

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
AGREEMENT WITH

Toski & Co., CPA's, P.C.

NEW YORK STATE COMPTROLLER'S CONTRACT NUMBER C000969

THIS AGREEMENT (hereinafter "Agreement") is made effective as of the date of approval by the New York State Office of the State Comptroller's Bureau of Contracts after execution by all parties, and is by and between the New York State Office of the State Comptroller (hereinafter "OSC"), whose main office and principal place of business is 110 State Street, Albany, New York, 12236, and Toski & Co., CPA's, P.C. (hereinafter the "Contractor") whose office is located at 6390 Main Street, Williamsville, NY 14221.

W I T N E S S E T H

WHEREAS, OSC is required by the Executive Law of the State of New York to have an audit of its internal controls once every three years; and

WHEREAS, to meet this responsibility OSC issued a Request for Proposals dated September 10, 2014 (hereinafter "RFP") and attached hereto as Exhibit A soliciting proposals from qualified independent certified public accounting firms to perform the required audit; and

WHEREAS, the Contractor, among others, responded to the RFP with a proposal dated [] (hereinafter "Proposal") and attached hereto as Exhibit B indicating its willingness to provide the necessary deliverables; and

WHEREAS, based upon the evaluation of various proposals submitted in response to the RFP, it has been determined that the Contractor's proposal offered the best value and that it would be in the best interests of OSC to retain the services of the Contractor in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms set forth and the mutual covenants and obligations of the parties, the parties do hereby agree as follows:

I. AGREEMENT TERM

This Agreement shall be for a period commencing on approval by the OSC Bureau of Contracts and shall remain in effect for a period of up to six months.

II. DESCRIPTION OF DELIVERABLES

The Deliverables to be provided by the Contractor are as further described in **Exhibit A**, annexed hereto.

III. MERGER OF DOCUMENTS/CONFLICT OF CLAUSES/ORDER OF PRECEDENCE

This Agreement shall be deemed inclusive of Appendices A through and including H, and Exhibits A and B which are hereby incorporated into this Agreement as if herein set forth at length. Only documents expressly mentioned below shall be deemed a part of this Agreement.

1. Appendix A – Standard Clauses for NYS Contracts;

2. Agreement – (This Document);
3. Appendix B – Proposer and Contractor Compliance Requirements and Procedures for Participation by Minority Group Members and Women With Respect to OSC Contracts;
4. Appendix C – OSC Executive Policy Statement on Discrimination/Harassment Including Sexual Harassment;
5. Appendix D – The OSC Executive Order on Procurement Integrity and the OSC Procurement Integrity Procedures;
6. Appendix E – Proposer’s Certifications/Acknowledgements;
7. Appendix F – Proposer’s Disclosure of Prior Non-Responsibility Determinations;
8. Appendix G – OSC Consultant Disclosure Reporting Requirements;
9. Appendix H – Executive Order on Independence of Auditors;
10. Exhibit A – The RFP number 14-12, including the Questions and Answers; and
11. Exhibit B – The Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), including any clarifications thereto.

Conflicts between these documents shall be resolved in the following order of precedence:

1. Appendix A – Standard Clauses for NYS Contracts;
2. Agreement – (This Document, including Attachments A and B Appendices B through H);
3. Exhibit A – The RFP number 14-12, including the Questions and Answers; and
4. Exhibit B – The Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), including any clarifications thereto.

IV. COMPENSATION

For the Deliverables rendered pursuant to this Agreement, the Contractor shall be compensated at the rates set forth in Exhibit B2 hereto and corresponding with the submitted Proposal. Rates for Services are inclusive of all support services, travel, supplies, meals, lodging, and any of the Contractor’s other administrative or overhead costs. Compensation shall become payable only for Services actually rendered and Deliverables accepted by OSC.

The total compensation for deliverables provided under this Agreement shall not exceed the sum of \$89,950.

V. PAYMENT AND INVOICES

Compensation provided pursuant to this Agreement shall be payable upon the acceptance of the final report on OSC’s system of internal controls as outlined in the Section 4.3 Mandatory Deliverables of Exhibit A. Payment shall be made in accordance with Article 11-A of the State Finance Law.

- A. Further, all invoices must include the following information:
 1. OSC’s Agreement #C000969, Contractor’s taxpayer identification number, and Contractor’s New York State Vendor Identification Number;
 2. The total amount billed for the Deliverables invoiced;
 3. The beginning and ending dates of the billing period included in the invoice, and the expiration date of this Agreement;

4. The name and title of each person for whom time is billed; the dates and number of hours worked by each such person; a description of the services performed by such person, and the hourly fee rate of each such person;
 5. Any additional information necessary in order for OSC to properly process the invoice. OSC shall provide advance notice to Contractor of any additional information required to be included in the invoice.
 6. In order to track utilization of minority or women-owned business enterprise (M/WBE) participation goals as required by New York State Executive Law Article 15-A and 5 NYCRR 142.11, each invoice shall include **AC 3239-H M/WBE Expenditure Report of Appendix B**, which shall include the actual total cost of the contract work performed by each certified M/WBE for the work relating to the submitted invoice and the actual amounts of any payments made by the Contractor to each certified M/WBE as of the date the invoice is submitted. Failure to comply with the M/WBE participation goals set forth in **Appendices A and B** of the RFP, as they may change from time to time, may result in penalties. The Contractor's adherence to this updated law will preclude the need for any penalties delineated in **Appendix B**.
- B. All invoices shall be subject to OSC's acceptance of the deliverables for which billing is being made and are to be submitted via email (preferred) to contractinvoices@osc.state.ny.us or via hard copy mail to:

