

**PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN**

**THE FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS**

**AND**

**THE TOWN of BUCKLAND**

**FOR**

**ADA Self-Evaluation and ADA Transition Plan**

This Agreement is made this XXth day of January, 2021, by and between the Franklin Regional Council of Governments or its successors or agents, hereinafter referred to as the **“FRCOG”** (whose primary place of business is 12 Olive Street, Suite 2, Greenfield, MA 01301, phone number 413-774-3167); and the **Town of Buckland** (Buckland Town Hall, 69 Main Street, Buckland MA 01360, 413-498-5103).

WITNESSETH THAT:

WHEREAS, **Town of Buckland** has determined that there is a need to obtain professional assistance to complete an ADA Self Evaluation and ADA Transition Plan; and

WHEREAS; **Town of Buckland** has received grant funding from the Massachusetts Office on Disability to procure contracted planning services and has matched that with Town funding; and

WHEREAS; the FRCOG through its Planning Department is willing and able to provide technical assistance to the **Town of Buckland**:

NOW, THEREFORE, in consideration of the foregoing, which are hereby incorporated into and made part of the terms and conditions of this Agreement and the mutual covenants hereinafter set forth, it is agreed as follows:

**I. TERM OF AGREEMENT**

The FRCOG and the **Town of Buckland** agree that the FRCOG, acting by and through the Planning Department will provide all agreed upon services in a professional and timely manner during the period 1**/XX/2021**  through **6/30/2021** (hereinafter referred to as the period of the contract). FRCOG will perform all of the contracted services in the shortest time frame consistent with high performance.

**II. ENGAGEMENT OF THE FRCOG**

The **Town of Buckland** hereby engages the FRCOG, acting by and through the Planning Department, for the purposes of providing technical assistance. The FRCOG, and its agents, hereby agree to act in a professional and timely manner, in the best interest of the **Town of Buckland**, and in conformity with all applicable federal, state, and local laws, rules and regulations.

The FRCOG will render the primary services to be provided as described herein through qualified Planning staff.

**III. SCOPE OF SERVICES**

The FRCOG will provide services to the **Town of Buckland** under the direction of the Director of Planning and Development and Senior Transportation/Land Use Planner II as detailed in the Scope of Work which is Attachment A.

**IV. COMPENSATION**

The **Town of Buckland** and FRCOG hereby agree that with respect to services rendered under this Agreement, the FRCOG may receive compensation that shall not exceed **twelve thousand nine hundred dollars ($12,900)** during the contract period, based upon the budget contained in Attachment A.

FRCOG will provide quarterly project summary reports and invoices to the **Town of Buckland** at the end of each quarter as well as the end of the contract period. The reports will contain a summary of all work completed during the reporting period. The project invoice will list the spending for the reporting period as specified in the Budget.

**V. INDEMNIFICATION AND INSURANCE**

The **Town of Buckland** shall indemnify the FRCOG from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts agreements, damages and any and all claims, demands and liabilities whatsoever of every name and nature both in law and in equity on account of injury to person or property or loss of life resulting from the Town’s performance under this agreement but only to the extent and in an amount the Town would otherwise be liable pursuant to the Massachusetts Tort Claims Act, M.G.L. c. 258.

FRCOG shall indemnify the **Town of Buckland** from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages and any and all claims, demands and liabilities whatsoever of every name and nature both in law and in equity on account of injury to person or property or loss of life resulting from FRCOG’s performance under this agreement but only to the extent and in an amount the FRCOG would otherwise be liable pursuant to the Massachusetts Tort Claims Act, M.G.L.c. 258.

By entering into this Agreement the parties have not waived any governmental immunity or limitation of damages which may be extended to them by operation of law.

The Parties shall each obtain and keep in full force and effect public liability insurance in the amount of One Million ($1,000,000) Dollars combined single limit for bodily injury, death and property damage arising out of any one occurrence, protecting the other party against any and all claims for bodily injury, death or property damage arising directly or indirectly out of the Indemnification Provisions of this Agreement.

**VI. WAIVERS**

All covenants, conditions, duties and obligations contained herein can be waived only by written agreement by and between the **Town of Buckland** and the FRCOG. Such waivers shall not be effective, unless they are in conformity with all other requirements of law. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to either party. No waiver of any default or breach shall constitute a waiver of any subsequent default or breach.

**VII. AMENDMENTS**

No amendment to this Agreement shall be effective unless it is in writing, signed by the duly authorized representatives of both parties, and complies with the provisions of this Agreement, and all other regulations and requirements of law.

**VIII. FORCE MAJEURE**

Neither the **Town of Buckland** nor the FRCOGshall be liable to the other, nor be deemed to be in breach of this Agreement for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault and negligence. Such causes may include, but are not limited to: acts of God or the enemy, wars, fires, floods, epidemics, quarantine restrictions, strikes, unforeseen freight embargoes, or unusually severe weather. Dates and times of performance shall be extended to the extent of the delays excused by this covenant, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

**IX. ASSIGNABILITY**

The FRCOG shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without prior written consent of the **Town of Buckland**. No subcontract may be awarded by the FRCOG, the purpose of which is to fulfill in whole or in part the services required herein, without said written consent of the Town.

**X. TERMINATION**

This agreement may be terminated by either party for any reason upon written notice. Such notice shall be signed by authorized officials of the parties. In event of termination, the FRCOG shall no later than fifteen days after said termination, deliver to the **Town of Buckland** all reports, documents, data and materials of every kind and nature which are related to FRCOG’s services to the **Town of Buckland** and compensation will be made for time spent up until the date of termination.

**XI. CONFLICT OF INTEREST**

No officer, employee, agent, or member of the governing bodies of the FRCOG and **Town of Buckland** shall participate in any decision or service relating to this Agreement which affects the personal interestof such officer, employee, agent, or member of the governing bodies, whether such interest is direct or indirect. The FRCOG and the **Town of Buckland** shall take all reasonable actions necessary to ensurethat their officers, employees, agents, and members of their governing bodies are aware of the requirements, and comply with the provisions of Massachusetts General Laws, Chapter 268A, the so-called Conflict of Interest Law.

**XII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the FRCOG and the **Town of Buckland** have caused this Agreement to be executed in duplicate by their respective authorized officers and hereby certify that this Agreement is in full force and compliance with all applicable laws, rules, and regulations, as set forth herein above.

**FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS**

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 Executive Director Date

 Linda L. Dunlavy

**For the Town of Buckland**

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Authorized signature Date

Dena G. Willmore

Chair, Select Board

Town of Buckland

17 State Street

Shelburne Falls, MA 01370

The Franklin Regional Council of Governments (FRCOG) does not discriminate on the basis of race, color, national origin, sex, age, disability, or gender with respect to admission to, access to, or operation of its programs, services or activities. If you would like accessibility or language accommodation, please contact the Title VI Coordinatorat 413-774-3167 (voice) (MA Relay System:800-439-2370), 413-774-3169 (fax), or civilrights@frcog.org (e-mail).