



To: Mayor and Town Council Members

From: Mark C. Meyers, Town Manager

Date: August 6, 2026

Subject: Building Official Agreement 2.0; Ordinance Creating Position

Background

At the July 21, 2026, Town Council meeting the Council approved an independent contractor agreement with John Postert providing for building official and inspection services. At the time errors in the agreement were identified. Following the meeting, and upon further review, it was determined that additional changes in the agreement are necessary. These changes relate to references in state statute. They do not change the terms of the agreement like scope and cost for service. However, the revisions are significant enough to necessitate the agreement being reconsidered and formally adopted by the council. The revised agreement is attached.

In addition, it is recommended that the Council adopt an ordinance to create the position of Building Official. A draft is attached for Town Council's review.

Recommendation

Staff recommends the Town Council approve a revised professional services agreement with John Postert for the provision of building official and inspection services and adopt an ordinance creating the position of Building Official at the August 18, 2026, regular council meeting.

INDEPENDENT CONTRACTOR AGREEMENT

(Building Official and Building Inspector)

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is made and entered into on the day of August 18, 2026, by between VIRGIN TOWN, a Utah municipal corporation ("the Town") and JOHN POSTERT, an individual ("Contractor"). Throughout this Agreement, the Town and Contractor may individually referred to as a "Party" and collectively as "the Parties".

AGREEMENT

IN CONSIDERATION OF the mutual covenants set forth below, the Town agrees to engage Contractor and Contractor agrees to work for the Town as set forth in this Agreement.

1. Appointment/Description of Duties/Terms of Employment:

- a. *Appointment.* The Town, by and thru its governing body, the Virgin Town Council ("Town Council") consent to the Virgin Town Manager's appointment of Contractor as the Virgin Town Building Official and Building Inspector.
- b. *Engagement & Name of Position.* Accordingly, the Town hereby appoints and engages Contractor, and Contractor accepts said appointment and engagement from the Town in the capacity and position of Virgin Town Building Official and Building Inspector.
- c. *Essential Job Functions and Duties.* Contractor shall be responsible to perform a variety of duties and activities. Contractor's essential job functions and duties are set forth in Virgin Municipal Code Title 2, Chapter 2.16. Contractor's essential job functions and duties shall also include performing assignments and activities as directed by the Town Manager and Town Zoning Administrator.
- d. *Duty of Loyalty and Best Efforts.* Contractor shall devote all of his working time, attention, knowledge, and skills to the Town's interests and shall do so in good faith, with best efforts, and to the reasonable satisfaction of the Town. Contractor understands that he shall only be entitled to compensation as set forth in this Agreement. The Contractor further acknowledges that he shall not engage in any activity that produces a "conflict of interest" with the activities of the Town unless agreed to in advance and in writing.
- e. *Place and Hours of Employment.* Contractor agrees that his duties shall be primarily rendered outside of Town's offices or at such other places as the Town shall in good faith require.
- f. *Professional Licenses, Memberships & Certifications.* Contractor shall maintain any of those professional licenses, memberships and/or certifications for a Qualified Building Official as defined in Utah Code Annotated, Title 15A, Chapter 1, Section 202 and necessary for the carrying out the functions and duties set forth above in 1(c) of this Agreement.

2. Compensation Terms:

- a. *Contract Rate.* Contractor shall be paid the "Contract Rate" as follows:
 - i. Plan Review Fee: \$200.00 per plan review. This flat fee covers the initial review and all subsequent revisions, rechecks, and re-submittals associated with the same permit application.

- ii. Inspection Fee: \$75.00 per inspection performed, including all standard inspections and any re-inspections of the same scope of work.
 - iii. Fee Cap: The total compensation paid to Contractor for any single permit shall not exceed the amount of the permit fee received by the Town for that permit.
 - iv. Invoices: Contractor shall provide the Town with monthly invoices itemizing the Services rendered during the preceding month in a level of detail satisfactory to the Town. All properly submitted and accepted invoices shall be payable by the Town within thirty (30) days after acceptance.
 - v. Subcontractor Costs: Any fees or costs associated with the use of a substitute inspector under Section 2 above are the sole responsibility of Contractor and shall not be charged to or reimbursed by the Town.
- b. *Exempt Status.* Contractor understands that at all times he is engaged as an independent contractor and is thus exempt from the right to be paid overtime wages. When required to work hours outside the scope of his contract services, Contractor may decline if the Contractor has a valid reason. Such refusal shall be accepted provided there is another Town employee or independent contractor on the shift when overtime is required who is prepared to work the overtime and has the ability to perform the work required.
 - c. *Expense Reimbursement.* Contractor shall be entitled to reimbursement of any or all expenses authorized or reasonably incurred in the performance of his functions and duties under this Agreement. In order to receive reimbursement, Contractor must timely provide the Town with an itemized account of all expenditures, along with suitable receipts therefore. Any expenditure over the dollar amount of One Hundred Dollars (\$100.00) shall require prior written authorization from the Town Manager and the Virgin Town Treasurer.