**Office of the State Comptroller
Financial Administration
Contract Payment Unit
110 State Street, Stop 13-2
Albany, NY 12236-0001**

With a copy via email (preferred) to ljolliffe@osc.state.ny.us or via hard copy mail to:

**Office of the State Comptroller
Office of Internal Control
110 State Street, Mail Stop 10-3
Albany, New York 12236-0001
ATTENTION: Laurel Jolliffe, Internal Control Officer**

VI. NOTICES

Any notice or other communication given pursuant to this Agreement shall be in writing and shall be effective either when delivered personally to the party for whom intended, or five (5) days following deposit of the same into the United States Postal Service mail (certified mail, return receipt requested, or first class postage prepaid), or upon actual receipt by the intended party if the same is sent by overnight mail service, addressed to such party at the address set forth in this Agreement. Either party may designate a different address by notice to the other given in accordance herewith.

The following are the names and contact information for the OSC and the Contractor. The parties shall notify each other, as soon as possible of any change.

OSC:

Name: Brian C. Matthews
Title: Director of Financial Administration
Address: Office of the State Comptroller
110 State Street, Stop 13-2

Albany, NY 12236-0001
Telephone: (518) 474-7574
Email: rfp@osc.state.ny.us

Contractor:

Name: Douglas E. Zimmerman, CPA
Title: Managing Director
Address: 6390 Main Street, Suite 200
Williamsville, NY 14221
Telephone: (716) 634-0700
Email: dzimmerman@toskicpa.com

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF CONTRACTOR

The Contractor hereby represents, warrants, and covenants that:

- A. The Contractor has completed, obtained and performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for its acts contemplated by this Agreement.
- B. The Contractor possesses the requisite degree of skill and experience with respect to the auditing services to be provided under this Agreement, and maintains and shall maintain professional staff possessing the experience, knowledge and character necessary to qualify them individually for the particular duties to be performed hereunder.
- C. The Contractor shall assign professional staff and other staff satisfactory to OSC to perform its duties pursuant to this Agreement. All employees of the Contractor or any subcontractor who shall perform Services under this Agreement shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services are to be provided or performed and shall be legally entitled to work in such jurisdiction. The Contractor shall comply with applicable federal and State employment laws.
- D. The Services provided hereunder shall be performed in a professional and workmanlike manner in accordance with applicable industry standards.
- E. The Contractor now has, and during the term of this Agreement shall continuously maintain and have, available sources of specialized information helpful to performing the Services required of it by this Agreement.

VIII. OSC RIGHTS REGARDING CONTRACTOR STAFF AND SUBCONTRACTORS

- A. The principal supervisory and management staff, including engagement partners, managers, and other supervisors who will be assigned to the engagement shall be those who are set forth in the Contractor's Technical Proposal. The Contractor shall notify OSC prior to a change in designation of these persons. Any person substituted for any of such staff shall possess at least the equivalent level of skill and experience, and shall fulfill the same requirements, as the person replaced. Such change in staffing shall be subject to the approval of OSC, which approval shall not be unreasonably withheld.
- B. The Contractor shall make principal supervisory and management staff, including engagement partners, managers, and other supervisors, who will be assigned available at all reasonable times to discuss matters under this Agreement with authorized representatives of OSC.

- C. Contractor shall be required to disclose to OSC its intention to enter into any subcontracts for the performance of any services under this Agreement. OSC shall have the right to approve or disapprove any and all proposed subcontractors prior to their performance of Services. The Contractor shall require all proposed subcontractors to complete such Appendices included in this Agreement as are deemed necessary by OSC and to submit same to OSC. The Contractor acknowledges that this requirement is ongoing for the term of this Agreement.
- D. Failure to disclose the identity of any and all subcontractors used by the Contractor, together with a detailed description of their responsibilities may, at the sole discretion of OSC, result in a disqualification of the subcontractor or termination of this Agreement.
- E. OSC reserves the right to remove any of the Contractor's or subcontractor's key staff if, in OSC's discretion, such key staff is not performing in accordance with this Agreement. The Contractor shall be fully responsible for performance of work by its staff and by subcontractor's staff. The Contractor shall be fully responsible to OSC for the acts and omissions of its subcontractors and of persons either directly or indirectly engaged by them in connection with the performance of this Agreement. OSC may request the removal of any subcontractor staff person assigned to perform services pursuant to this Agreement, for reasonable work related cause.

IX. RELATIONSHIP OF PARTIES; RIGHTS TO WORK PRODUCT

The relationship of the Contractor and/or its employees and its agents to OSC shall be that of an independent contractor, and not that of an agent or employee of OSC. The Contractor, as an independent contractor, shall not have the authority to contract for or bind OSC for any purpose whatsoever. The Contractor covenants and agrees that its employees and agents will not hold themselves out as agents, officers, or employees of OSC, and that they will not make any claim, demand, or application for any right or privilege applicable to any officer or employee of OSC, including but not limited to, Workers' Compensation coverage, Social Security coverage, or Retirement System benefits.

OSC shall not be responsible for providing Worker's Compensation Insurance coverage for the Contractor employees and agents performing services under this agreement. The Contractor shall secure such coverage as is required under the Worker's Compensation Law of the State of New York.

