SUBJECT: Revenue Agreement with County of Santa Clara for a Tenant-Based Rental Assistance Program for Homeless and At-Risk Individuals and Families

BACKGROUND
In May 2012, the City approved the 2012 HUD Action Plan which allocated $200,000 in HOME funds for a Tenant-Based Rental Assistance (TBRA) program in FY 2012-13, and in June 2012, the City approved the City Budget with an appropriation of $20,000 in Housing Mitigation Funds for administration of the TBRA program. As the funding for this program has already been approved, Council action is now required only to approve the terms of the agreement drafted to implement the program in partnership with the County.

As set forth in the Action Plan, current local market conditions are suitable for use of HOME funds for a TBRA program: adequate availability of rental units, an increase in unemployment and homelessness, and many households struggling to maintain or obtain rental housing in Sunnyvale.

The purpose of the TBRA program is to provide a rental subsidy directly to households to help them to afford housing costs, such as rent and security deposits. TBRA programs directly assist very low income families by making up the difference between actual housing costs and what a family can afford to pay.

Since 2010, the City has sub-granted HOME funds to the Housing Authority to implement the TBRA program, because of their existing capabilities in this area. However, due to federal regulations, the Housing Authority can only implement the City’s program to assist households already on the Section 8 waiting list. Since the list has been closed for many years, and many Sunnyvale residents currently in need of TBRA are not on that list, staff now recommends using a different program administrator for the FY 2012-13 TBRA program. This would allow greater flexibility in design and operation of the TBRA program and greater targeting of Sunnyvale households most in need, namely those who are currently or recently homeless, but who are able to regain self-sufficiency and maintain housing within a one- to two-year period, consistent with the TBRA term of assistance.
EXISTING POLICY

2010-2015 Sunnyvale Consolidated Plan:
Goal B: Alleviation of Homelessness
Objective 1 Help people who are currently homeless or at imminent risk of homelessness to obtain housing, employment or other sources of income, and adequate support services/networks to achieve stability.

Objective 1b Work with the Housing Authority or other appropriate agency with the ability to administer a HOME-funded TBRA Program for the City.

DISCUSSION
The County identified a qualified TBRA administrator, Abode Services, to administer its TBRA programs through a competitive procurement process completed last year. Staff has also looked for possible administrators and it appears that this administrator is the best qualified of just several such agencies in the South Bay region. Staff worked with County staff to draft a revenue agreement (Attachment 1) that would essentially enable the City to pass through its housing funds allocated to the TBRA program to the County in order to “piggy-back” on the County’s TBRA administration contract. The primary objective of this approach is to realize cost savings through greater economy of scale by having the same administrator operate both programs.

The proposed agreement allows the City and County much more flexibility in program design than can be achieved with the Housing Authority as administrator, and slightly lower administrative costs for each jurisdiction. The City and County hope that in the future many of the HOME grantee jurisdictions in the County will participate in this program to achieve yet greater savings in administrative costs, streamline program operations, and enable all jurisdictions to assist a greater number of tenants with limited TBRA program funds. Staff recently attended a meeting with representatives from HUD, the County, and various smaller cities who are in discussions about creating a new HOME consortium to increase the amount of HOME funds that could be allocated to this region in the future, and use those funds for such a county-wide TBRA program while pro-rating assistance to ensure that each jurisdiction gets an appropriate share of the program funding.

One of the reasons for the increased interest in TBRA programs at this time is due to the increase in unemployment and homelessness which occurred following the recent recession. Many of these newly homeless residents are able to work. With the transitional assistance term offered by the TBRA program, typically two years, and the supportive services required to be provided as part of the program, these residents have a strong chance of maintaining their housing long-term, and regaining their financial stability and
self-sufficiency. This agreement has been reviewed by County Counsel and the City Attorney, and will go to the Board of Supervisors for approval this month, with a tentative contract start date of early January 2012.

**FISCAL IMPACT**
No fiscal impact as all of the funding for this agreement has been approved as part of the FY 2012-13 Projects Budget for the HOME fund and the Operating Budget for the Housing Mitigation fund.

**PUBLIC CONTACT**
Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City’s Web site.

**RECOMMENDATION**
Staff recommends that Council approve the draft Agreement with the County of Santa Clara for implementation of the Tenant Based Rental Assistance Program as provided in Attachment 1.

