shall be retained in a secure location in the Subrecipient's office for a period of six (6) years after completion of the Work, or termination of this Agreement, whichever occurs later, and thereafter disposed of at the City's direction.

ARTICLE 13 – PUBLICITY

The prior written approval of the City is required before the Subrecipient or any of its employees, representatives, servants, agents, assignees, or subcontractors may, at any time either during or after completion or termination of this Agreement, make any statement to the media or issue any material for publication bearing on the Work performed or data collected in connection with this Agreement.

The City expressly retains the sole right to draft and release written and visual public communication material covering the award of ARPA funds, and to schedule, at its sole discretion, a ribbon-cutting or other completion event for the Work completed pursuant to this Agreement. After initial release of the City's content for such event, the Subrecipient may subsequently upload, share, and otherwise disburse the City's public communication material through the Subrecipient's social media, newsletter, email, or other communication platforms. When there is a reuse of City content by the Subrecipient regarding ARPA-related events, the Subrecipient shall notify the City of such release by email and, where applicable, by social media tag on the released content.

If the Subrecipient, or any of its employees, representatives, servants, agents, assignees, or subcontractors desires to publish a work dealing with any aspect of this Agreement, or of the results or accomplishments attained by its performance, the Subrecipient must first obtain the prior written permission of the Mayor, which, unless otherwise agreed to in said written permission, will entitle the City to a royalty fee and a non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, such publication. Such work shall include the following language: "This project [**is being**] [**was**] supported, in whole or in part, by federal award number [**ENTER CITY'S FEDERAL AWARD #**] awarded to the City of Kingston by the U.S. Department of the Treasury."

ARTICLE 14 – RETENTION OF RECORDS

The Subrecipient agrees to maintain separate and accurate books, records, documents, and other evidence, and to employ accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

The Subrecipient agrees to retain all books, records, and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever occurs later. The City, any New York State and/or federal auditors, and any other persons duly authorized by the City, will have full access and the right to examine any of said materials during said period.

ARTICLE 15 – AUDITING AND REPORTS

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

All forms and/or invoices presented for payment to be made under this Agreement, and the books, records, and accounts upon which said forms and/or invoices are based, are subject to audit by the City. The Subrecipient shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the City so that it may evaluate the reasonableness of the charges, and the Subrecipient shall make its records available to the City upon request. All books, forms, records, reports, cancelled checks, and any and all similar material may be subject to periodic inspection, review, and audit by the City, the State of New York, the Federal Government and/or other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds, whether from the City, the State of New York, the Federal Government, private sources, or otherwise. The Subrecipient agrees to work collaboratively with the City to ensure the City's compliance with ARPA and any other laws, rules, and regulations which are applicable to ARPA funding. The Subrecipient will not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

The Subrecipient shall submit quarterly financial reports to the City no later than fifteen (15) calendar days after the end of each quarter for the duration of this Agreement, as well as a final report within thirty (30) days of the expiration or termination of this Agreement. The City may require additional programmatic reports or metrics reporting based on program needs. Monthly and final reports shall contain information regarding the progress of the Work, and the financial information related thereto. The Subrecipient shall further comply with any additional reporting obligations established by the City as it relates to this subaward. Failure to provide the required documentation and information shall affect the funding in this Agreement and future requests for funding and may result in the termination of this Agreement.

The Subrecipient must obtain and submit a Federal Single Audit to the Federal Audit Clearinghouse where required. Currently, entities expending \$750,000 in any fiscal year on all Federal Grants (including but not limited to the funds issued pursuant to this Agreement) are subject to a Federal Single Audit. Upon the receipt of a Federal Single Audit by the Subrecipient, the Subrecipient shall forward a copy, including findings, to the City Comptroller for inspection.

ARTICLE 16 – NO DISCRIMINATION

As required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, including the Civil Rights Act, the Subrecipient must not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition, carrier status, military status, domestic violence victim status, or marital status.

If this Agreement provides for a total expenditure in excess of \$25,000.00, the Subrecipient shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on City contracts, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action will mean recruitment,

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

employment, job assignment, promotion, upgrade, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation.

