

**AGREEMENT BETWEEN THE CITY OF CHICO AND
DISABILITY ACTION CENTER
FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR THE
CITY'S RENTAL HOUSING ACCESSIBILITY PROGRAM**

THIS AGREEMENT ("Agreement"), is made and entered into this 11th day of February, 2016, by and between the City of Chico, a municipal corporation ("City") and Disability Action Center ("DAC"), a California non-profit corporation ("Provider").

WHEREAS, Provider is a non-profit corporation organized under the laws of the State of California and qualifying for Federal Tax Exempt Status; and

WHEREAS, the City is a recipient of United States Department of Housing and Urban Development ("HUD") Community Development Block Grant ("CDBG") Funds and has allocated Twenty-Five Thousand Dollars (\$25,000) of the 2015-2016 CDBG funds ("Funding") for the purpose of installation of accessibility improvements pursuant to the City's Rental Housing Accessibility Program ("RHAP"); and

WHEREAS, in addition, the City has allocated CDBG funds for program delivery costs and desires to provide Provider with up to Two Thousand Dollars (\$2,000) for administration expenses incurred in the operation of the RHAP as set forth herein.

NOW, THEREFORE, it is mutually agreed by Provider and City as follows:

1. PROGRAMS AND SERVICES

Provider will administer the RHAP to install necessary accessibility modifications to rental properties within the City of Chico as set forth in attached Exhibit "A", entitled "Statement of Services for Use of City of Chico Community Development Block Grant Funds."

2. TERM/TERMINATION

A. TERM. The term of this Agreement shall be for that period set forth in Exhibit "A". If City approves subsequent funding for Provider, or the parties otherwise desire to extend the term hereof, this Agreement may be extended by a written amendment signed by both parties.

B. TERMINATION. In addition to the provisions set forth in Section 15 hereof, this Agreement may be terminated as follows:

(1) City may, at its sole discretion, terminate this Agreement and Provider's funding upon ninety (90) days' written notice for convenience or if adequate City funding is not available for payment. Provider may terminate Agreement at any time upon ninety (90) days' written notice subject to Provider first complying with all applicable provisions of this Agreement.

(2) Either party may terminate this Agreement upon thirty (30) days' notice if, for any reason, the timely completion of the work/services to be provided under this Agreement is rendered improbable, infeasible, or impossible. Either party may terminate this Agreement upon ten (10) days' written notice for non-performance by the other party of any material provision of this Agreement, provided the party in default does not cure the same within the ten (10) day notice period.

(3) In the event this Agreement is terminated, as provided in this section, Provider agrees to and shall immediately return to City any and all unexpended and unencumbered CDBG funds provided under this Agreement. Further, Provider shall comply with the provisions of Section 4 of this Agreement relating to Reversion of Assets.

3. FUNDING

Funding for the term of this Agreement shall be the amount allocated and approved by the City's approved RHAP budget as set forth in Exhibit "A".

4. USE OF FUNDS/ REVERSION OF ASSETS

Use of City's funds allocated hereunder to Provider shall be subject to the following express terms and conditions:

A. Any funds paid to Provider shall be used solely for the purposes set forth in Exhibit "A".

B. Funds paid hereunder shall not apply toward indirect costs unless Provider has submitted to City and City has approved in writing an Indirect Cost Allocation Plan.

C. All expenditures of City funds by Provider shall be made strictly within the limitations of the Office of Management and Budget (OMB) guidance published at 2 CFR 200, receipt of an electronic copy of each which is hereby acknowledged by Provider.

D. Funds paid hereunder shall be expended solely for the benefit of residents within the Chico City Limits and at or below the eighty percent (80%) Area Median Income for the Chico Metropolitan Statistical Area as annually published by HUD. Accordingly, Provider shall keep adequate records of clients served as to their location, as well as adequate verification of client's income (i.e., Social Security Benefit Letter, pay stubs, tax returns) and disability status.

