

**AGREEMENT BETWEEN
EPR, P.C., AND
The Town of Irvington, Virginia
CONSULTING SERVICES**

This Agreement entered into on the 5th day of January 2022, by and between EPR, P.C, a Virginia Professional Corporation, having offices at 902 East Jefferson Street, #101, Charlottesville, VA 22902, and hereafter called "EPR", and the Town of Irvington, a political subdivision of the Commonwealth of Virginia, having its administrative office at 4203 Irvington Road, Irvington VA, and hereafter called "the Client".

WITNESSETH:

WHEREAS, the Client desires to consulting services for a comprehensive plan survey, a comprehensive plan update, and a zoning code audit;

WHEREAS, the Client issued a Request for Proposals Planning Services for these services that set a proposal due date for August 30, 2021;

WHEREAS, after competitive negotiation, Client has selected EPR to perform such services;

WHEREAS, EPR certifies that it is authorized to conduct business in Virginia;

WHEREAS, the Client authorized the Client to enter into such agreement;

NOW, THEREFORE, for and in consideration of the promises, the mutual benefits to the parties from entering into this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

SECTION 1. STATEMENT/SCOPE OF WORK.

- A. EPR will provide services to Client as set forth in the attached Scope of Services ("Scope of Services"/"Services") attached hereto as Exhibit A and a part hereof.
- B. EPR will use its staff to provide the Services to Client.
- C. EPR and their respective employees, are and shall remain independent contractors in performing the Services under this Agreement.
- D. Services shall be performed and completed by EPR within the time frames set forth in the Scope of Services or a Task Order, as appropriate, time being of the essence of this provision.

SECTION 2. COMPENSATION, METHOD OF PAYMENT, TIME OF PERFORMANCE AND TERMINATION.

- A. **Compensation.** Client shall compensate EPR for the Services performed based upon the terms described within the Scope of Services or the Task Order.
- B. **Payment to EPR.** Client shall pay EPR for the Services performed as set forth in the Payment Schedule included in the Scope of Services or Task Order. If no Payment Schedule is so included, Client shall make payment within thirty (30) days after receipt of a bill for services from EPR.
- C. **Term.** This Agreement shall commence on January 5, 2022, and shall continue for a period of 18 months, and may be extended for a period of time upon mutual agreement by both parties pursuant to Section 6 of this Agreement, but shall remain subject to termination for convenience at any time pursuant to Section 2(D) or for non-appropriation of funding by Client.
- D. **Termination for Convenience.** Either the Client or EPR may terminate this Agreement at any time, by giving written notice to the other party of such termination and specifying the effective date thereof, but with a minimum of 30 calendar days of such termination.
- (1) In the event of termination, whether for convenience, non-appropriation or default, all finished and unfinished documents and other materials produced by EPR specifically for the Client shall be delivered to and become the property of the Client.
 - (2) In the event of termination, EPR shall be paid for the Services performed prior to the effective date of termination. Upon request, EPR will provide the Client with documentation of the Services performed prior to the effective date of termination. Neither lost profit nor anticipatory profit will be paid.
- E. **Termination for Default [Breach or Cause].** The Client or EPR may terminate this Agreement for default for failure to comply with the terms of this Agreement or for reasonable cause by giving a written notice to the other party of such termination specifying the effective date thereof. The notice shall set forth the nature of the default of the Agreement.
- (1) In the event of termination by the Client, EPR shall be paid for Services performed up to the effective date of termination in accordance with the manner of payment set forth in the Agreement. If it is later determined that EPR had an excusable reason for not performing such as natural disasters or other events which are beyond the control of EPR, the Parties may, but shall not be required to, agree for EPR to continue to provide the Services. Neither lost profit nor anticipatory profit will be paid.

- (2) After receipt of written notice from the Client setting forth the nature of said breach or default, EPR may request, and the Client may, but shall not be required to, agree to provide EPR time to remedy any breach or default to the satisfaction of Client. If the Client does not agree to allow EPR to remedy the default, EPR shall immediately cease providing Services.

SECTION 3. RESPONSIBILITIES OF EPR.