Furthermore, in accordance with New York State Labor Law Section 220-e, if this is an Agreement for the construction or alteration of any public building or public work, or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement will be performed within the State of New York, the Subrecipient agrees that neither it, nor its subcontractors, will, by reason of race, creed, color, disability, sex, or national origin: (i) discriminate in hiring against any New York State citizen who is qualified and available to perform the Work, or (ii) discriminate against or intimidate any employee hired for the performance of the Work under this Agreement. If this is a building service agreement as defined in the New York State Labor Law Section 230, then in accordance with New York State Labor Law Section 239, the Subrecipient agrees that neither it, nor its subcontractors, will by reason of race, creed, color, national origin, age, sex or disability: (i) discriminate in hiring against any New York State citizen who is qualified and available to perform the Work, or (ii) discriminate against or intimidate any employee hired for the performance of the Work under this Agreement. The Subrecipient is subject to (i) a fine of Fifty and 00/100 (\$50.00) Dollars per person, per day, for any violation of the New York State Labor Law Sections 220-e or 239, and/or (ii) possible termination of this Agreement and forfeiture of all moneys due hereunder for a second or subsequent violation.

The Subrecipient understands that the City has established a Policy Regarding Discrimination and Harassment and represents that it has read and agrees to comply with the requirements.

ARTICLE 17 – PREVAILING WAGE (This article may not be required. If not required keep the Article 17 heading and insert - INTENTIONALLY LEFT BLANK - as a title.)

In accordance with New York State Labor Law Section 220-d, if this is an Agreement for the construction, reconstruction, maintenance and/or repair of any public work, the Subrecipient agrees that all laborers, workers, or mechanics employed by the Subrecipient and/or its subcontractors in contemplation of the performance of this Agreement shall be paid not less than such hourly minimum rate of wage and shall be provided supplements not less than the prevailing supplements as designated by the New York State Commissioner of Labor.

ARTICLE 18 – [INTELLECTUAL PROPERTY] INTENTIONALLY LEFT BLANK [if not using this article, delete red text]

All “Intellectual Property,” meaning all graphics, fonts, computer code (with the exception of open source code), photographs, brochures, videos, web pages, trademarks, databases, names and logos, or the copyright in any portion of the works issued by the City or developed or produced for the City shall at all times be proprietary to the City, and shall be the exclusive property of the City. Upon termination of this Agreement, Subrecipient’s right or license to use the intellectual property shall terminate.

The Subrecipient warrants it has full authority to sell, assign and transfer the rights to all graphics, fonts, computer code (with the exception of open source code), photographs,

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

brochures, videos, web pages, trademarks, databases, names and logos, or the copyright in any portion of the works, developed or produced for the City free and clear of any material encumbrances, liens, or claims.

The Subrecipient agrees, at its own expense, to defend, indemnify and hold harmless the City from and against any losses, damages, expenses, liabilities and costs (including, without limitation, legal fees) incurred by the City as a result of any claims brought against the City by third parties arising from any infringement or misappropriation of any Intellectual Property right arising out of or relating to the City's use of the Subrecipient's services.

ARTICLE 19 – INSURANCE

For provision of the Work set forth in this Agreement and as may be hereinafter amended, the Subrecipient shall maintain or cause to be maintained in full force and effect during the term of this Agreement, at its expense, insurance with stated minimum coverage as set forth in Schedule C, which is attached to and made a part of this Agreement. Such policies are to be in the broadest form available on usual commercial terms, and must be written by insurers who have been fully informed as to the nature of Work to be performed by the Subrecipient pursuant to this Agreement. Such insurers shall be of recognized financial standing, satisfactory to the City. Notwithstanding anything to the contrary in this Agreement, the Subrecipient irrevocably waives all claims against the City for all losses, damages, claims, or expenses resulting from risks commercially insurable under the insurance described in Schedule C and this Article 19. The provision of insurance by the Subrecipient will not in any way limit the Subrecipient's liability under this Agreement.