If the Contractor publishes a work related to any aspect of performance under this Agreement, or the results and accomplishments attained in such performance, OSC shall have, in addition to any rights and remedies it may have under this Agreement, a perpetual, royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

All work performed by Contractor and its personnel for OSC under the Agreement is intended as work for hire. Such work is specially ordered and commissioned for use as contributions to a collective work, or is other such work as specified by Section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York. Furthermore, OSC and the Contractor agree that the State of New York is the owner of all copyrights regarding such work. The Contractor warrants to the State of New York that it, and all of its staff, who have been, or may be used in regard to the Agreement, forfeit all past or future claims of title or ownership to the work produced under the Agreement.

X. COOPERATION

The Contractor and OSC and their respective agents, employees, and officers shall cooperate with each other to the fullest extent in connection with the Services to be provided under this Agreement. Pursuant to the terms and conditions of this Agreement and all appendices hereto, OSC shall supply and make available necessary information and personnel to assist the Contractor to perform the Services

contemplated hereunder.

XI. CONFIDENTIALITY, INFORMATION SECURITY, BACKGROUND INVESTIGATIONS, AND SECURITY

A. Definition

The term “Confidential Information” shall mean any and all information which is disclosed by either party (“Owner”) to the other (“Recipient”) verbally, electronically, visually, or in written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary. Confidential Information may include, but not be limited to, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information, financial information, confidential information concerning Owner’s past, current, or possible future products or methods, including information about Owner’s research, development, engineering, purchasing, manufacturing, accounting, marketing, selling, leasing, and/or software (including third party software).

Neither the Contractor nor any of its officers, directors, employees, subsidiaries, affiliates, partners, agents or subcontractors, shall at any time, either during the term of or after completion or termination of this Agreement, make any statement to the press or issue any material for publication through any media of communication bearing on the Services performed or data collected under this Agreement, without prior written approval of OSC, unless otherwise required by law.

For purposes of this Section, Confidential Information shall include, but not be limited to:

1. Personal information about individuals, e.g., home addresses, home telephone numbers, social security numbers, payroll information, account numbers, health status, etc.
2. Computer codes or other electronic or non-electronic information, the disclosure of which could jeopardize the security of OSC’s computer systems.
3. Any other material designated by OSC, verbally or in writing, as being “Confidential”.

B. Treatment of Confidential Information

Owner’s Confidential Information shall be treated as strictly confidential by Recipient and shall not be disclosed by Recipient to any third party except to those third parties operating under non-disclosure provisions no less restrictive than those in this Section and who have a justified business “need to know.” This Agreement imposes no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence: (a) was in the possession of, or was rightfully known by the Recipient without an obligation to maintain its confidentiality prior to receipt from Owner; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; (d) is independently developed by Recipient without the participation of individuals who have had access to the Confidential Information; or (e) is required to be disclosed by court order or applicable law provided notice is promptly given to the Owner and provided further that diligent efforts are undertaken to limit disclosure.

C. Confidentiality Information of the State

The Contractor understands that in the performance of the auditing services under this Agreement, the Contractor, its employees, directors, officers and subcontractors may receive or have access to Confidential Information, and agrees that the Contractor, its employees, directors, officers and subcontractors are: (i) required to take all appropriate action to protect the confidentiality of all

Confidential Information supplied to it or developed by it during the course of its performance under the Agreement; (ii) required to abide by all State confidentiality policies and procedures; and (iii) prohibited from copying, removing, communicating, or otherwise revealing any Confidential Information of State.

D. Background Investigations

OSC policy requires that background investigations be conducted on Contractor staff who will have access to OSC's IT systems, access to OSC confidential information/data, or routine access to any OSC facility. For purposes of this policy, "routine access" is defined as access to an OSC facility for five consecutive business days or ten business days over the annual term of the engagement. Accordingly with the signing of this Agreement, the Contractor certifies that it has conducted a background investigation, or will conduct a background investigation prior to services being provided to OSC, of such staff members who provide Services under this Agreement. At a minimum, background investigations shall include a review/evaluation of the following: Social Security Number search and verification of U.S. citizenship or legal immigration status (if appropriate); criminal history check/court records (Federal, State and local for the past five years); work experience/history (for the past five years); and pertinent education/professional credentials. Based on that background investigation, OSC has the right to review the results of the Contractor's background investigation and its supporting documentation upon request. OSC reserves the right to conduct its own background investigation of the Contractor's staff.

The Contractor must undertake a background investigation of any new/replacement staff during the term of this Agreement.

The Contractor certifies that staff provided to perform Services possess the necessary integrity and professional capacity to meet OSC's reasonable expectations. Subsequent to the commencement of Services, whenever the Contractor becomes aware, or reasonably should have become aware, that any staff member(s) providing Services to OSC no longer possess the necessary integrity or professional capacity, the Contractor shall immediately discontinue the use of such staff and notify OSC.

OSC has final approval of any staff furnished to provide Services and may refuse to approve any staff member(s) based on its review of the staff member's responsibility to perform the required Services. OSC reserves the right to bar anyone from access to OSC's premises and/or access to OSC's information resources. The Contractor will be required to maintain records related to the background investigations performed for the term of this Agreement.

For the purposes of this Section, "staff" includes employees, owners, officers, directors, and agents of the Contractor and of any of the Contractor's subcontractors.

E. Security

The Contractor shall be required to comply with all applicable facility and information security policies and procedures, including any required training, (both present and future) of OSC in performing the services under this Agreement.

The Contractor may not connect any non-State computer or telecommunications equipment to OSC network; personal and corporate laptop computers are included in this prohibition.