3. Benefits:

The Parties acknowledge and agree that presently the Town does not offer any sort of health insurance, disability insurance, retirement benefits or any other form of benefits, whether individually or via a cafeteria or flex benefit plan or arrangement. Contractor expressly acknowledges and waives any rights to claim the same during and after his engagement. *with Town unless at some point in time the Town provides such benefit to all full-time employees.*

4. "At Will" Engagement:

Contractor engaged "At-Will" and reports to the Town Manager. "[A]t will engagement" in the State of Utah is defined as allowing either Contractor or the Town to terminate the Agreement at any time, for any reason permitted by law, with or without cause and with or without notice. Accordingly, the Mayor or the Town Council may terminate Contractor's engagement at any time, with or without cause upon recommendation of the Town Manager. Only if Contractor is terminated by the Town, without "Cause", as defined in Section 9.c. of this Agreement, shall Contractor be entitled to a Severance pursuant to Section 9.d., below.

5. Express Covenants of Contractor:

- a. *Adherence to the Town's Policies, Procedures, Rules and Regulations.* Contractor agrees to adhere to all of the policies, procedures, rules and regulations set forth by the Town. To the extent

that the Town's "Personnel Policies & Procedures Manual", rules and regulations conflict with the terms of this Agreement, the specific terms of this Agreement shall control.

- b. *Covenant to Notify the Town of Unlawful Acts or Practices.* Contractor agrees to abide by the legal and ethics policies of the Town as well as the Town's other rules, regulations, policies and procedures (including, but not limited to the Town's "Personnel Policies & Procedures Manual"). Contractor shall comply in full with all governmental laws and regulations as well as any ethics code applicable to the Town and elected and appointed officials of the Town. In the event that Contractor is aware of the Town, or any of its elected or appointed officials, agents or employees, violating any such laws ethics codes, rules, regulations, policies or procedures, Contractor agrees to bring forth all such actual and suspected violations to the attention of the Town immediately so that the matter may be properly investigated and appropriate action taken. Contractor acknowledges that failure to do so could be grounds for immediate termination.

6. Property of the Town:

- a. *Records and Accounts.* Contractor agrees that all documents, reports, credit cards, vehicles, computers, phones, equipment, electronic devices, keys and records and accounts maintained during the course of Contractor's engagement are the property of the Town, shall remain current and be maintained at the Town's offices.
- b. *Return upon Termination.* Contractor agrees that upon termination he shall return to the Town all of the Town's property, including, but not limited to, records and accounts, credit cards, business documents, reports, equipment, vehicles, computers, phones, electronic devices, keys, passes, and security devices.

7. Indemnification For Third Party Claims:

Contractor hereby agrees to indemnify, defend, save, and hold harmless the Town from and against all claims, liabilities, causes of action, damages, judgments, attorney fees, court costs, and expenses which arise out of or are related to the Contractor's performance of this Agreement, Contractor's failure to perform job functions or duties as required by this Agreement, or result from conduct while engaging in any activity outside the scope of this Agreement and Contractor's engagement with the Town, before, during or after the termination of this Agreement. Contractor understands that this obligation of indemnification survives the expiration or termination of this Agreement. Likewise, the Town agrees to indemnify, defend and hold harmless Contractor from and against all claims, liabilities, causes of action, damages, judgments, attorney fees, court costs and expenses which arise out of or are related to Contractor's reasonable and proper performance of his duties arising under this Agreement and within the scope of his engagement with the Town.

8. Mediation and Binding Arbitration:

The Town and Contractor agree to first mediate and may then submit to binding arbitration any claims that they may have against each other, of any nature whatsoever, other than those prohibited

by law or for workers compensation, unemployment or disability benefits, pursuant to the rules prescribed by the Utah Uniform Arbitration Act (Utah Code Ann. § 78B-11-101 *et seq*).

