

Department of Commerce

Innovation is in our nature.

Grant Agreement between:

City of Lakewood

and

Washington State Department of Commerce

Community Development Block Grant (CDBG)

Neighborhood Stabilization Program 3 (NSP3)

For: Tillicum Low-Income Housing Project—to acquire and rehabilitate or build 11 single-family housing units in the Tillicum neighborhood for purposes of reselling them to low-income families.

Start Date: Date of Last Signature on the Agreement Face Sheet

Agreement Number: 11-67400-002

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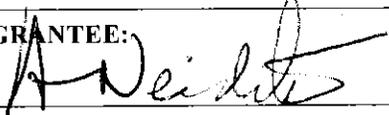
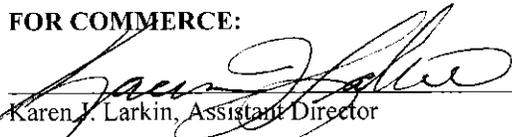
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AGREEMENT FACE SHEET

Agreement Number: 11-67400-002
Washington State Department of Commerce
Community Development Block Grant (CDBG)
Neighborhood Stabilization Program 3 (NSP3)

1. Grantee City of Lakewood 6000 Main Street SW Lakewood, WA 98499		2. Grantee Doing Business As (optional) N/A	
3. Grantee Representative Jeff Gumm, Program/Grants Coordinator City of Lakewood 6000 Main Street SW Lakewood, WA 98499 (253) 983-7773 jgumm@cityoflakewood.us		4. COMMERCE Representative Corina Grigoras, NSP3 Program Manager Department of Commerce Contracts Administration Unit P.O. Box 425253, Olympia, WA 98504-2525 (360) 725-3092 corina.grigoras@commerce.wa.gov	
5. Agreement Amount \$640,000.00	6. Funding Source Federal: <input checked="" type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/>	7. Start Date Date of last signature below	8. End Date March 8, 2014
9. Federal Funds (as applicable):		Federal Agency United States Department of Housing and Urban Development	CFDA Number 14.228
10. Grantee Tax ID# 91-1698185	11. Grantee SWV# 601-667-295	12. Grantee UBI# N/A	13. Grantee DUNS# 949462758
14. Agreement Purpose COMMERCE and Grantee have entered into this Agreement for the purpose of improving the stabilization of a community that suffered from foreclosures and/or abandonment by acquiring and rehabilitating or building 11 single-family housing units in the Tillicum neighborhood for the purpose of reselling them to low-income families. COMMERCE, defined as the Washington State Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this grant Agreement and attachments and have executed this Agreement on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Agreement are governed by this Agreement including the following attachments incorporated into this Agreement: Attachment A – Statement of Work & Budget; Attachment B – Target Area Map and HUD Report; Attachment C – Federal and State Requirements and Assurances.			
FOR GRANTEE:  Signature ANDREW E. NEIDITZ Name CITY MANAGER Title 6-17-11 Date		FOR COMMERCE:  Karen J. Larkin, Assistant Director June 21, 2011 Date APPROVED AS TO FORM ONLY: This 7 th Day of June, 2011 Sandra Adix Assistant Attorney General	

PART 1 – SPECIAL TERMS AND CONDITIONS

1.1. DEFINITIONS

As used throughout this grant agreement, the following terms shall have the meaning set forth below:

- A. “NSP3” shall mean the Neighborhood Stabilization Program 3 authorized under section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Public Law 111-203 (July 21, 2010)), and subject to the statutory and regulatory provisions of the Community Development Block Grant program authorized under Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.), unless otherwise noted in the Notice of Formula Allocations and Programs Requirements for Neighborhood Stabilization Program Formula Grants (Docket No. FR-5447-N-01, October 19, 2010).
- B. “Agreement” shall mean this NSP3 grant agreement.
- C. “COMMERCE” shall mean the Washington State Department of Commerce, and who is a Party to the Agreement and a recipient of the NSP3 grant from the United States Department of Housing and Urban Development.
- D. “Grantee” shall mean the grant recipient identified on the Agreement Face Sheet performing service(s) under this Agreement and who is a Party to the Agreement, and shall include all employees and agents of the Grantee.
- E. “Subgrantee” shall mean one not in the employment of the Grantee, who is performing all or part of the services under this Agreement under a separate contract with the Grantee. The terms “Subgrantee” and “Subgrantees” mean Subgrantee(s) in any tier.
- F. “NSP3 Project” shall mean all activities indentified in Attachment A – Statement of Work & Budget. NSP3 Project may be a continuation of a Neighborhood Stabilization Program 1 (NSP1) project which received funding from COMMERCE through a previous grant agreement. The NSP3 Project must only address/recover housing units located within the boundaries of the target area map and identified in the report included as Attachment B – NSP3 Project Target Area Map and HUD Report.
- G. “Local Match” shall mean the amount of non-NSP-related funds that the Grantee has committed to spend of the NSP3 Project at the time the Grantee submitted the application for NSP3 funding to COMMERCE. The Local Match amount must be expended on the NSP3 Project before the end of this Agreement. Local Match expenditures will be certified by the Grantee and verified by COMMERCE at the completion of the NSP3 Project.
- H. “Low-, moderate-, and middle-income” shall mean a household or individual income equal or less than 120 percent of the area median income.
- I. For purposes of the NSP3, the term “low- and moderate-income person,” as it appears throughout the CDBG regulations at 24 CFR part 570, shall be defined as a member of a low-, moderate-, and middle-income household.