Where performance of Services involves use by the Contractor of State-owned or licensed, or OSC-owned or licensed, papers, files, computer disks or other electronic storage devices, data, or records at OSC or State facilities or offices, the Contractor shall not remove such records therefrom without the prior written approval from an authorized representative of OSC.

Upon completion, any records that are not required to be retained to support the Contractor's conclusions will be returned to OSC in hard copy and/or in electronic format. The Contractor will be required to securely delete any OSC data in their possession that is no longer needed for the project. The Contractor will be required to certify that such data has been destroyed.

XII. INDEMNIFICATION AND LIABILITY

- A.** Neither the Contractor, OSC, nor the State shall be liable for any delay or failure in performance beyond its control resulting from acts of war, hostility or sabotage; act of God; electrical, internet, or telecommunications outage that is not caused by the obligated party; or government restrictions, or other force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such force majeure events upon performance of their respective duties under this Agreement. If such event continues for more than ninety (90) days, either party may terminate all or any agreed upon portion of the Services immediately upon written notice. This Article does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures, or OSC's obligation to pay for Services provided by the Contractor which have been approved by OSC.
- B.** The Contractor shall be fully liable for any act or omission of the Contractor, its employees, subsidiaries, affiliates, partners, agents and subcontractors, and shall fully indemnify, defend and hold harmless OSC and the State, their officials, agents and employees, without limitation, from suits, actions, damages and costs of every name and description (including reasonable attorney's fees and expenses) arising from personal injury (including wrongful death) and/or damage to real or tangible personal property (including electronic systems, software, and databases) or intellectual property caused by any intentional act or negligence of the Contractor, its employees, subsidiaries, affiliates, partners, agents or subcontractors; provided, however, that the Contractor shall not be obligated to indemnify OSC for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of OSC.

For third party claims, OSC shall give the Contractor:

- 1. prompt written notice of any action, claim, suit, proceeding, or threat of such action relating to this Agreement;
 - 2. the opportunity to take over, settle, or defend any such action, claim, suit, or proceeding at Contractor's sole expense; and
 - 3. reasonable assistance in the defense of any such action at the expense of Contractor.
- C.** For all other claims, liabilities, and expenses arising under or related to this Agreement where liability is not otherwise set forth in this Agreement as being without limitation, and regardless of the basis on which the claim is made, the Contractor shall be fully liable for any act or omission of the Contractor, its employees, subsidiaries, affiliates, partners, agents or subcontractors. Such liability by Contractor for direct damages under this Agreement shall not exceed, in aggregate, the greater of the dollar amount of this Agreement, or two (2) times the charges paid to the Contractor. The Contractor shall not be responsible for loss of records or data unless the Contractor is required to back-up the records or data.
- D.** Notwithstanding the above, neither party shall be liable for any consequential, indirect, or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by OSC, the Contractor, or by others.
- E.** OSC may, in addition to other legal remedies available to it, retain from amounts otherwise due Contractor such monies as may be necessary to satisfy any claim for damages OSC may have against Contractor.

XIII. RESPONSIBILITY TERMS

- A. The Contractor covenants and represents that it has, to the best of its knowledge, truthfully and thoroughly completed the Contractor's Vendor Responsibility Questionnaire (hereinafter "Responsibility Questionnaire") provided to the Contractor by OSC prior to execution of this Agreement. The Contractor further covenants and represents that as of the date of execution of this Agreement, there are no material events, omissions, changes, or corrections to such document requiring an amendment to the Responsibility Questionnaire.
- B. The Contractor shall provide to OSC updates to the Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information related to such Responsibility Questionnaire becomes available. The Contractor shall, on an annual basis from the anniversary date of execution of this Agreement, re-certify such Responsibility Questionnaire, noting any changes, whether material or non-material, or submit a certification of "no change" to OSC.
- C. Notwithstanding Subsection (B) hereinabove, OSC reserves the right, in its sole discretion, at any time during the term of this Agreement, (i) to require updates or clarifications to the Responsibility Questionnaire, (ii) to inquire about information included in or omitted from the Responsibility Questionnaire, and (iii) to require the Contractor to provide such information to OSC within a reasonable timeframe to be established at OSC's sole discretion.
- D. OSC reserves the right to make a final determination of the Contractor's non-responsibility (hereinafter "Determination of Non-Responsibility") at any time during the term of this Agreement based on (i) any information provided in the Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (ii) the Contractor's failure to disclose material information; or (iii) State's discovery of any other material information which pertains to the Contractor's responsibility.
- E. If OSC preliminarily determines the Contractor to be non-responsible, State shall provide written notice to the Contractor detailing the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard before the determination is finalized.
- F. Upon a Determination of Non-Responsibility of the Contractor, OSC reserves the right to terminate this Agreement for cause pursuant to Section XVIII "Termination".

XIV. TERMINATION

- A. OSC may terminate this Agreement with or without cause upon thirty (30) days prior written notice. In the event of such termination, the Contractor shall be entitled to compensation for the Services performed through the date of termination which are acceptable to OSC, in its sole discretion.
- B. OSC reserves the right to terminate this Agreement, or to terminate the Contractor's Services with respect to a specific matter or matters immediately upon written notice to the Contractor, if OSC deems the Contractor's performance unsatisfactory at any time during the term of this Agreement, in its sole discretion.

XV. MISCELLANEOUS PROVISIONS

A. WAIVER

The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of

any other subsequent default or breach.

B. SEVERABILITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

XVI. REQUIRED APPROVALS

This Agreement and any amendment hereof shall not be deemed executed, valid, or binding unless and until approved in writing by the New York State Attorney General and thereafter, approved in writing by the OSC Bureau of Contracts pursuant to Section 112 of the State Finance Law, and filed in the Office of the State Comptroller.

XVII. ENTIRE AGREEMENT

This Agreement and the appendices, exhibits and attachments hereto constitute the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. The Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the parties hereto.

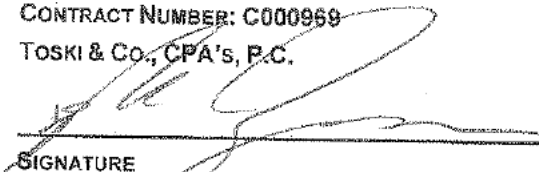
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

In addition to the acceptance of this Agreement, the OSC and Contractor signatures on this page also certify that originals of this signature page will be attached to all other originals of this Agreement.

CONTRACT NUMBER: C000969
TOSKI & Co., CPA's, P.C.

OFFICE OF THE STATE COMPTROLLER


SIGNATURE


SIGNATURE

Douglas E. Zimmerman, CPA
PRINTED NAME

BRIAN C. MATTHEWS
PRINTED NAME

Managing Director
TITLE

DIRECTOR OF FINANCIAL ADMINISTRATION
TITLE

December 15, 2014
DATE

1/6/15
DATE

CORPORATE ACKNOWLEDGEMENT

STATE OF New York)
COUNTY OF Erie)

) ss:

On the 15th day of December, in the year 2014 before me personally came Douglas E. Zimmerman, CPA to me known, who, being by me duly sworn did depose and say that (s)he resides in [REDACTED] that (s)he is the Managing Director in the firm/corporation described in and which executed the above instrument; and that (s)he signed his/her name thereto as a Managing Director thereof.


Notary Public

JOSEPH J. RYNDAK, JR
NOTARY PUBLIC, STATE OF NEW YORK
NO 01RYS066494
QUALIFIED IN NIAGARA COUNTY
Commission Expires November 4 2018

APPROVED AS TO FORM:

NYS ATTORNEY GENERAL
**APPROVED AS TO FORM
NYS ATTORNEY GENERAL**
BY: _____
DATE: JAN 08 2015
Benjamin L. Maggi
BENJAMIN L. MAGGI
ASSISTANT ATTORNEY GENERAL

APPROVED:

THOMAS D. RYNDAK, COMPTROLLER
APPROVED
DEPT. OF AUDIT & CONTROL
BY: _____
DATE: JAN 30 2015
[Signature]
FOR THE STATE COMPTROLLER

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE.

APPENDIX A
STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any

employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair 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 contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise

found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain

such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State 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 shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age,

disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES

AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

January 30, 2014

EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the Firm to treat all employees and applicants for employment fairly and without regard to race, creed, color, sex, religion, national origin, age, military status, marital status, citizenship status, disability, sexual orientation, or genetic predisposition or carrier status in accordance with New York State and Federal law. The Firm prohibits all forms of unlawful discrimination. This applies to all employment practices including recruiting, hiring, pay rates, training and development, promotions, assignments, discipline and benefits.

As part of this policy, the Firm also prohibits any form of unlawful harassment or other abusive conduct directed at employees, applicants, vendors or customers because of their race, creed, color, sex, religion, national origin, age, military status, marital status, citizenship status, disability, sexual orientation, or genetic predisposition or carrier status.

**YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE**

INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this form as part of its Administrative Proposal.

Proposer Name: Toski & Co., CPAs, P.C. Federal Identification Number: [REDACTED]

Address: 6390 Main Street, Suite 200 Procurement Number: 14-12

City, State, Zip Code: Williamsville, New York 14221 MWBE Participation Goals Assigned: MBE 10 % WBE 10 %

Does the Proposer have an existing EEO Policy? (Check one): Yes No
(if Yes, attach current copy of EEO Policy Statement.)

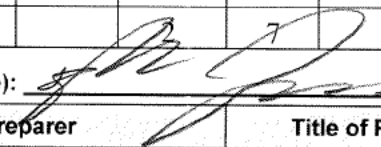
Is the Proposer ESD Certified: (Check one): Yes No
(If Yes, provide ESD Certification Number and Expiration Date.)

Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that can be separated out from the Contractor's/Subcontractor's total workforce.

Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that cannot be separated out from the Contractor's/Subcontractor's total workforce.

Enter in the following Job Categories the total number of staff by race, sex, and ethnic status to be utilized by the Proposer during the performance of this State Contract.

JOB CATEGORIES (as defined in the Instructions attached)	RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)														Total Columns A - N	
	Hispanic or Latino		(NOT HISPANIC OR LATINO)													
			White		Black or African-American		Native Hawaiian or Other Pacific Islander		Asian		American Indian or Alaska Native		Two or more races			
	A	B	C	D	E	F	G	H	I	J	K	L	M	N		
		Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Executive/Senior Level Officials and Managers			3													3
First/Mid-Level Officials and Managers			2													2
Professionals		2	2													4
Technicians																
Sales Workers																
Administrative Support Workers																
Craft Workers																
Operatives																
Laborers and Helpers																
Service Workers																
TOTAL:																9

Prepared by (signature): 

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address
Douglas E. Zimmerman, CPA	Managing Director	10/8/2014	(716) 634-0700	dzimmerman@toskicpa.com

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE**

Location and Description of Work to be Performed (expand as necessary):

Provide internal audit services.