ARTICLE 20 – INDEMNIFICATION

The Subrecipient agrees to defend, indemnify, and hold harmless the City, including its officials, employees, and agents, against all claims, losses, damages, liabilities, costs, or expenses (including without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the Work performed by the Subrecipient, its employees, representatives, subcontractors, assignees, or agents pursuant to this Agreement, which the City, or its officials, employees, or agents may suffer by reason of any negligence, fault, act, or omission of the Subrecipient, its employees, representatives, subcontractors, assignees, or agents. The Subrecipient agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demands, or suits at its sole expense, and agrees to bear all other costs and expenses related thereto, even if such claims, demands, or suits are groundless, false, or fraudulent.

In the event that any claim is made or any action is brought against the City arising out of the negligence, fault, act, or omission of the Subrecipient or an employee, representative, subcontractor, assignee, or agent of the Subrecipient, either within or without the scope of the respective employment, representation, subcontract, assignment, or agency, or arising out of the Subrecipient's negligence, fault, act, or omission, then the City will have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover said claim or action. The rights and remedies of the City provided for in this clause will not be exclusive and are

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 21 – TERMINATION

The City may, by written notice to the Subrecipient, effective upon mailing, terminate this Agreement in whole or in part at any time (i) for the City's convenience, (ii) upon the failure of the Subrecipient to comply with any of the terms or conditions of this Agreement, or (iii) upon the Subrecipient becoming insolvent or bankrupt.

In the event that this Agreement is terminated for the convenience of the City, the Subrecipient will be paid for all Work rendered through the date of termination in accordance with Schedule B.

Upon termination of this Agreement, the Subrecipient shall comply with any and all City closeout procedures, including but not limited to:

- A. Accounting for and refunding to the City within ten (10) days, any unearned and/or unexpended funds that have been paid to the Subrecipient pursuant to this Agreement; and
- B. Furnishing to the City within ten (10) days, an inventory of all equipment, appurtenances, and property purchased by the Subrecipient through, or provided under this Agreement, and carrying out any City directive concerning the disposition thereof.

Notwithstanding any other provisions of this Agreement, the Subrecipient will not be relieved of liability to the City for damages sustained by the City by virtue of the Subrecipient's breach of this Agreement, or failure to perform in accordance with applicable standards. The City may withhold payments due to the Subrecipient for the purposes of set-off until such time as the exact amount of damages due to the City from the Subrecipient is determined.

The rights and remedies of the City provided herein will not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 22 – DISPUTE RESOLUTION

Should any controversy or claim arise out of this Agreement, the Parties shall first attempt to settle their dispute by mediation, facilitated by the American Arbitration Association. If a Party fails to respond to a written request for mediation within 30 days after service, or fails to participate in any scheduled mediation conference, that Party shall be deemed to have waived its right to mediate the issues in dispute.

If the above-referenced mediation does not result in settlement of the entire controversy or dispute within 30 days after the initial mediation conference or if a Party has waived its right to mediate any issues in dispute, any unresolved controversy or claim arising out of or relating to this Agreement will be settled by arbitration administered by the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

Notwithstanding the foregoing, the Parties may mutually agree, in writing, to litigate disputes, unresolved controversies or claims not resolved through the above-referenced mediation process if, due to other pending litigation or similar circumstances, litigation would more expeditiously resolve the issues. The Parties agree that any claims related to or arising out of this Contract shall be resolved in Supreme Court of the State of New York, Ulster County.

The Parties further agree that that this entire Agreement is governed by and should be construed in accordance with New York Law, including New York's choice of law rules and New York's arbitration law, Article 75 of New York's Civil Practice Law and Rules.

In the event of a controversy or claim arising from this Agreement, the Subrecipient shall be liable to the City for reasonable attorney's fees, costs, expenses and disbursements incurred by the City in enforcing its legal and/or equitable rights pursuant to this Agreement by reason of the failure of the Subrecipient to comply with any of the terms, conditions or warranties of this Agreement, express or implied, and/or the exercise of City's remedies with respect thereto, and/or any error, omission and/or professional negligence of the Subrecipient or its subcontractors, including but not limited to all attorney's fees, costs, expenses and disbursements incurred by the City in prosecuting a lawsuit against the Subrecipient, seeking Indemnification pursuant to Article 20, and Termination pursuant to Article 21. The Subrecipient shall further be liable to the City for all prejudgment interest on any award of attorney's fees, costs, expenses and disbursements so awarded. This provision shall survive completion of the Work and/or the expiration or termination of this Agreement.