- J. "Area median income" is determined by the U.S. Department of Housing and Urban Development and is based on data published by the U.S. Bureau of the Census.
- K. "CDBG National Objectives" are: (1) benefitting low- and moderate-income persons; (2) preventing or eliminating slums or blight; and (3) meeting urgent needs.

1.2. AUTHORITY

COMMERCE and Grantee have entered into this Agreement pursuant to the authority of section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Public Law 111-203 (July 21, 2010)) (Dodd-Frank Act), title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5 (February 17, 2009)) (Recovery Act), and sections 2301-2304 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289 (July 30, 2008)) (HERA).

NSP3 is a component of the Community Development Block Grant (CDBG) administered by U.S. Department of Housing and Urban Development. The CDBG program is authorized under Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.). NSP3 is subject to all CDGB statutory and regulatory provisions including those at 24 CFR part 570 subpart I, unless otherwise noted in the Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants (Docket No. FR-5447-N-01, October 19, 2010) (NSP3 Notice).

1.3. PURPOSE

COMMERCE has awarded the Grantee an NSP3 grant for the purpose of stabilizing communities that have suffered from foreclosures and abandonment by mitigating the negative impact of the nation's economic decline and housing market collapse and to stabilize and revitalize the areas hit the hardest.

The NSP3 Project will be undertaken by the Grantee and will include the activities described in Attachment A – Statement of Work & Budget. The NSP3 Project must be undertaken in accordance with the Special Terms and Conditions and the General Terms and Conditions included in this Agreement, and with all applicable federal, state, and local laws and ordinances.

1.4. ACKNOWLEDGEMENT OF FEDERAL FUNDING

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statements:

"This project was supported by **Grant No. B-11-DN-53-0001** awarded by U.S. Department of Housing and Urban Development. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Housing and Urban Development. Grant funds are administered by the Washington State Department of Commerce."

COMMERCE, as a recipient of U.S. Department of Housing and Urban Development funds, is legally obligated to meet federal accountability and reporting requirements. The state of Washington or the federal funding source may also identify additional requirements or other changes in requirements. Such requirements may be in statute, regulation, policy, or procedure. COMMERCE is responsible for incorporating these requirements into the performance under this Agreement.

1.5. ROLES AND RESPONSIBILITIES

COMMERCE's roles and responsibilities include but are not limited to the following:

- A. COMMERCE will manage this Agreement and monitor the NSP3 Project to ensure that the Grantee meets one or more of the CDBG National Objectives.
- B. COMMERCE will report to the U.S. Department of Housing and Urban Development on the NSP3 progress.
- C. COMMERCE will disburse awarded grant funds in accordance with this Agreement.
- D. COMMERCE will review and approve any and all contracts between Grantee and Subgrantees that result from this Agreement.
- E. COMMERCE will provide the form, format, and timing associated with reporting requirements as described in Section 1.13.

The Grantee's roles and responsibilities include but are not limited to the following:

- A. Grantee has the ultimate responsibility for the overall performance of the NSP3 Project, ensuring that the outputs and outcomes listed in Attachment A – Statement of Work & Budget are met.
- B. Grantee has the responsibility to ensure that the NSP3 Project meets one or more of the CDBG National Objectives.
- C. Grantee may enter into one or more contracts with one or more Subgrantees to develop and implement the NSP3 Project.
- D. Grantee will ensure that all Subgrantees comply with all federal and state laws, including but not limited to requirements of the Dodd-Frank Act, Recovery Act, HERA, and Housing and Community Development Act of 1974.
- E. Grantee will ensure that any contractors hired to do construction, demolition, or rehabilitation work associated with the NSP3 Project are bonded and licensed, and certified or approved to perform the work being contracted.
- F. Grantee will collect and ensure that all reporting information is timely and accurately submitted to COMMERCE, as described in Section 1.13.