**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
M/WBE GOAL REQUIREMENTS – CERTIFICATION OF GOOD FAITH EFFORTS**

Bidders/Proposers must document "good faith efforts" to provide meaningful participation by New York State Certified Minority and Women-Owned Business Enterprises ("M/WBE"s) as subcontractors and/or suppliers in the performance of this State Contract.

The undersigned hereby certifies under penalty of perjury that he/she has taken the following actions on behalf of the Bidder/Proposer to demonstrate the aforesaid good faith efforts (check as applicable):

a) The Bidder/Proposer attended any pre-bid meetings that were scheduled by OSC or the NYS Department of Economic Development ("DED") or its designee to inform M/WBEs of contracting and subcontracting opportunities available on the project.	<input type="checkbox"/>
b) The Bidder/Proposer identified economically feasible units of the project that could be contracted or subcontracted to M/WBEs in order to increase the likelihood of participation by such enterprises.	<input checked="" type="checkbox"/>
c) The Bidder/Proposer advertised in general circulation, trade association and trade-oriented, minority and women-focused publications, if any, concerning the contracting or subcontracting opportunity.	<input type="checkbox"/>
d) The Bidder/Proposer solicited and provided written notice to a reasonable number of M/WBEs identified from current certified lists of such business enterprises provided or maintained by the NYS Empire State Development's ("ESD") Division of Minority and Women-Owned Business Development ("DMWBD"), or its designee, of the contracting or subcontracting opportunity in sufficient time to allow the M/WBEs to participate effectively.	<input checked="" type="checkbox"/>
e) The Bidder/Proposer followed up initial solicitations by contacting the M/WBEs to determine whether the M/WBEs were interested in such contracting or subcontracting opportunity.	<input checked="" type="checkbox"/>
f) The Bidder/Proposer provided interested M/WBEs with adequate information about the plans, specifications, and requirements for the contracting or subcontracting opportunity.	<input checked="" type="checkbox"/>
g) The Bidder/Proposer used the services of community organizations, contractor groups, State and federal business assistance offices and other organizations identified by DED or its designee that provide assistance in the recruitment and placement of M/WBEs.	<input type="checkbox"/>
h) The Bidder/Proposer negotiated in good faith with M/WBEs submitting bids, proposals, or quotations and did not, without justifiable reason, reject as unsatisfactory any bids, proposals, or quotations prepared by any M/WBE. "Good faith" negotiating means engaging in good faith discussions with M/WBEs about the nature of the work, scheduling, requirements for special equipment, opportunities for dividing of work among the bidders, proposers, and various subcontractors and the bids of the M/WBEs, including sharing with them any cost estimates from the procurement documents, if available.	<input checked="" type="checkbox"/>

I have provided information on the above as requested for Procurement # 14-12 in Attachment A, Proposer's Certified Statements, Section 4.


Signature
14-12

Douglas E. Zimmerman, CPA, Managing Director
Printed or Typed Name and Title
October 8, 2014

Procurement Number

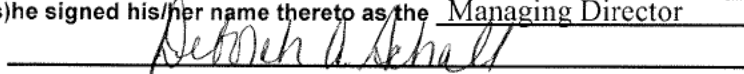
Date

STATE OF NEW YORK)

) ss:

COUNTY OF Erie)

On the 8th day of October in the year 2014 before me personally came Douglas E. Zimmerman, CPA to me known, who, being by me duly sworn, did depose and say that (s)he resides in [REDACTED]; that (s)he is the Managing Director of Toski & Co., P.C. which executed the above instrument; and that (s)he signed his/her name thereto as the Managing Director thereof.


Notary Public

DEBORAH A. SCHALL
Notary Public, State of New York
Qualified in Erie County
My Commission Expires November 7, 2014

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S M/WBE UTILIZATION PLAN**

INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this M/WBE Utilization Plan as part of its Administrative Proposal. Proposers must submit a separate M/WBE Utilization Plan for each M/WBE utilized.

Contractor Name: Toski & Co., CPAs, P.C.	Federal Identification Number: [REDACTED]
Address: 6390 Main Street, Suite 200	Procurement Number: 14-12
City, State, Zip Code: Williamsville, New York 14221	M/WBE Participation Goals Assigned: MBE 10 % WBE 10 %

LIST ALL M/WBE SUBCONTRACTORS AND/OR SUPPLIERS TO BE UTILIZED (ATTACH ADDITIONAL SHEETS IF NECESSARY).

M/WBE Name, Address, Email Address, and Telephone Number	Certification Classification (check all that apply.)	Federal ID No.	Please provide a brief description of services or supplies to be provided by each M/WBE identified here on Page 2.
A. Valles Vendiola LLP 91-31 Queens Boulevard, Suite 418 Elmhurst, New York 11373	NYS ESD Certified: <input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> WBE	[REDACTED]	
B.	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE		
C. ESD Certification Number:	D. ESD Certification Expiration Date:		

If Contractor will not be utilizing an M/WBE, check here , attach Form AC 3239-F, Request for Waiver, and include supporting documentation.
 If Contractor has previously submitted AC 3239-F, Request for Waiver, for this procurement, check here and enter date submitted: _____.