9. Termination of Appointment & Employment/Severance:

- a. *Voluntary Resignation.* Contractor may terminate this Agreement and resign from the position of Building Official and Building Inspector at any time upon giving the Town at least Sixty (60) calendar days advanced written notice of the effective date of this Agreement's termination. Promptly after the effective date of this Agreement's termination, the Town shall pay Contractor the Contract Rate and benefits accrued and owing under this Agreement.
- b. *Termination by Town Council.* The Town Council may, with or without cause or prior notice, terminate Contractor's appointment, engagement and this Agreement upon the recommendation of the Town Manager. Contractor shall be given a written notice of the termination of this Agreement by setting forth the grounds for such termination.

10. Attorney Fees and Costs:

Contractor and the Town agree that should any action be instituted by either Party against the other regarding the enforcement of the terms of this Agreement, the prevailing Party shall be entitled to all of its expenses related to such litigation including, but not limited to, reasonable attorney fees and costs, both before and after judgment.

11. Miscellaneous Provisions:

- a. *Notices.* Contractor agrees that any notices that are required to be given under this Agreement shall be given in writing, sent by certified mail, return receipt requested, to the offices of the Town or residence of the Contractor as set forth herein.
- b. *Entire Agreement.* This Agreement represents the complete and exclusive statement of the independent contractor agreement between the Town and Contractor. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by the Parties concerning the independent contractor arrangement between the Parties.
- c. *The Effect of Prior Agreements or Understandings.* This Agreement supersedes any and all prior Agreements or understandings between the parties, including letters of intent or understanding, except for those documents specifically referred to within this Agreement.
- d. *Modifications.* Contractor and the Town agree that this writing constitutes the entirety of the Employment Agreement between the parties. Any modifications to this Agreement may only be done in writing and must be signed by the Mayor.
- e. *Severability of Agreement.* To the extent that any provision hereof is deemed unenforceable, all remaining provisions of this Agreement shall not be affected thereby and shall remain in full force and effect.

- f. *Waiver of Breach.* The waiver by the Town of a breach of any provision of this Agreement by Contractor shall not operate as a waiver of any subsequent breach by the Contractor. No waiver shall be valid unless placed in writing and signed by the Mayor.
- g. *Ambiguities Related to Drafting.* The Town and Contractor agree that any ambiguity created by this document shall not be construed against the drafter of same.
- h. *Choice of Law, Jurisdiction and Venue.* Contractor agrees that this Agreement shall be interpreted and construed in accordance with the laws of the State of Utah and that should any claims be brought against the Town related to terms or conditions of his engagement it shall be brought within a court of competent jurisdiction within Washington County, Utah. Contractor also consents to jurisdiction of any claims by the Town related to the terms or conditions of his engagement by a court of competent jurisdiction within Washington County, Utah.
- i. *Submission to Drug Testing.* Contractor agrees and understands that it is the policy of the Town to maintain a drug-free workplace. Contractor understands that the Town has the right, upon reasonable suspicion, to demand that Contractor immediately undergo testing for the presence of illegal or inappropriate drug usage.
- j. *Statute of Limitations.* Contractor has a ninety (90) day statute of limitation for the filing of any requests for mediation, or arbitration, or for any lawsuit related to this Agreement or the terms and conditions of his engagement. If said claim is filed more than one year subsequent to Contractor's last day of work it is precluded by this provision, regardless of whether the claim had accrued at that time or not.
- k. *Attorney Review.* Contractor warrants and represents that Contractor in executing his Agreement has had the opportunity to rely on legal advice from an attorney of Contractor's choice, so that the terms of this Agreement and their consequences could have been fully read and explained to Contractor by an attorney and that Contractor fully understands the terms of this Agreement.

(Signature Page to Follow)

SO EXECUTED effective that date first set forth above.

TOWN:

VIRGIN TOWN

a Utah municipal corporation

Attest:

Jean Krause, Mayor

Date

Krystal Percival, Town Clerk/Recorder

CONTRACTOR:

JOHN POSTERT

John Postert, Individually

Date

ORDINANCE NO. 2026-?

AN ORDINANCE OF THE TOWN OF VIRGIN, UTAH, PROVIDING THAT THE VIRGIN MUNICIPAL CODE (VMC) BE AMENDED BY ADDING A NEW CHAPTER TO BE NUMBERED CHAPTER 2.16 PROVIDING FOR THE CREATION OF THE POSITION OF QUALIFIED BUILDING OFFICIAL, THE SELECTION OF THE QUALIFIED BUILDING OFFICIAL, AND THE PRINCIPAL DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL.