- A. EPR agrees to use the records and information gathered or otherwise used pursuant to this Agreement only for the advancement of the interests of Client, and as further provided in Section 5(D) of this Agreement.
- B. EPR will not substitute staff or Subcontractors assigned to this Agreement without the prior written consent of Client.
- C. EPR will provide all services under this Agreement in a manner consistent with applicable laws, professional standards and its best efforts.
- D. EPR, its staff, and Subcontractors shall comply with Client's standards for acceptable workplace conduct and safety, and shall all times conduct themselves in a professional manner.
- E. EPR and its Subcontractors shall maintain at least One Million Dollars of commercial general liability insurance to cover their actions or omissions, and Workers' Compensation insurance in the statutory amount to cover work-related injuries to their employees. Upon request, EPR shall promptly provide the Client with evidence of such insurance.

SECTION 4. RESPONSIBILITIES OF THE CLIENT.

- A. Without charge to EPR, Client agrees to provide all policies, information, communications, records, data, information and forms which are available to the Client and needed by EPR in order to perform the Services.
- B. EPR and its Subcontractors and their respective employees are Independent Contractors (IC), pursuant to Section 1(C) and maintain insurance as set forth in Section 3(E) herein.
- C. The Client shall communicate any concerns about EPR staff or Subcontractor performance to EPR representative set forth in Section 5, unless otherwise specifically set forth within the Scope of Services.

SECTION 5. ADMINISTRATION OF THE AGREEMENT.

- A. All notices and communications with respect to the terms of this Agreement and the performance of the Services shall be through the Party Representatives and parties copied named below. The Party Representatives are:

Client's representative shall be:

Brian Forrester
Planning Commission
Town of Irvington
(804) 438-6230
bforrester@town.irvington.va.us

with a copy to:

Andrew R. McRoberts
Sands Anderson PC, Town Attorney
P.O. Box 1998
Richmond, VA 23218-1998
(804) 783-7211
amcroberts@sandsanderson.com

EPR's representative shall be:

Lynette Wuensch
President
(434) 202-5082
lwuensch@epr-pc.com

- B. ***Incorporated Provisions.*** This Agreement shall be performed in accordance with the Client's RFP and the applicable, required contractual provisions set forth in the Client's purchasing or procurement regulations, and the Virginia Public Procurement Act, §§ 2.2-4300, *et seq.*, VA Code Ann., in effect at the time of this Agreement, including without limitation those pertaining to non-discrimination § 2.2-4310 and - 4311, compliance with immigration laws § 2.2-4311.1, drug-free workplace § 2.2-4312, which provisions are incorporated herein by reference.
- C. ***Contractual.*** Disputes with respect to this Agreement shall be governed by § 2.2-4363 VA Code Ann. or similar provision in Client's purchasing or procurement ordinances or regulations.
- D. ***Ownership and Status of Documents.***
- (1) All documents prepared by EPR specifically for the Client shall become the property of

the Client upon completion of Services, or the earlier termination of this Agreement. EPR shall have the right to retain appropriate copies of all such documents for its records, and to reuse any template documents which it prepared for the Client.

- (2) Records provided to EPR by the Client and records prepared by EPR specifically for the Client shall be kept confidential by EPR until released or approved for release by the Client. EPR will cooperate with the Client in complying with the requirements of § 2.2-4342 VA Code Ann. and any requirements of the Virginia Freedom of Information Act applicable to such records.
- (3) EPR shall maintain financial records, supporting documents, statistical records, and other records pertinent to this Agreement for three (3) years from the date of final payment, and make those records available to the Client upon written request.

SECTION 6. CHANGES TO AGREEMENT.

- A. Any modification or change to this Agreement must be set forth in a written Addendum to this Agreement and signed by authorized representatives of both parties.
- B. The parties hereto may, from time to time, propose changes in the attached Scope of services or in EPR's performance requirements. Such changes must be mutually agreed upon by the parties in writing, signed by the authorized representatives of both parties.

SECTION 7. MISCELLANEOUS PROVISIONS.

- A. Protection of Confidential Information. EPR agrees that at all times during or subsequent to the performance of the Services, EPR will keep confidential and not divulge, communicate, or use Client's Information, except for EPR's own use during the Term of this Agreement to the extent necessary to perform the Services. EPR further agrees not to cause the transmission, removal or transport of tangible embodiments of, or electronic files containing, Client's Information from Client's principal place of business, without prior written approval of Client.
- B. Liability. The Client shall not be liable for injury or death occurring to EPR or any of its employees or other assistants in the course of performing this Agreement unless the harm or death is caused by the Client's gross negligence.
- C. Indemnification. EPR hereby indemnifies the Client, its subsidiaries, and affiliates, and their officers and employees, from any damages, claims, liabilities, and costs, including reasonable attorney's fees, or losses of any kind or nature whatsoever ("Loss") which may arise from the EPR's negligence related to the services performed by EPR hereunder, the work of employees of EPR while performing the Services of EPR hereunder, or any breach or alleged breach by EPR of this

Agreement, including the warranties set forth herein. The Client shall retain control over the defense of, and any resolution or settlement relating to, such Loss. EPR will cooperate with the Client and provide reasonable assistance in defending any such claim.

