

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is made on the 15th day of January, 2016 in the Territory of the Virgin Islands, by and between the GOVERNMENT OF THE VIRGIN ISLANDS, Bureau of Economic Research, Office of the Governor (hereinafter referred to as "Government") located at 21-22 Kongens Gade, St. Thomas, U.S. Virgin Islands, 00802 acting through the Department of Property and Procurement, and John Mullin and Zenia Kotval d/b/a Mullin Associates, (hereinafter referred to as the "Contractor") located at 206 North Valley Road, Pelham, MA 01002.

WITNESSETH:

WHEREAS, Act No. 7027, passed by the 27th Legislature of the Virgin Islands in September 2008, mandated the Bureau of Economic Research to complete a the USVI 2010-2011 Living Wage Standard as a measure of economic self-sufficiency for individuals and families in the Virgin Islands.

WHEREAS, the Chairman of the Committee on Education and Workforce Development, 31st Legislature of the Virgin Islands, has requested the Bureau of Economic Research to update the 2010-2011 USVI Living Wage Standard and Policy Recommendations for implementation of a Living Wage mandate.

WHEREAS, the Government is in need of the services of a Contractor to which duties and responsibilities are more particularly described hereto; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services;

Now, Therefore, it is mutually agreed between the parties hereto that:

1. **SERVICES**

The Contractor shall provide the services described in Addendum I attached to this Contract.

2. **TERM**

The term of this Agreement shall commence upon the signature of the Governor and terminate on December 31, 2016.

3. **COMPENSATION**

In consideration of the satisfactory performance of the services set forth herein, the Government shall pay to John Mullin and Zenia Kotval d/b/a Mullin Associates the sum of ONE HUNDRED SIXTEEN THOUSAND EIGHT HUNDRED DOLLARS (\$116,800.00), as provided in Addendum II attached to this Contract.

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4. **TRAVEL EXPENSES**

Inclusive to the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These cost shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed FOUR THOUSAND EIGHT HUNDRED (\$4,800.00).

5. **RECORDS**

The Contractor, when applicable, will present documented, precise records of time and/or money expended under this Contract.

6. **PROFESSIONAL STANDARDS**

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. **DOCUMENTS, PRINTOUTS, ETC.**

All documents, books, records, instructional materials, programs, printouts, and memoranda of every description, including those in electronic format, derived therefrom and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract, or upon the Government's reasonable demand. The above-described materials shall not be used by the Contractor or by any other person or entity except upon the written permission of the Government, which consent may not be unreasonably withheld. The files, database summaries or any other program and reports developed for use in this project become the sole possession of the Government and cannot be used or copied for any purpose other than stipulated in this contract. The Contractor will not provide or otherwise make available or distribute any program or material in any form without the written consent of the Government.

8. **LIABILITY OF OTHERS**

Nothing in this Contract shall be construed to impose any liability upon Government persons, firms, associations, or corporations engaged by Contractor as servants, agents, independent contractors, or in any other capacity whatsoever, or make the Government liable to any such persons, firms, associations or corporations for the acts, omissions, responsibilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

9. **ASSIGNMENT**

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The Contractor shall not subcontract or assign any part of the services under this contract without the prior written approval of the Government.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless the Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expenses (including attorney's fees) and causes of action of whatsoever character which the Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

The Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representative, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as

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the Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, the Government may apply such sums in such manner as the Government may deem proper to secure itself or to satisfy such claims. The Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by the Government if and while Contractor gives satisfactory assurance to the Government that such claims will be paid by the Contractor or its insurance carrier, if applicable, in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

17. TERMINATION

Either party hereto may terminate this Contract with or without cause on thirty (30) days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may, be terminated by the Government, in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the thirty (30) days notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, national origin or handicap.

20. EFFECTIVE DATE

The effective date of this Contract is upon the signature of the Governor.

21. CONFLICT OF INTEREST

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(a) Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

(b) Contractor further covenants that it is:

- (1) Not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensation on a salary, fee or contractual basis); or
- (2) a territorial officer or employee and, as such, has:
 - (i) familiarized itself with the provisions of Title 3, Chapter 37, Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
 - (ii) not made, negotiated or influenced this contract, in its official capacity;
 - (iii) no financial interest in the contract as that term is defined in section 1101, (1) of said Code chapter.

22. NOTICES

Notices required to be given, by the Terms of this Contract shall be deemed given when the same is sent by certified mail, postage prepaid or personal delivery or Certified Mail, Return Receipt Requested to:

Government:	The Honorable Randolph N. Bennett Commissioner Designee Department of Property and Procurement Sub-Base 3 rd Floor St. Thomas, VI 00802
With a copy to:	Ms. Bernadette V.M. Melendez Director Bureau of Economic Research Office of the Governor 21-22 Kongens Gade St. Thomas, USVI 00802
Contractor:	Mr. John R. Mullin and Ms. Zenia Kotval Principals Mullin Associates 206 North Valley Road Pelham, MA 01002

23. LICENSURE

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The Contractor covenants that it has:

- a. obtained all of the applicable licenses or permits, temporary or otherwise, as required by Title 27 of the Virgin Islands Code; and
- b. familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

24. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

25. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

26. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The contractor shall include this provision in each of its sub-contracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the contractor or sub-contractor misrepresents its eligibility to receive contract awards using federal funds, the contractor or sub-contractor agrees that it shall not be entitled to payment for any work performed under this contract or sub-contract and that the contractor or sub-contractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. If, during the term of this contract, the contractor shall become ineligible to receive contract awards using federal funds, this contract shall be terminated forthwith for cause and the contractor shall not be entitled to payment for any work performed under this contract or sub-contract after the effective date of such ineligibility.

27. OTHER PROVISIONS

Addendum I and Addendum II attached hereto are a part of the Contract and are incorporated herein by reference.

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IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS
DEPARTMENT OF PROPERTY AND
PROCUREMENT

Charles R. Divil

by: [Signature] 12/9/15
Randolph N. Bennett Date
Commissioner Designee

OFFICE OF THE GOVERNOR
BUREAU OF ECONOMIC RESEARCH

Donnie E. Dwyer

by: [Signature] 11/9/15
Bernadette V.M. Melendez Date
Director

JOHN MULLIN and ZENIA KOTVAL d/b/a
MULLIN ASSOCIATES,

[Signature]

by: [Signature] 10/20/2015
Zenja Kotval Date
Principal

APPROVED:

[Signature]
Honorable Kenneth E. Mapp
Governor of the Virgin Islands

1-15-16
Date

Approved as to Legal Sufficiency
Department of Justice by:

[Signature] 12/9/15
Date

Account Code No.: _____
MED No.: _____

CERTIFICATE OF APPROVAL

[Signature] ZK