E. By execution of Lobbying Certification (Exhibit "B"), Provider shall not use any of the Funding for the purpose of influencing or attempting to influence an elected official or officer or employee of any local, state or federal agency, or in support or opposition of any political candidate or ballot measure.

F. Any CDBG Program Income, as defined by Section 570.489 of Title 24 of the Code of Federal Regulations, generated by Provider shall be returned to the City except as expressly provided otherwise herein.

G. Notwithstanding anything hereinabove to the contrary, any exceptions or special provisions relating to this Agreement shall be as set forth in Exhibit "A".

H. Funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

5. DISBURSEMENT OF FUNDS

Provider shall receive payment of such funds upon completion of accessibility repairs and contingent upon City's receipt of a completed Request for Payment form, as shown in Exhibit "C". Payment shall be subject to submission by Provider and written approval by the City Manager, or designee, of any documents required pursuant to this Agreement.

6. DOCUMENTS, REPORTS AND RECORDS

A. Provider shall maintain all records required by 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement.

B. Provider shall at all times maintain a complete and current set of financial and statistical records of all its activities, which shall include, but shall not be limited to, those specifically set forth below or otherwise mentioned herein, and which shall in particular reflect clearly the application and use of funds paid to it by City. All such records shall be in a form satisfactory to the City Manager and the Finance Director and shall be subject to inspection by the City Manager or audit by the Finance Director, or their designees, at any reasonable time during the normal and usual business hours of Provider.

C. Recognizing that Provider may, from time to time, render services to recipients which are highly personal and confidential in nature, City, in its dealings with Provider, will at all times maintain the confidentiality of those records and will not require a public record to be made or provided that will serve to violate the confidentiality requirements of Provider, subject to the requirements of applicable law. Any inspection or audit shall be made by the City Manager, the Finance Director or their designees.

D. Provider shall submit to City any independent audits of its program within thirty (30) days of receipt. Such audits may be used by City in place of or in addition to any audit performed by City.

E. Provider shall retain all documents pertaining to this Agreement for a period of five (5) years after this Agreement's termination (or for any further period that is required by law) and until all Federal or City audits are complete and exceptions resolved for this Agreement's funding period. Upon request, Provider shall make these records available to authorized representatives of the City and the United States Government.

7. ON-SITE MONITORING

Authorized representatives of HUD and City shall have the opportunity to monitor Provider's performance under this Agreement at the site where such performance is being conducted to ensure that the program is meeting the requirements of this Agreement. Such monitoring may include, but is not limited, to observation of services provided, interviews with Provider personnel and staff involved in project operations, and validation of source data used in the preparation of reports to City.

The City will advise Provider in writing of any monitoring concerns or findings within fifteen (15) days after a monitoring visit. Provider shall respond in writing to the concerns/findings within ten (10) days.

8. HOLD HARMLESS CLAUSE

Provider shall hold City, its officers, boards and commissions, and members thereof, its employees and agents harmless of and free from any and all liabilities which might arise out of or relating to this Agreement. Should City or any of its officers, boards and commissions, and members thereof, its employees or agents, be named in any suit, or should any claim be made against it or any of them by suit or otherwise, whether the same may be groundless or not, arising out of or relating to this Agreement, Provider shall defend City (with counsel of the City's choice) and said officers, boards and commissions, and members thereof, its employees and agents, and shall indemnify them for any judgment rendered against them. If a claim for damages is filed against City, its boards, commissions, members, employees or agents for any work under this contract by the Provider of the County of Butte, City will forward the claim immediately to the Provider. Provider shall be solely responsible for the payment of all defense costs, settlement costs or judgments.