SECTION 8. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered in the Commonwealth of Virginia and shall be governed by laws of the Commonwealth of Virginia, both as to interpretation and performance.
- B. Any action of law, suit of equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in the County of Lancaster, Virginia.

SECTION 9. SEVERABILITY.

If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining parts, terms, and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be illegal, invalid, void, or unenforceable.

IN WITNESS WHEREOF the parties hereto have caused this AGREEMENT to be executed the day and year first hereinabove written.

THE TOWN OF IRVINGTON,
a Virginia municipal corporation

By: Julie W. Harris
Julie Harris, Mayor

APPROVED AS TO FORM:

Andrew R. McRoberts
Andrew R. McRoberts, Town Attorney

EPR, P.C.
A Virginia Professional Corporation

By: Lynette Wuensch
Lynette Wuensch, President

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF WORK

The following scope of work outlines an 18-month process that consists of five tasks, with several detailed subtasks. The final deliverables will be a plan and code audit that is:

- User-friendly,
- Accessible,
- Integrated into other planning efforts, and
- Focused on detailed guidance and results.

OVERVIEW OF TASKS

Tasks	Sub-Tasks
Phase I: Comprehensive Plan Survey	Task I-1: Pre-Survey Town Tour and Meeting Task I-2: Survey Development Task I-3: Sample Frame Task I-4: Survey Distribution Task I-5: Survey Reporting Task I-6: Existing Comprehensive Plan assessment
Phase II: Comprehensive Plan Update or Redevelopment	Task II-1: Public Engagement Task II-2: Community assessment Task II-3: Existing conditions Task II-4: SWOT Analysis Task II-5: Plan Development
Phase III: Zoning Code	Task III-1: Code Audit Task III-2: Public Engagement Task III-3: Report on Code Recommendations Task III-4: Report Presentations

Integrated in each task is project management. EPR typically develops a Project Management Plan that serves as a charter document for the process. It formalizes regular calls with local leaders, defines schedules and milestones, and functions as an administrative and more detailed version of the contracted scope of work.

PHASE I: COMPREHENSIVE PLAN SURVEY

EPR's project manager, Will Cockrell, is an adjunct faculty member in Urban and Environmental Planning at the University of Virginia. His Planning Methods class includes coursework on surveys. He will use his knowledge and experience to develop the survey

instruments, define a sample frame and distribution plan, and create a report that guides the next steps in the process.

Task I-1: Pre-Survey Town Tour and Meeting

EPR will meet town officials on site for a tour of Irvington and will meet with Town Council. This step will help to prepare for the surveying effort.

Task I-2: Survey Development

An engagement plan will identify the Town's goals for this effort. EPR will help local officials determine goals and objectives for the survey. The pre-survey work will be critical to achieving a successful engagement process.

Task I-3: Sample Frame

The sample frame is the target audience. EPR will work with local officials to match the right survey approach to the audience. This task will include the development of initial strategies for distribution.

Task I-4: Survey Distribution

Distribution strategies are critical for an effective surveying effort. EPR will assemble a list of approaches for reaching the entire sample frame and increasing the overall response rate. This task will include options for online and in-person distribution. EPR will prepare a hardcopy version appropriate for printing and mailing.

Task I-5: Survey Reporting

EPR will develop a summary report and presentation to document and analyze the survey results. The report will include the subsequent steps and how to use these results in the comprehensive plan process. This task will include a post-survey meeting that will review survey results and identify next steps.

Task I-6: Existing Comprehensive Plan assessment

EPR will begin by reviewing the existing Comprehensive Plan and any other relevant documents. The process will evaluate goals, policies, and recommendations to determine which are still pertinent. This task will also help determine the extensiveness of the update.

PHASE II: COMPREHENSIVE PLAN UPDATE OR REDEVELOPMENT

To create a foundation for the Comprehensive Plan, the EPR Team will analyze demographic and housing data. Population trends and projections will drive the demand for new housing over the next decade. Examining changes in the population, including average household size, racial composition, median household income, and age, will help understand the Town's future growth. The update will include a fundamental analysis of the local economy, environmental features, transportation, and other topics addressed in the plan.