ARTICLE 23 – GOVERNING LAW

This Agreement is governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

ARTICLE 24 – WAIVER AND SEVERABILITY

The failure of either Party to enforce at any time, any provision of this Agreement, does not constitute a waiver of such provision in any way or waive the right of either Party at any time to avail itself of such remedies as it may have for any breach or breaches of such provision. None of the conditions of this Agreement will be considered waived by the City unless such waiver is explicitly given in writing by the Mayor. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the terms or conditions of this Agreement, unless expressly stipulated in such waiver as executed by the Mayor.

The invalidity or invalid application of any provision of this Agreement will not affect the validity of any other provision, or the application of any other provision of this Agreement.

ARTICLE 25 – GENERAL RELEASE

Acceptance by the Subrecipient or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of competent jurisdiction, administrative, or other

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

means, will constitute and operate as a general release to the City from any and all claims of the Subrecipient arising out of the performance of this Agreement.

ARTICLE 26 – NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by the Subrecipient against any officer, agent, or employee of the City, for or on account of any act or omission in connection with this Agreement.

ARTICLE 27 – ENTIRE AGREEMENT

The rights and obligations of the Parties and their respective agents, successors and assignees will be subject to and governed by this Agreement, including Schedules [**list all Schedules being incorporated into the Agreement**], which supersedes any other understandings or writings between or among the Parties to this Agreement.

ARTICLE 28 – SURVIVING OBLIGATIONS

The Subrecipient’s obligations and those of the Subrecipient’s employees, representatives, agents, subcontractors, successors, and assignees, assumed pursuant to Article 6 (Representations by the Subrecipient), Article 7 (Corporate Compliance), Article 11 (Confidentiality), Article 12 (Ownership of Confidential Information), Article 13 (Publicity), Article 14 (Retention of Records), **Article 18 (Intellectual Property)**, and Article 20 (Indemnification), will survive completion of the Work and/or the expiration or termination of this Agreement.

ARTICLE 29 – NOTICES

Except as expressly provided otherwise in this Agreement, all notices given to any of the Parties pursuant to or in connection with this Agreement will be in writing, will be delivered by hand, by certified or registered mail, return receipt requested, or by Federal Express, Express Mail, or other nationally recognized overnight carrier. Except where otherwise specifically defined within this Agreement, notices will be effective when received. Notice addresses are as follows:

Subrecipient:	City:
[Insert Subrecipient Name]	City of
Kingston [Insert Department Name]	
Attention: [Insert Appropriate Information]	Attention: [Insert
Department Head Title]	
[Insert Subrecipient Address]	[Insert
Department’s Physical Address]	
[Insert Subrecipient City, State & Zip Code]	Kingston, New York
12401	

Any communication or notice regarding indemnification, termination, litigation, or proposed changes to the terms and conditions of this Agreement will be deemed to have been duly made upon receipt by both the Kingston City Clerk and the City’s Corporation Counsel at the addresses

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

set forth herein, or such other addresses as may have been specified in writing by the City:

Mailing Address:

City of Kingston
Attention: City Clerk/Corporation Counsel
420 Broadway
Kingston, New York 12401

Physical Address:

City of Kingston
Attention: City Clerk/Corporation Counsel
420 Broadway
Kingston, New York 12401

Either Party may change its address for notices by written notice to the other Party given in accordance with this Article 29.