Prepared by (Signature):

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address
Douglas E. Zimmerman, CPA	Managing Director	October 8, 2014	(716) 634-0700	dzimmerman@toskicpa.com

Submission of this form constitutes the Contractor's/Subcontractor's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this procurement and OSC's right to evaluate and determine Contractor/Subcontractor adherence or compliance during the bid and award of said State Contract, pursuant to New York State Executive Law Article 15-A (the "Article") and the implementing regulations set forth under 5 NYCRR.

THIS SECTION FOR OSC USE ONLY

Reviewed by:	Date Received:	Utilization Plan Approved <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Approved:	M/WBE Certification Status: MBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No				
Deficiencies Identified: MBE <input type="checkbox"/> Yes <input type="checkbox"/> No / WBE <input type="checkbox"/> Yes <input type="checkbox"/> No	Notice of Deficiency Issued: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Notice of Deficiency:		Waiver Requested: <input type="checkbox"/> Yes <input type="checkbox"/> No (Partial <input type="checkbox"/> Total <input checkbox"="" type="checkbox/>)</td> </tr> <tr> <td>Waiver Granted
<input type="/> Yes <input type="checkbox"/> No	If Waiver Granted Total Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No Partial Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No		Waiver Approved by (Signature):	

NOTES:

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S/CONTRACTOR'S M/WBE UTILIZATION PLAN

Provide a brief description of the services or supplies to be identified by the subcontractor(s) identified above:

Provide internal audit services

Submission of this form constitutes the Contractor's/Subcontractor's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this procurement and OSC's right to evaluate and determine Contractor/Subcontractor adherence or compliance during the bid and award of said State Contract, pursuant to New York State Executive Law Article 15-A (the "Article") and the implementing regulations set forth under 5 NYCRR.

By submitting a bid/proposal, the Proposer/Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Proposer/Contractor compliance, and (ii) to be bound by the provisions of §316 regarding possible fines, sanctions, and penalties for violations of the Article.

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S M/WBE SUBCONTRACTORS/SUPPLIERS NOTICE OF INTENT TO PARTICIPATE**

INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this form as part of its Administrative Proposal. Part A must be completed and signed by the Proposer. Parts B and C must be completed and signed by each of the M/WBE subcontractors/suppliers identified on Form AC 3239-D (Proposer's M/WBE Utilization Plan).

PART A – TO BE COMPLETED BY THE PROPOSER FOR EACH M/WBE IDENTIFIED ON AC 3239-D


Proposer Name: Toski & Co., CPAs, P.C.		Federal Identification Number: [REDACTED]		
Address: 6390 Main Street, Suite 200		Procurement Number: <u>14-12</u>		
City, State, Zip Code: Williamsville, New York 14221		M/WBE Participation Goals to be met by the subcontractor: MBE <u>10</u> % WBE <u>10</u> %		
Telephone Number: (716) 634-0700		Email Address: <u>toski@toskicpa.com</u>		
Name of Proposer's Preparer	Title of Preparer	Date	Telephone Number	Email Address
Douglas E. Zimmerman, CPA	Managing Director	10/8/2014	(716) 634-0700	dzimmerman@toskicpa.com

PART B – TO BE COMPLETED BY EACH MBE/WBE IDENTIFIED ON AC 3239-D ACKNOWLEDGING THAT THE NAMED VENDOR INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE CONTRACTOR AND PROCUREMENT.

Name of Subcontractor/Supplier: Valles Vendiola LLP		Federal Identification Number: [REDACTED]		
Address: 91-31 Queens Boulevard, Suite 418		NYS ESDC Certification Status (Check one): <input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> WBE (attach copy of ESD Certification) <input type="checkbox"/> Have applied to ESDC for certification as <input type="checkbox"/> MBE <input type="checkbox"/> WBE		
City, State, Zip Code: Elmhurst, New York 11373		Provider type (Check one): <input checked="" type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier		
ESD Certification Number:	<u>20179218</u>	ESD Certification Expiration Date:		

Please provide a brief description of services or supplies to be provided on Page 2.

The undersigned is prepared to provide the services or supplies described on Page 2 and will enter into a formal agreement to do so with the Proposer named above upon execution of a State Contract between the Proposer and the Office of the State Comptroller.

Signature of Authorized Representative of the M/WBE Firm: 

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address
[REDACTED]	MANAGING PARTNER	9/30/14	[REDACTED]	[REDACTED]

Estimated Total Dollar Value of the Agreement to be entered into with the Subcontractor/Supplier: \$

THIS SECTION FOR OSC USE ONLY

Reviewed by	Date	Utilization Plan Approved	Date	Certification Verified
		<input type="checkbox"/> Yes <input type="checkbox"/> No		MBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No

NOTES:

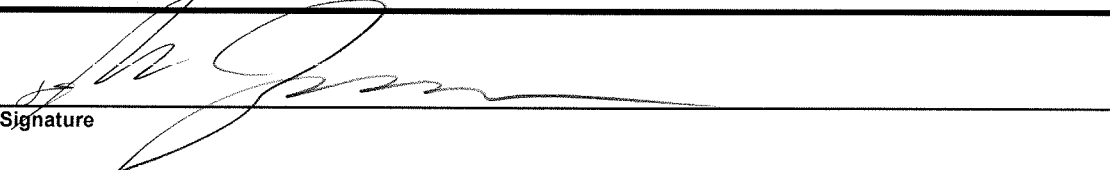
NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
PROPOSER'S M/WBE SUBCONTRACTORS/SUPPLIERS NOTICE OF INTENT TO PARTICIPATE

Description of Services or Supplies to be Provided (expand as necessary):

Provide internal audit services.