9. INSURANCE PROVISIONS

Concurrently with the execution of this Agreement, Provider shall, at its sole cost and expense, obtain commercial general liability insurance and such additional insurance as set forth on Exhibit "A" from one or more U.S. domiciled insurance companies licensed to do business in the State of California with a Best rating of "B" or better or, in the alternative, an unlicensed U.S. domiciled company or companies with a rating of "A," which insures City, City's boards and commissions and members thereof, and City's officers, employees, and agents against any liabilities arising out of this Agreement and/or Provider's use of the Funding as provided for by this Agreement. All such insurance shall be in the form or forms approved by the City, shall be in an amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with a maximum policy deductible of \$5,000, and shall include policy endorsements which name City, City's boards and commissions and members thereof, and City's officers, employees, and agents as additional insureds under the coverage afforded, and that such insurance is primary to any other insurance available to City. In addition, such insurance shall include a severability of interests (cross liability) clause and shall afford to City at least 30 days prior notice of cancellation or material change in coverage.

Upon execution of this Agreement, a copy of the insurance policy or policies required herein shall be delivered by Provider to City for approval as to form and sufficiency. Upon request of City, Provider also shall furnish City with a certified copy of the Memorandum of Coverage issued by Provider's risk sharing pool detailing the coverage, conditions and exclusions of its liability coverage program.

Following execution of this Agreement, City may, based on an increase in the Consumer Price Index or by reason of the number or types of claims which have or might result from this Agreement and/or Provider's use of Funding provided for by this Agreement, require Provider to increase the limits of the liability insurance coverage required by this section; provided that City shall serve Provider with a notice of any change or increase in the limits of liability insurance coverage at least 30 days prior to the date that such increased insurance coverage must be in effect.

10. LEGAL COMPLIANCES

The Provider agrees to comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits, including but not limited the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning CDBG, including subpart K of these regulations, except that (1) the Provider does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Provider does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Provider shall maintain all presently required permits and shall secure any new permits required by authorities herein with jurisdiction over the work, project, or services provided by Provider with the Funding.

11. NON-DISCRIMINATION CLAUSE

Provider shall be in compliance with Section 109 of the Housing and Community Development Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title VI of the Civil Rights Act of 1964, as amended and Title VIII of the Civil Rights Act of 1968 (Fair Housing Act).

A. Provider shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of sex, race, creed, color, national origin, age, marital status or disability. This requirement shall apply to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. No person shall, on the ground of race, sex, creed, color, national origin, age, marital status or disability, be excluded from participation in, be denied the proceeds of or be subject to discrimination in the performance of this Agreement.

12. INDEPENDENT CONTRACTOR

A. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Provider shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement.

B. In the event that Provider or any employee, agent, or subcontractor of Provider providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Provider shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Provider or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

C. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Provider and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

13. SUBCONTRACTS

The Provider shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of City prior to the execution of such agreement.

14. ASSIGNABILITY

The Provider shall not assign or transfer any interest in this Agreement without the prior written consent of City thereto; provided, however, that claims for money due or to become due to the Provider from City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to City. Any assignment or transfer of any interest in this Agreement in violation of this Section shall be null and void.

15. DEFAULTS; REMEDIES

A. ENFORCEMENT BY CITY DUE TO DEFAULT BY PROVIDER:

In the event Provider materially fails to comply with any term of this Agreement, City may take one or more of the actions provided under the Code of Federal Regulations, including

24 CFR Part 85.43 and 24 CFR 85.44 relating to "Enforcement" or City may avail itself of any other remedies available at law or equity for breach of this Agreement.

B. RECAPTURE:

Provider shall have the affirmative obligation to repay, and City shall have the affirmative right to recapture from Provider all (or any portion of) Funding disbursed to Provider hereunder in the event of Provider's default hereunder or in the event Provider refuses to accept or fails to comply with any conditions which may subsequently be imposed by HUD for the operation of the CDBG Program.

16. MISCELLANEOUS

A. The descriptive paragraph headings of this Agreement are included for purposes of convenience only and shall not control or affect the construction of interpretation of any of its provisions.

B. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

C. The representations and warranties made by the parties to this Agreement shall survive the consummation of the transaction herein described.