ARTICLE 30 – MODIFICATION

No changes, amendments, or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties to this Agreement, and no payment will be due in connection therewith, unless prior to the performance of any such Work, the Mayor, after consultation with the Department Head, executes an Addendum, Amendment, or Change Order to this Agreement. The aforesaid Addendum, Amendment, or Change Order must specifically set forth the scope of such extra or additional services, the amount of compensation, and the extension of time for performance, if any, for any such extra or additional services. Unless otherwise specifically provided for therein, the provisions of this Agreement will apply with full force and effect to the terms and conditions contained in such Addendum, Amendment, or Change Order.

ARTICLE 31 – FORCE MAJEURE

Neither Party to this Agreement will be considered in default in the performance of its obligations under this Agreement, to the extent that performance of any such obligation is prevented and/or delayed by any cause, existing or future, beyond the control of such Party, and which by that Party's exercise of due diligence and foresight could not reasonably have been avoided ("Impacted Party") including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, other potential disaster(s) or catastrophe(s), such as epidemics or pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not); (d) national or regional emergencies; and (c) other similar events beyond the reasonable control of the Impacted Party.

The Impacted Party shall give written notice within thirty (30) days of the Force Majeure Event to the other Party and the Impacted Party shall use diligent efforts to end the failure or delay and to minimize the effects of such Force Majeure Event.

Upon removal of such cause, the Impacted Party affected shall resume its performance as soon as reasonably possible. The Subrecipient's financial inability to perform will not be deemed to be a Force Majeure Event regardless of the source causing such financial inability. If the Subrecipient is so delayed in the timely performance of the Work, the Subrecipient's sole and exclusive remedy is to request that a Change Order, Amendment, or Addendum to this Agreement be issued by the City and signed by the Mayor permitting an extension of time to perform the Work in an amount

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

equal to the time lost due to such delay. Such request shall be based upon written notice only, stating the specific nature of the claim, delivered to the Department Head and the Kingston City Clerk promptly, but not later than thirty (30) days after the initial occurrence of the event giving rise to such claim. An extension of time to perform the Work may only be granted by a written Change Order, Amendment, or Addendum to this Agreement, signed by the Mayor. In no event will the City be liable to the Subrecipient or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

ARTICLE 32 – HEADINGS AND DEFINED TERMS

The Article headings used in this Agreement are for reference and convenience only, and will not in any way limit or amplify the terms, conditions, and/or provisions hereof. All capitalized terms, acronyms, and/or abbreviations will have the meanings ascribed to them by this Agreement.

ARTICLE 33 – COUNTERPARTS

The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, and all of which taken together constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, email in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document has the same effect as delivery of an executed original of this Agreement.

*******SIGNATURE PAGE FOLLOWS*******

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to enter into this Agreement as of the dates set forth below, effective as of the beginning date set forth in Article 2 above.

[INSERT DEPARTMENT NAME]

(Approved as to content)

By: _____

NAME: **[Department Head]**

TITLE: **[Department Head]**

DATE: _____

CITY OF KINGSTON
NAME]

By: _____

NAME: Steven T. Noble

TITLE: Mayor

DATE: _____

[INSERT SUBRECIPIENT

By:

NAME: **[If known]**

TITLE: **[If known]**

DATE:

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE A
WORK PLAN

1. State that the Subrecipient will be performing the Services for the City. (Example: The Subrecipient shall run a housing rehabilitation program for the City's Department of Housing Initiatives.)
2. Provide a detailed description of **WHAT** Services the Subrecipient shall perform for the City.
3. State **WHERE** the Services shall be performed by the Subrecipient.
4. State **HOW** the Services are to be performed by the Subrecipient.
5. State **WHEN** the Services shall be performed by the Subrecipient.
6. Provide a detailed description of **WHAT** outcomes/products/deliverables are expected upon completion of the Services. (Example: The Subrecipient's program shall serve approximately X residents of the City of Kingston.)
7. State **WHEN** the work products/reports/deliverables are due.
8. State **WHERE**, to **WHOM**, and in **WHAT FORMAT** the work product/reports/deliverables are to be delivered.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE B

FEES, EXPENSES, AND SUBMISSIONS FOR PAYMENT

(TO BE COMPLETED IN CONSULTATION WITH COMPTROLLER)