Reviewed by:

Hanson Hom, Director, Community Development
Prepared by: Suzanne Isé, Housing Officer
Approved by:

Gary M. Luebbers
City Manager

**Attachments**

1. Draft Revenue Agreement with the County of Santa Clara
REVENUE AGREEMENT
BETWEEN THE COUNTY OF SANTA CLARA
AND THE CITY OF SUNNYVALE

This Revenue Agreement ("Agreement") is between the County of Santa Clara ("County"), by and through the Santa Clara County Mental Health Department (MHD) and the City of Sunnyvale ("City"), by and through the Housing Division of the City’s Community Development Department (CDD), and is being entered into in order to provide City funding for and establish roles, rights and responsibilities related to the Tenant Based Rental Assistance Program for Homeless or At-Risk Individuals and Families ("Program").

RECITALS

A. WHEREAS, as part of its 2012 HUD Action Plan and Consolidated Plan, the City approved the use of HOME Investment Partnerships Program (HOME) grant funds and other City funds for the Program to assist very low income individuals and families who are currently experiencing or at imminent risk of homelessness ("Recipients") to obtain and maintain permanent rental housing;

B. WHEREAS, the City funds shall be used to pay for security deposits and tenant-based rental assistance (TBRA) for approximately fifteen (15) Recipients and reasonable costs of administering the City portion of the Program, as set forth herein beginning in Fiscal Year 2012-13 and extending for twelve months or until funding is fully expended;

C. WHEREAS, MHD will require each Recipient household to be enrolled in case management and self-sufficiency programs of City-identified community-based organizations in order to qualify for Program assistance;

D. WHEREAS, through a formal competitive procurement, the MHD selected and has contracted with a community-based organization to serve as the County’s Rental Assistance Program Administrator (RAPA) to administer the County’s rental assistance programs;

E. WHEREAS, City seeks to leverage the MHD’s resources and expertise; and,

F. WHEREAS, the County and City seek to assist homeless residents in obtaining and maintaining rental housing, while minimizing administrative expenses of the Program.

In consideration of the foregoing Recitals, and the mutual promises and covenants contained in this Agreement, the parties agree as follows:
AGREEMENT

I. TERM

This Agreement is effective as of the date it is fully executed, and will continue thereafter until June 30, 2014 unless extended by mutual consent or terminated as provided below in Section IV.

II. ROLES AND RESPONSIBILITIES

A. City and County shall each designate a Program Manager to implement the terms of this agreement and ensure successful implementation of the Program. The City hereby designates the City Housing Officer as Program Manager for the City. The County hereby designates the MHD Director of Homeless Systems as Program Manager for the County. Current contact information for each Program Managers is provided in Section XIV below.

B. City shall:

1. Fund the Program in an amount not to exceed $220,000 through June 30, 2014, thus allowing the Program to provide approximately 15 unduplicated Recipients (hereinafter referred to as “City Recipients”) with assistance for an initial term of up to one year, as follows:

   a) Provide up to Two Hundred Thousand Dollars ($200,000) in HOME funds allocated to the Program in City FY 2012-13 HUD Action Plan to fund tenant-based rental assistance and security deposits for City Recipients. City will reimburse the County for all rental assistance and/or security deposit payments made by the County or its RAPA on behalf of City Recipients in an amount not to exceed $200,000 through June 30, 2014.

   b) Provide up to Twenty Thousand Dollars ($20,000) in City Housing Mitigation Funds to pay for all Program administrative expenses reasonably associated with assisting City Recipients in an amount not to exceed $20,000 through June 30, 2014, in accordance with Exhibit “A”, attached hereto.

2. City’s Program Manager shall be responsible for completing the following Program implementation tasks on City’s behalf:

   a) Review and approve the Program Administrative Rules and Procedures and the Program Policies and Procedures Manual (PPM) within 30 days of receiving a draft from the County;

   b) Review and approve any and all Program changes;
c) Review all Program policies and operations to ensure compliance with the HOME program, which is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended. Program regulations are at 24 CFR Part 92; and,

d) Complete and submit all reports that are required by the U.S. Department of Housing and Urban Development (HUD) regarding use of HOME funds or any other reports to HUD related to the Program.

C. County shall:

1. Maintain an enforceable contract with a RAPA capable of implementing the Program throughout the Term of this Agreement.