D. This Agreement may be signed in any one or more counterparts all of which taken together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by electronic transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the party whose signature appears in the electronic transmission and shall be binding upon such party in the same manner as though an originally signed copy had been delivered.

E. Each of the parties acknowledges that it has been represented by independent counsel of its own choosing, or if it has not been so represented, it has been admonished to obtain independent counsel and has freely and voluntarily waived and relinquished the right to counsel. Each party who has not obtained independent counsel acknowledges that the failure to have independent legal counsel will not excuse such party's failure to perform under this Agreement or any agreement referred to in this Agreement.

F. To the extent of a conflict between the terms of this Agreement and those set forth in any exhibits or attachments hereto, the terms of this Agreement shall govern.

G. Waiver by any party hereto of any term, condition or covenant of this Agreement shall not constitute the waiver of any other term, condition or covenant hereof.

H. No official or employee of the City shall be personally liable to Provider in the event of any default or breach by City, or for any amount which may become due to Representative.

I. Provider hereby agrees that all work produced pursuant to this Agreement, and provided to City during and upon completion of this Agreement, shall be the property of the City, and ownership of said work product shall be retained by the City. Provider may take and retain copies of such written products as desired.

J. All Exhibits referenced herein are incorporated fully into this Agreement.

K. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, or approvals hereunder shall be given to the following addresses or such other addresses as the Parties may designate by written notice:

If to City:

City of Chico
P.O. Box 3420
Chico, CA 95927
Attn: City Manager

If to Provider:

See Exhibit A

IN WITNESS WHEREOF, the parties hereto, by their officers hereunder duly authorized, have executed this Agreement the day and year hereinabove first written.

[SIGNATURES ON FOLLOWING PAGE]

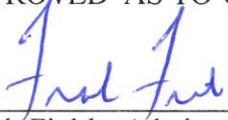
DISABILITY ACTION CENTER

BY: 
Evan LeVang
Executive Director

CITY OF CHICO

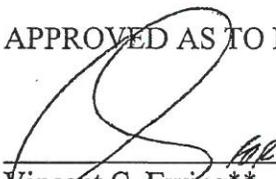
BY: 
Mark Orme
City Manager

APPROVED AS TO CONTENT:


Frank Fields, Admin. Services Director

*Reviewed by Risk Management, Human Resources, Finance and Information Systems.

APPROVED AS TO FORM:


Vincent C. Ewing**
City Attorney

** Approved pursuant to The Charter of the City of Chico §906 (D)

Authorized pursuant to Sec. 2R.04.170
Chico Municipal Code and Administrative Procedure and Policy 27-12

EXHIBIT "A"

**STATEMENT OF SERVICES FOR USE OF
CITY OF CHICO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS**

Name of Provider: Disability Action Center (DAC)
Address: 1161 East Avenue, Chico, CA 95973 Telephone: (530) 893-8527
Contact Person/Title: Evan LeVang, Executive Director

Term of this Agreement: February 1, 2016 to June 30, 2016

CDBG Budget for Rental Housing Accessibility Program

| | |
|----------------------------------|-----------|
| Rental Accessibility Grant Funds | \$17,550 |
| Program Administration | \$ 2,000* |

*Upon completion of accessibility improvements to eligible households, DAC shall receive a program delivery fee of \$200 per household assisted.

Additional Insurance Requirements:

None

Sexual Molestation and/or Physical Abuse Liability coverage:

In addition to the general liability insurance required to be provided under the funding agreement, Provider shall obtain and maintain sexual molestation and/or physical abuse liability coverage in the amount of \$250,000 per occurrence and \$500,000 in the aggregate, subject to the same company rating requirements ("A" if not California admitted; "B" if admitted in California) and maximum \$5,000 policy deductible as is required for the general liability insurance coverage. Such coverage shall be evidenced by a certificate of insurance with the same policy endorsements required for the general liability insurance coverage.