1. The Subrecipient's compensation for the Work shall not exceed the amount of [**ENTER WRITTEN DOLLAR AMOUNT**] **AND** ___/100 (**\$.00 DOLLARS**) for the Term of this Agreement.
2. The Subrecipient shall submit reimbursement requests to the City's [**Enter Department Name here**] on a quarterly basis for the Services provided.
3. The Subrecipient shall submit original requests for reimbursement to the City for payment.
4. The Subrecipient shall submit its requests for reimbursement no later than fifteen (15) calendar days after the end of each quarter for the Work performed during that quarter.
5. The Subrecipient's requests for reimbursement shall contain, or have attached, sufficient supporting detail, as reasonably required by the City, to verify the claim.
6. In no event shall claims be submitted in advance or accrued prior to expenditure.
7. The Subrecipient's final request for reimbursement under this Agreement shall be submitted by the [**__th**] day of the month following the ending date contained in Article 2 (Term of Agreement).
8. The City will remit payment to the Subrecipient within sixty (60) days of approval of the request for reimbursement by the [**Department Head Title**] of the City's Department of [**Department Name**] and the City of Kingston Comptroller.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

9. Notwithstanding any other term or provision of this Agreement, including this Schedule B, the Subrecipient's requests for reimbursement, together with all documentation required, must be promptly and timely submitted.

10. The City reserves the right to reject payment of requests for reimbursement that are submitted more than one hundred twenty (120) days after the required submission date set forth above, regardless of whether the service, work, or delivery was rendered.

11. The Subrecipient agrees to meet any additional documentation requirements with respect to reimbursement that the City may from time to time require, with reasonable notice to the Subrecipient.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

PLEASE BRING THESE INSURANCE REQUIREMENTS TO YOUR INSURANCE AGENT TO ENSURE PROPER COVERAGE AND LIMITS ARE IN PLACE. FAILURE TO PROVIDE CERTIFICATE(S) OF INSURANCE EVIDENCING REQUIREMENTS BELOW SHALL DELAY CONTRACT EXECUTION.

SCHEDULE C
CITY OF KINGSTON CONTRACT INSURANCE REQUIREMENTS

I. CONDITIONS OF INSURANCE

Unless otherwise authorized by the Mayor, strict adherence to this schedule is required. Any deviation without prior authorization from the Mayor will result in a delay in the finalization of this Agreement.

The Firm shall submit copies of any or all required insurance documents as and when requested by the City. Upon policy renewal, the Firm shall submit updated insurance policy information.

II. CERTIFICATES OF INSURANCE

Prior to commencing work under this Agreement, the Firm shall file all proper Certificates of Insurance with the City.

The Certificates of Insurance shall include:

- a. Name and address of Insured
- b. Issue date of certificate
- c. Insurance company name
- d. Type of coverage in effect
- e. Policy number
- f. Inception and expiration dates of policies included on the certificate
- g. Limits of liability for all policies included on the certificate

If the Firm's insurance policies should be non-renewed or canceled, or should expire during the life of this Agreement, the City shall be provided with a new certificate indicating the replacement policy information as requested above. The City requires thirty (30) days prior written notice of cancellation [ten (10) days for non-payment of premium] from the Insurer, its agents or representatives.

The Firm agrees to indemnify the City of Kingston for any applicable deductibles and self-insured retentions.

III. WORKERS' COMPENSATION AND DISABILITY INSURANCE

The Firm shall take out and maintain during the life of this Agreement, Workers' Compensation (WC) Insurance and Disability Benefits (DB) Insurance, for all of its employees employed at the site of the project, and shall provide Certificates of Insurance evidencing this coverage to the City.

If the Firm is not required to carry such insurance, the Firm must submit form CE-200 attesting to the fact that it is exempt from providing WC and/or DB Insurance coverage for all of its employees. The manner of proof related to WC and DB Insurance is controlled by New York State Laws, Rules and Regulations. "ACORD" forms are not acceptable proof of WC and/or DB Insurance.