Task II-1: Public Engagement

EPR specializes in public and stakeholder engagement, working with communities

across the country through EPA technical assistance programs. We believe in a multifaceted process that uses customized engagement goals that guide specific strategies.

Sub-Task II-1.1: Public Engagement Plan

EPR starts these processes with a Public Engagement Plan that determines engagement goals, measures of success, strategies that implement stated goals, and schedules. Each phase of the process is different from the other, requiring a different method for accomplishing the objectives of each step.

Sub-Task II-1.2: Public Outreach

Our office will work in a variety of formats to help promote opportunities for local public engagement. Public outreach may include drafting press releases, social media content (Twitter, Facebook, LinkedIn, etc.), web content, or working with local newspapers or other media, to help the Town promote the planning process. Each forum requires unique messaging, image resolutions, and strategies.

Sub-Task II-1.3: Comprehensive Plan – Stakeholder Interviews

While surveys effectively engage a larger sample frame, interviews provide greater detail, nuance, and vividness that are not possible with any other approach. EPR will conduct a dozen interviews with critical local stakeholders. The process may include stakeholder groups with multiple individuals formed with each discussion. Interviews may occur in person or via phone.

Sub-Task II-1.4: Comprehensive Plan – Public Meetings

Comprehensive Plan processes typically include public meetings. This scope assumes three forums. The first would be early in the process. The second will involve a more detailed conversation in the middle of the timeline. The third will be an opportunity to review the draft plan.

Task II-2: Community assessment

EPR will collect information on the Town to develop a fuller understanding of existing and future issues. It will include a review of property records, assessment of aerial photography, a site visit, and a windshield survey of the Irvington. This effort will help to identify the essential issues and desirable qualities for Irvington, as discovered in the Survey findings.

Task II-3: Existing conditions

An early task will be community assessment. EPR will collect and analyze data to develop a "State of the Town" document that will serve as content for the updated Comprehensive Plan. The report will include information on housing, demographics, the local economy, transportation, and other topics.

Task II-4: SWOT Analysis

EPR recommends a SWOT analysis that identifies Strengths, Weaknesses,

Opportunities, and Threats to the Town. Data from previous tasks will populate this exercise. It will help Irvington determine how to build on its strengths, overcome weaknesses, take advantage of future opportunities, and mitigate upcoming threats.

Task II-5: Plan Development

EPR will develop content, graphics, and a format for the plan with information from the previous tasks and a robust engagement process. Our office will provide two presentations to the Planning Commission to review the document. Local officials are responsible for facilitating final approval with the Town Council.

PHASE III: ZONING CODE

With the Comprehensive Plan complete, EPR will develop a code audit. A final report will document consistencies with the new plan. It will also offer recommendations for increasing the zoning ordinance and creating greater uniformity between local laws and policies.

Task III-1: Code Audit

As the main policy document, the Comprehensive Plan will serve a central role with a code audit. EPR will review the zoning ordinance and develop an inventory of code sections that conflict with local policies.

Task III-2: Public Engagement

The zoning audit should also include stakeholder interviews. This task will consist of 10 interviews, which could involve stakeholder calls. For the zoning code, developers and others that commonly use the local regulations should be the primary target audience.

Task III-3: Report on Code Recommendations

EPR will develop a final report on the code audit, documenting conflict areas between policies and laws. The report will also include recommendations, best practices, and next steps.

Task III-4: Report Presentations

EPR will make a presentation of the findings to the Town's Planning Commission and Council. Our office will follow up with amendments to the audit based on Commission and Council comments. EPR will be available to answer questions and provide follow-up responses.

TIMELINE

The process will span 18 months, illustrated below.

Phase	Months																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
I																		

2																			
3																			

- **Phase I:** Comprehensive Plan Survey
- **Phase II:** Comprehensive Plan Update or Redevelopment
- **Phase III:** Zoning Code

COST

The proposed budget is \$91,240. The following table presents a detail breakdown of costs by task.

Phases		Budget
Phase I	Comprehensive Plan Survey	\$19,800
Phase II	Comprehensive Plan Update or Redevelopment	\$45,540
Phase III	Zoning Code	\$21,660
Direct Expenses (travel, printing, etc.)		\$4,240
Totals:		\$91,240