Service to be Provided

Administer the Rental Housing Accessibility Program to provide modifications to rental housing units to accommodate persons with permanent physical disabilities.

- I. Outreach
 - A. Distribute information regarding the rental accessibility program to service providers, including outreach to Spanish and Hmong speakers.
 - B. Maintain a waitlist/interested party list (as necessary) including demographic information for potential applicants to the program.

II. Eligibility determination and Application intake

- A. DAC will determine eligibility based on household income. If eligible, application to be completed by tenant and submitted to DAC for verification.
- B. All income and disability verification to be responsibility of DAC.

III. Preconstruction

- A. DAC will prepare Work Plan for necessary modifications to the rented unit. Mobile homes are eligible by owners of a coach located within a mobile home park; however, only exterior accessibility improvements are eligible. Interior/exterior improvements are eligible for stick build dwelling units. Tenant and owner of property to approve work plan.
- B. DAC will submit application, income, disability verification, demographic information and draft Work Plan for approval to City.
- C. DAC will coordinate a contractor walk-thru of the property to be modified. Notice of such walk-thru shall be provided to all contractors that request notification of such and shall also be posted at the local Contractor's Exchange. Bids will be submitted to DAC by the predetermined due date, and then forwarded to the tenant/owner for contractor selection. Lowest responsible bid should be selected.
- D. Upon selection of contractor, DAC will provide a contractor selection statement to the City and prepare a Construction Contract between tenant and contractor. City will prepare Grant Agreement and DAC will obtain applicable signatures and submit Grant Agreement to City for its signature.
- E. Upon receipt of fully executed Grant Agreement, DAC will issue contractor's Notice to Proceed.

IV. Post-construction

- A. DAC to verify work as stated in Work Plan is complete; submit photographs and signed Request for Payment to City. City will issue a check directly to construction contractor based upon construction contract and will issue a check to DAC for administration/program delivery as stipulated above upon receipt of invoice.
- B. DAC to maintain listing of property and accessibility improvements for future use.

EXHIBIT "B"

**LOBBYING CERTIFICATION FOR
DISABILITY ACTION CENTER**

CITY OF CHICO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

THE UNDERSIGNED CERTIFIES, TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF, THAT:

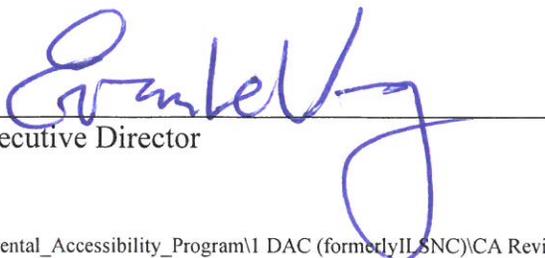
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of influencing or attempting to influence an elected official, officer or employee of any local, state, or federal agency, including but not limited to a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of influencing or attempting to influence an elected official, officer or employee of any local, state, or federal agency, or in support or opposition of any political candidate or ballot measure.

(3) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(4) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Executive Director

2-5-16
Date

EXHIBIT "C"

**RENTAL HOUSING ACCESSIBILITY PROGRAM
REQUEST FOR PAYMENT**

Tenant: _____

Property Owner: _____

Job Site Address: _____

CONTRACTOR REQUEST

I hereby certify that I have completed the work at the job site, as described in the Work Plan, and hereby request payment for this work.

Total Payment: \$ _____

Contractor: _____

Signature: _____

Date: _____

DISABILITY ACTION CENTER APPROVAL

I hereby certify that I have examined the referenced work and it is as stipulated in the Work Plan and contract documents.

By: _____
Property Owner/Agent

Date: _____

By: _____
Tenant

Date: _____

By: _____
DAC Representative

Date: _____

DAC Program Delivery Fee to be paid: \$ _____

APPROVED FOR DISBURSEMENT

By: _____
Housing Manager

Date: _____