IV. WORKERS' COMPENSATION REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 57, a business entity (the Firm) seeking to enter into a contract with a municipality (the City) must provide one of the following forms to the municipal entity it is entering into a contract with. The Firm should contact their insurance agent to obtain acceptable proof of WC coverage:

- Form C-105.2 – "Certificate of NYS Workers' Compensation Insurance" **or**
- Form U-26.3 – "Certificate of Workers' Compensation Insurance" issued by the New York State Insurance Fund **or**
- Form SI-12 – "Affidavit Certifying that Compensation has Been Secured" issued by the Self-Insurance Office of the Workers' Compensation Board if the Firm is self-insured **or**
- Form GSI-105.2 – "Certificate of Participation in Workers' Compensation Group Self-Insurance" issued by the Self-Insurance administrator of the group **or**

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- Form GSI-12 – “Certificate of Group Workers’ Compensation Group Self-Insurance” issued by the Self-Insurance Office of the Workers’ Compensation Board if the Firm is self-insured.

If the Firm is not required to carry WC coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption” from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage. This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

V. DISABILITY BENEFITS REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 220(8), a business entity (the Firm) seeking to enter into a contract with a municipality (the City) must provide one of the following forms to the municipal entity it is entering into a contract with. The Firm should contact their insurance agent to obtain acceptable proof of DB Insurance Coverage:

- Form DB-120.1 – “Certificate of Insurance Coverage Under the NYS Disability Benefits Law” **or**
- Form DB-155 – “Compliance with Disability Benefits Law” issued by the Self-Insurance Office of the Workers’ Compensation Board if the Firm is self-insured.

If the Firm is not required to carry DB Insurance coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption” from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage. This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

VI. PROFESSIONAL LIABILITY INSURANCE (e.g. MALPRACTICE, MEDIA LIABILITY, ERRORS & OMISSIONS INSURANCE)

The Firm shall take out and maintain Professional Liability Insurance at its own expense for the duration of this Agreement. The Firm understands and agrees that it shall bear sole liability for any claims of legal malpractice, professional misconduct, ethics charges, or any other charges arising out of its performance of Services under this Agreement.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE D
Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) **Equal Employment Opportunity.** Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319, 12935, 3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) **Davis-Bacon Act**, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) **Contract Work Hours and Safety Standards Act** ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) **Clean Air Act** ([42 U.S.C. 7401-7671q](#).) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) **Debarment and Suspension** (Executive Orders 12549 and 12689) - A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) **Byrd Anti-Lobbying Amendment** ([31 U.S.C. 1352](#)) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) **Procurement of Recovered Materials.** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) **Prohibition on certain telecommunications and video surveillance services or equipment.**

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(L) Domestic Preferences for Procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

- (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(M) Energy Efficiency in Energy Consuming Products.

(a) Definition. As used in this clause – Energy efficient product

(1) Means a product that –

- (i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star ® trademark Label; or
- (ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Federal Energy Management Program.

(2) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e. Energy Star ® products or FEMP-designated products) at the time of contract award, for products that are-

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(3) Furnished by the Contractor for use by the Government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless-

(1) The energy-consuming product is not listed in the Energy Star ® Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for –

(1) Energy Star ® <http://www.energystar.gov/products>; and

(2) FEMP at <https://www.energy.gov/eere/femp/energy-efficient-products-and-energy-saving-technologies>.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE E
U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL
RECOVERY FUND AWARD TERMS AND CONDITIONS

1. Subrecipient agrees to comply with the requirements of section 603 of the Social Security Act (the “Act”), regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
2. Federal regulations applicable to this Agreement include, without limitation, the following:
 - a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - b. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - c. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - d. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
 - e. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - f. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - g. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - h. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - i. Generally applicable federal environmental laws and regulations.
3. Statutes and regulations prohibiting discrimination applicable to this Agreement include, without limitation, the following:
 - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

- d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
4. **Remedial Actions.** In the event of Subrecipient’s noncompliance with section 603 of the Act, other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
 5. **Hatch Act.** Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
 6. **False Statements.** Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
 7. **Publications.** Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.”
 8. **Debts Owed the Federal Government.**
 - a. Any funds paid to Subrecipient (1) in excess of the amount to which Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Subrecipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 8(a). Treasury will take any actions available to it to collect such a debt.
 9. **Disclaimer.**
 - a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
 - b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.
 10. **Protections for Whistleblowers.**
 - a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of the Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
11. **Increasing Seat Belt Use in the United States**. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
12. **Reducing Text Messaging While Driving**. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE F