2. The County's Program Manager shall be responsible for completing the following Program implementation tasks on County's behalf:

   a) Submit drafts of the Program’s Administrative Rules and Procedures and PPM to City;

   b) Provide City with monthly reports consistent with the current RAPA contract; and,

   c) Prepare and submit quarterly invoices to City.

   d) Amend the RAPA’s contract to ensure that the RAPA:

      (i) Maintains the Program waitlist as needed;

      (ii) Collaboratively updates the Program’s PPM and any other forms and reports needed;

      (iii) Train service providers’ staff on Program procedures;

      (iv) Assesses applicant eligibility;

      (v) Performs initial and annual property inspections of each property to ensure it meets HUD Housing Quality Standards;

      (vi) Follows HUD’s HOME Tenant-Based Rental Assistance (TBRA) guidelines, 24 CFR Part 92, including, but not limited to, enforcing occupancy standards, enforcing Pilot Project rent standards, and calculating rental subsidy and participant rent share.

      (vii) Provides subsidy checks to landlords.

      (viii) Performs annual recertification of tenant eligibility when required, approves rent increases and adjusts rent/subsidy assistance as needed throughout the participant’s continued participation in the Program.
(ix) Maintains adequate and accurate accounting records of Program expenses and revenues associated with City Recipients, including reasonable administrative expenses, in order to provide accurate invoices to County for reimbursement by City, and complies with financial management requirements associated with the use of HOME funds as set forth in OMB Circular A-133 and/or related federal regulations.

D. The County and City will work collaboratively to establish the Program’s Administrative Rules and Procedures and implement the Program according to the following timeline, which may be amended by mutual agreement.

- County/City Approval of Agreement          By 12/31/12
- Complete Administrative Rules & Procedures, PPM  By 12/31/12
- Identify and train selected case management agencies or programs  By 1/31/13
- Enroll first City Recipient                 By 2/28/13

E. The County and City will jointly convene coordinating meetings with appropriate community-based organizations and stakeholders to ensure the Program’s success. Meetings will be held monthly or as needed until Program reaches full capacity.

F. The County and City will jointly monitor Program expenses and outcomes. Based on the availability of City HOME funds in future years and Program outcomes, the parties will determine whether to continue, expand, contract or terminate the Program at end of Term.

IV. MUTUAL INDEMNIFICATION

Each party agrees to indemnify, defend and hold harmless the other party from any claim, liability, or loss resulting from the willful, wrongful, or negligent act or omission of the indemnifying party, its members, officers, directors, trustees, agents or employees for its or their performance or failure to perform the provisions of this AGREEMENT. Each party shall notify the other in writing of any claim of injury or damage related to activities performed pursuant to this AGREEMENT. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities of this AGREEMENT, provided that nothing shall require either party to disclose any documents, records, or communications which are protected under the attorney-client privilege or the attorney work product privilege. The provisions of this section shall survive the termination of this AGREEMENT.

V. TERMINATION

Either party may terminate this Agreement at any time for convenience and without cause, upon providing a ninety-day (90) notice to the other party at the addresses set forth in section XIII below. The notice shall state the effective date of the termination.
Either party may terminate this Agreement at any time for cause, upon providing a fifteen-day (15) notice to the other party at the addresses set forth in Section XIII below. The notice shall state the effective date of the termination.

VI. ASSIGNMENT

The expertise and experience of the County is a material consideration for this AGREEMENT. The County shall not assign or transfer the performance of this AGREEMENT to another entity without the prior written consent of City. Any attempt by the County to assign performance of this AGREEMENT, any rights, duties or obligations of City arising herein shall be deemed void.

VII. ASSURANCE

Each party represents and warrants that it has the authority to enter into this AGREEMENT.

VIII. RELATIONSHIP

Nothing contained in this Agreement shall be deemed to construe by the parties or any third party to create the relationship of partners or joint ventures between City and the County.

IX. CONFIDENTIALITY

City and the County agree that by virtue of entering into this Agreement they will have access to certain confidential information regarding the other party’s operations. City and the County shall not disclose confidential information and/or materials without the prior written consent of the other party unless such disclosures are required by law. Where appropriate, resident releases will be secured before confidential resident information is exchanged.

X. ENTIRE AGREEMENT

This instrument contains the entire agreement between the parties, and no statements, promises or inducements made by either party or agent of either party that are not contained in this AGREEMENT shall be valid or binding.

XI. MODIFICATION

This Agreement may not be enlarged, modified, or altered, except if it is evidenced in writing, signed by both parties and endorsed to this AGREEMENT.
XII. INSURANCE

Each party shall, at its own expense, keep in force during the term of this AGREEMENT, Workers’ Compensation Insurance, insuring against and satisfying each party’s obligations and liabilities under the workers’ compensation laws of the State of California, including employer’s liability insurance in the limits required by the laws of the State of California.