APPENDIX E

PROPOSER'S CERTIFICATION/ACKNOWLEDGEMENTS

<p align="center">PROPOSER'S ACKNOWLEDGEMENT OF RECEIPT OF OSC POLICY STATEMENT ON DISCRIMINATION/HARASSMENT (INCLUDING SEXUAL HARASSMENT)</p>
<p>By submission of this proposal, the Proposer and each person signing on behalf of the Proposer acknowledges that he/she has the authority to sign on behalf of the Proposer, has received a copy of the OSC Policy Statement on Discrimination/Harassment (Including Sexual Harassment) (Appendix C), and agrees to abide by the terms of that Policy Statement should the Proposer and OSC enter into the proposed contract.</p>
<p align="center">NON-COLLUSIVE BIDDING CERTIFICATION</p>
<p>By submission of this proposal, the Proposer and each person signing on behalf of the Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:</p> <ol style="list-style-type: none">1. The prices in this 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 proposer or with any competitor;2. Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and3. No attempt has been made or will be made by the Proposer to induce any other person, partnership, or corporation to submit or not to submit a proposal for the purpose of restricting competition.
<p align="center">PROPOSER'S ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY AND PROCUREMENT INTEGRITY PROCEDURES</p>
<p>By submission of this proposal, the Proposer and each person signing on behalf of the Proposer acknowledges that he/she has received a copy of the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures (Appendix D) and affirms, under penalty of perjury, that he/she understands such Executive Order and Procedures and will comply with them.</p>
<p align="center">THE SIGNATURE BELOW INDICATES AGREEMENT WITH EACH OF THE ABOVE.</p>
<p> Signature</p>
<p>Douglas E. Zimmerman, CPA Printed or Typed Name</p>
<p>Managing Director Title</p>
<p>October 8, 2014 Date</p>

APPENDIX F

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Have you been found by any governmental entity to be non-responsible within the past four (4) years from the date of this bid due to:

1. Impermissible contacts or other violations of New York State Finance Law Section 139-j (e.g., conduct prohibited by the ethics provisions of the New York State Public Officers Law)?

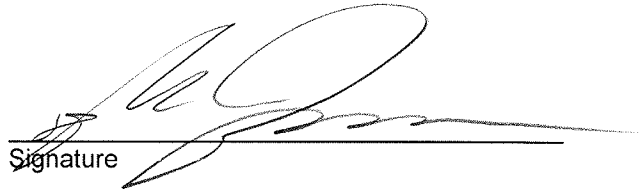
Yes No

2. Intentional provision of false or incomplete information to a governmental entity?

Yes No

If your answer to either of the above is "Yes", please attach a written explanation, indicating the date of the non-responsibility finding, the entity that found you to be non-responsible, and the circumstances surrounding such finding (including any written finding of non-responsibility issued by such entity).

By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to prior non-responsibility findings within the past four (4) years based on (i) impermissible Contacts or other violations of New York State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.


Signature

Douglas E. Zimmerman, CPA
Printed or Typed Name

Managing Director
Title

14-12
Procurement Number

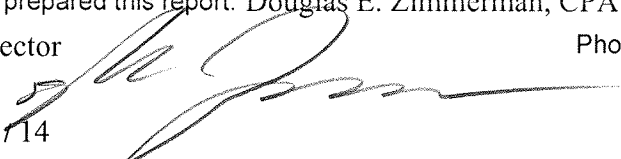
October 8, 2014
Date

FORM A

New York State Consultant Services
Contractor's Planned Employment
 From Contract Start Date Through The End Of The Contract Term

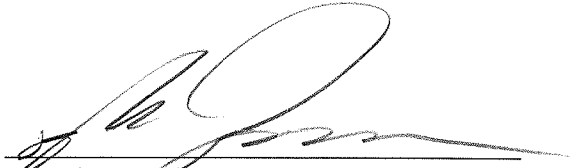
State Agency Name: Office of the State Comptroller	
State Agency Department ID: 3050000	Agency Business Unit: OSC01
Contractor Name: Toski & Co., CPAs, P.C.	Contract Number:
Contract Start Date: / /	Contract End Date: / /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
13-2011.02 - Auditors	9	970	85,950
Total this page	9	970	\$ 85,950
Grand Total	9	970	85,950

Name of person who prepared this report: Douglas E. Zimmerman, CPA
 Title: Managing Director Phone #: (716) 634-0700
 Preparer's Signature: 
 Date Prepared: 10/8/14
 (Use additional pages, if necessary) Page 1 of 1

***REQUIREMENTS CONCERNING COMPLIANCE WITH COMPTROLLER'S EXECUTIVE
ORDER ON INDEPENDENCE OF AUDITORS***

Toski & Co., CPAs, P.C. has no existing contractual relationship with the Office of the State Comptroller.



Douglas E. Zimmerman, CPA
Managing Director

FORM A

New York State Consultant Services Contractor's Planned Employment From Contract Start Date Through The End Of The Contract Term

State Agency Name: Office of the State Comptroller	
State Agency Department ID: 3050000	Agency Business Unit: OSC01
Contractor Name: Toski & Co., CPAs, P.C.	Contract Number:
Contract Start Date: / /	Contract End Date: / /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
13-2011.02 - Auditors	9	970	85,950
Total this page	9	970	\$ 85,950
Grand Total	9	970	85,950

Name of person who prepared this report: Douglas E. Zimmerman, CPA
 Title: Managing Director Phone #: (716) 634-0700

Preparer's Signature: 
 Date Prepared: 10/8/14