WHEREAS, Pursuant to Utah Code Ann. §10-1-201 Virgin Town (“the Town”) is a Utah municipal corporation and political subdivision of the State of Utah;

WHEREAS, Pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 301, the Virgin Town Council (“Virgin Town Council”) is designated as the governing body of the Town;

WHEREAS, Pursuant to Utah Code Annotated, Title 15A, Chapter 1, Section 202 Virgin Town is a “local regulator” that desires to employ or contract with a “qualified building official” as defined therein;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VIRGIN, UTAH:

Section 1. That Title 2 of the Virgin Municipal Code of the Town of Virgin, Utah, be amended by adding a new Chapter 2.16 so that such chapter shall read as follows:

“2.16 QUALIFIED BUILDING OFFICIAL

2.16.02 CREATION OF POSITION

The office of Virgin Town’s Qualified Building Official, which shall be known as “Building Official”, is created and established.

2.16.04 SELECTION AND APPOINTMENT

The Town Manager may appoint a qualified person as the Town’s Qualified Building Official, subject to approval of an independent contractor agreement by the Town Council in the case of a contracted building official.

2.16.06 POWERS AND DUTIES

- A. The Town’s Qualified Building Official acts under the control and supervision of the Town Manager and the Town Zoning Administrator. The Qualified Building Official is responsible for the administration of all affairs of the Town placed in the Qualified Building Official’s charge by this Chapter.

B. The powers and duties of Virgin's Qualified Building Official are as follows:

1. Inspections: Perform residential and commercial inspections covering structural, electrical, mechanical, plumbing, and fire/life safety systems. Said inspections shall include all phases of construction, beginning with footing and foundation inspections and continuing through final inspections and certificate of occupancy.
 - a. The Building Official shall complete routine residential and commercial inspections within three (3) business days of the Town's request.
2. Plan Review: Perform residential and commercial plan reviews and provide written comments identifying deficiencies and applicable code citations.
 - a. Screening Period: The Building Official shall have three (3) business days following receipt of an application to screen the submittal for completeness.
 - b. Residential Plans: Following the screening period, the Building Official shall complete the first plan review within fourteen (14) business days after the application is determined complete or the screening period ends.
 - c. Commercial Plans: Following the screening period, the Building Official shall complete the first plan review within twenty-one (21) business days after the application is determined complete or the screening period ends.
3. Rechecks/Resubmittals: Subsequent reviews shall be completed by the Building Official within seven (7) business days of submission.
4. Enforcement Support: Prepare written correction notices, notices of violation, and stop-work orders. Qualified Building Official may issue certificates of occupancy when and to the extent delegated in writing by the Town.
5. Resident Assistance and Interdepartmental Coordination: Provide assistance to Town residents regarding building code questions and inspection requirements if needed, and coordinate with Town departments, including the Town Council, Planning and Zoning, and other departments as requested by the Town Manager.
6. Subcontractor Coordination: When Qualified Building Official is unable to attend a scheduled inspection due to a scheduling conflict, Qualified Building Official shall arrange for a qualified, licensed substitute inspector to perform the inspection. Qualified Building Official shall ensure any substitute meets all required qualifications and remains responsible for the quality of services performed by any substitute.
7. Make such reports as the Town Manager or Zoning Administrator may require."

PASSED AND ADOPTED BY THE TOWN COUNCIL OF VIRGIN TOWN, STATE OF UTAH, ON THE 18th DAY OF AUGUST 2026.

VIRGIN TOWN

a Utah municipal corporation

Attest:

Jean Krause, Mayor

Krystal Percival, Town Clerk/Recorder

Town Council Vote as Recorded:	AYE	NAY	ABSENT	ABSTAIN
Town Council Member, Jim Kietzman	_____	_____	_____	_____
Town Council Member, Paul Luwe	_____	_____	_____	_____
Town Council Member, April McKeon	_____	_____	_____	_____
Town Council Member, Valerie Wenz	_____	_____	_____	_____
Mayor, Jean Krause	_____	_____	_____	_____

RECORDED this _____ day of _____ 2026

PUBLISHED OR POSTED this _____ day of _____ 2026.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

In accordance with Utah Code Annotated §10-3-713, 1953 as amended, I the Clerk/Recorder of Virgin, Utah hereby certifies that the foregoing Ordinance was duly passed and published or posted at:

1. Utah Public Notice Website, utah.gov/pmn/
2. Virgin, Utah website, virgin.utah.gov
3. Virgin, Utah Town Hall

on the above referenced dates.

Krystal Percival, Town Clerk/Recorder
Virgin, Utah