XIII. SEVERABILITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in force without being impaired or invalidated in any way.

XIV. NOTICES

Notices to the parties in connection with this Agreement shall be given personally or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties as follows:

<table>
<thead>
<tr>
<th>SANTA CLARA COUNTY</th>
<th>THE CITY OF SUNNYVALE</th>
</tr>
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<tbody>
<tr>
<td>Ky Le</td>
<td>Suzanne Isé</td>
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<tr>
<td>Director of Homeless Systems</td>
<td>Housing Officer, CDD</td>
</tr>
<tr>
<td>828 S. Bascom Avenue, Ste. 200</td>
<td>P.O. Box 3707</td>
</tr>
<tr>
<td>San Jose, CA, 95128</td>
<td>Sunnyvale, CA, 94088-3707</td>
</tr>
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</table>

Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated on the date of delivery.

XV. AMENDMENTS

This AGREEMENT may be amended only by a written instrument signed by the parties.

XVI. WAIVER

No delay or failure to require performance of any provision of this AGREEMENT shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing and shall apply only the specific instance expressly stated.

XVII. GOVERNING LAW, VENUE

This AGREEMENT has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this AGREEMENT shall be in the County of Santa Clara.
XVIII. COUNTERPARTS

This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

XIX. NON-DISCRIMINATION

City and County shall comply with all applicable Federal, State, and local laws and regulations including the County’s policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act of 1973 (Government Code sections 12900 et seq.); and California labor code sections 1101 and 1102. City and County shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall City or County discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be entered into as of the day and year of execution of this AGREEMENT,

County of Santa Clara

Nancy Peña, Ph.D. Date
Director, Mental Health Department

City of Sunnyvale

Gary Luebbers Date
City Manager

Approved

__________________________________________
Dave McGrew Date
SCVHHS Chief Financial Officer

Revenue Agreement between County of Santa Clara through the Mental Health Department and The City of Sunnyvale
Approved as to form and legality:

_________________________________
Greta Hansen          Date
Lead Deputy County Counsel

Approved

_________________________________
Rene G. Santiago      Date
Deputy County Executive and Director SCVHHS

Sunnyvale Office of the City Attorney

Approved

_________________________________
Kathryn Berry         Date
Assistant City Attorney, City of Sunnyvale
### Schedule of Administrative Expenses

Payable to County for RAPA Services Incurred for City Share of Program

<table>
<thead>
<tr>
<th>Expense</th>
<th>Budget</th>
<th>Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Program Launch Fee</strong></td>
<td>$6,000</td>
<td>Upon Contract Execution</td>
</tr>
<tr>
<td>Tasks:</td>
<td></td>
<td></td>
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<tr>
<td>• Completion of City Program Policies and Procedures Manual (PPM), Program Forms and Accounts</td>
<td></td>
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<tr>
<td>• Coordination with Referring Organizations, City and County, HUD, stakeholders as needed</td>
<td></td>
<td></td>
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<tr>
<td>• Program Compliance Duties</td>
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<tr>
<td><strong>Program Implementation Fee</strong></td>
<td><strong>$1,000 per Month</strong></td>
<td>Monthly within 30 days of receipt of County invoice, only for first six months of Term</td>
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<td>Tasks:</td>
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<tr>
<td>• Accepting Referrals/Creating Intake (waiting) List</td>
<td></td>
<td></td>
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<tr>
<td>• Eligibility Screening</td>
<td></td>
<td></td>
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<tr>
<td>• Referrals to Property Owners Currently Accepting Subsidies from Abode administered programs</td>
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<tr>
<td>• Unit Inspection</td>
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<tr>
<td>• Leasing/TBRA Contract</td>
<td></td>
<td></td>
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<tr>
<td><strong>Fiscal Services Fee</strong></td>
<td><strong>4% of Monthly Rental Assistance Funds Disbursed, Not to exceed $8,000 for Term</strong></td>
<td>Monthly within 30 days of receipt of County invoice, following initial lease-up of City Recipient, until administrative funds are fully expended.</td>
</tr>
<tr>
<td>Tasks:</td>
<td></td>
<td></td>
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<tr>
<td>• Send rental assistance checks to landlords</td>
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<td></td>
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<tr>
<td>• Invoicing and Reporting as needed</td>
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<tr>
<td>• Compliance Monitoring as needed</td>
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