Use this Schedule to attach additional reference material that should be incorporated into the Agreement. Create additional Schedules as needed if there are multiple documents. Examples: application forms/criteria used to screen potential recipients of services, copies of subrecipient's policies/procedures.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

SCHEDULE G
FEDERAL AWARD IDENTIFICATION

- Subrecipient Name:

- Subrecipient's Unique Entity Identifier:
 - Employer Identification Number:

 - Unique Entity Identifier (UEI):

- Federal Award Date: **May 26, 2021**

- Amount of Federal Funds Obligated to Subrecipient: \$

- Total Amount of Federal Funds Obligated to Subrecipient by the City of Kingston, including Current Financial Obligation: \$

- Name of Federal Awarding Agency: **United States Department of the Treasury**

- Name of pass-through entity: **City of Kingston**

- Contact information for awarding official of the City of Kingston:
 - Steven T. Noble, Mayor**
 - 420 Broadway**
 - Kingston, NY 12401**
 - mayor@kingston-ny.gov
 - (845)-334-3904**

- Assistance Listings Number: **21.027**

- Title of Assistance Listing: **Coronavirus State and Local Fiscal Recovery Funds**

- This award is not for Research and Development (R & D).

- Indirect Cost Rate for the Federal Award (Including if the de minimis rate is charged): _____

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program



QUESTIONS FORM

Please submit all questions pertaining to this RFP in writing no later than **June 1, 2023**. Please use this form and email questions to Bartek Starodaj at bstarodaj@kingston-ny.gov. All substantive questions will be responded to in the form of an addendum no later than **June 2, 2023**.

Date: _____

Company Name: _____

Contact Name: _____

Telephone Number: _____ Fax: _____

E-mail: _____

Questions:

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

PLEASE RETURN THE FOLLOWING SHEETS
WITH YOUR PROPOSAL

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

INFORMATION SHEET

NAME: _____

ADDRESS: _____

TYPE OF ENTITY: Corp. _____ Partnership _____ Individual _____ LLC _____

If a non-publicly owned Corporation:

NAME OF FIRM: _____

DATE OF ORGANIZATION: _____

If an LP, LLP, or LLLP:

PARTNERS: _____

NAME OF PARTNERSHIP: _____

DATE OF ORGANIZATION: _____

** If the business is conducted under an assumed name, a copy of the certificate required to be filed under the New York General Business Law must be attached.*

AFFIDAVIT OF NON-COLLUSION

NAME OF RESPONDENT: _____

BUSINESS ADDRESS: _____

I hereby attest that I am the person responsible within my firm for the final decision as to the prices(s) and amount of this proposal or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.

I further attest that:

1. The price(s) and amount of this proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition with any other contractor, Respondent or potential Respondent.
2. Neither the price(s), nor the amount of this proposal, have been disclosed to any other firm or person who is a Respondent or potential Respondent on this project, and will not be so disclosed prior to proposal opening.
3. No attempt has been made or will be made to solicit, cause or induce any firm or person to refrain from responding to this RFP, or to submit a proposal higher than the proposal of this firm, or any intentionally high or non-competitive proposal or other form of complementary proposal.
4. The proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from any firm or person to submit a complementary proposal.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any other firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by an firm or person to refrain from responding to this RFP or to submit a complementary proposal on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any project, in consideration for my firm's submitting a complementary proposal, or agreeing to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's proposal on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

City of Kingston, NY
RFP # K23-09: City of Kingston Right to Counsel Program

8. By submission of this proposal, I certify that I have read, am familiar with, and will comply with any and all segments of these specifications.

The person signing this proposal, under the penalties of perjury, affirms the truth thereof.

Signature & Title

Print Name & Title

Company Name

Date Signed _____ Federal ID _____