1.6. AGREEMENT MANAGEMENT

The Representative for each of the parties identified on the Agreement Face Sheet shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

1.7. ORDER OF PRECEDENCE

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and state of Washington statutes, rules, and regulations;
- B. Special Terms and Conditions including all the attachments to this Agreement;
- C. General Terms and Conditions.

1.8. NSP3 GRANT AMOUNT

COMMERCE shall pay to the Grantee a grant amount not to exceed **\$640,000.00** for the performance of all things necessary for, or incidental to, the services as set forth in this Agreement and the tasks identified in Attachment A – Statement of Work & Budget.

1.9. TIME OF PERFORMANCE

The effective date of this Agreement is the date of last signature on the Agreement Face Sheet (the “Agreement start date”). The Grantee's performance on this Agreement shall follow the timeframes identified in this section and in Attachment A – Statement of Work & Budget. This Agreement will end on **March 8, 2014**, by which time the Grantee must have expended the entire grant amount indicated in Section 1.8. NSP3 funds not expended by **March 8, 2014**, will be forfeited by the Grantee. No later than **March 8, 2013**, the Grantee must have expended **at least 50 percent** of the entire grant amount indicated in Section 1.8.

For purpose of this Agreement, funds are considered expended when the Grantee incurred costs to purchase, demolish, and/or rehabilitate a property, or costs identified in Attachment A – Statement of Work & Budget.

Failure to meet the time frames described in this section shall constitute default under this Agreement, and as a result, this Agreement may be terminated.

1.10. USE OF NSP3 FUNDS

One hundred percent of the grant amount identified in Section 1.8 must be used to benefit low-, moderate-, and middle-income individuals and households.

Redevelopment activities using NSP3 grant funds must be for housing only. NSP3 funds may not be used to redevelop acquired property for non-residential uses, such as public parks, commercial uses, or mixed residential and commercial uses.

Use of grant funds under this Agreement must constitute an eligible use under the HERA and under 42 U.S.C. 5305(a), and meet one or more CDBG National Objectives. For the purpose of NSP3, 42 U.S.C. 5305(a) and 24 CFR 570.201–207 and 570.482(a) through (d) are superseded to the extent necessary to allow the eligible uses described under section 2301(c)(4) of HERA.

NSP3 funds may not be used for foreclosure prevention activities, for demolition of structures that are not blighted, or for the purchase of properties and homes that have not been abandoned or foreclosed

upon, except under Type E activity uses. NSP3 funds may not be used to demolish any public housing, as defined by Section 3 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a).

Prohibition to Earn Interest on NSP3 Funds

The Grantee is prohibited from depositing any NSP3 funds in an interest-bearing account. The Grantee has three (3) days after the Grantee received funds from COMMERCE to pay their Subgrantee(s), vendors, or contractors. If interest is earned by the Grantee on NSP3 funds in excess of \$100.00, it must be remitted directly to the U.S. Treasury.

1.11. CONTINUED AFFORDABILITY

Grantees shall ensure, to the maximum extent practicable and for no less than the applicable period specified in 24 CFR 92.252 for rental housing units or 24 CFR 92.254 for owner-occupied housing units, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties acquired, improved or sold, in whole or part, with NSP3 funds remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income, or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii) of HERA as amended, remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

1.12. DISBURSEMENTS OF NSP3 FUNDS

The availability of funds in the NSP3 is made available through the U.S. Department of Housing and Urban Development. If funding or appropriation is not available at the time the Grantee submits a request for a grant disbursement, the issuance of a warrant will be delayed or suspended until such time funds become available.

COMMERCE will pay the Contractor for allowable expenses tied to approved project activities according to Attachment A – Statement of Work & Budget. Only allowable expenses incurred by Grantee after **the Agreement start date**, as indicated on the Agreement Face Sheet, are eligible for reimbursement.

Invoices must be submitted on a Washington State Invoice A-19 Voucher form, which will be provided by COMMERCE upon Grantee’s request. The voucher form must report any Program Income (as described in Section 1.15) received as of the date of submittal. Program Income must be deducted from the amount requested.

Invoices shall be mailed to:

The Department of Commerce
Contracts Administration Unit
1011 Plum St SE
P.O. Box 42525
Olympia, Washington 98504-2525

Invoices shall describe and document, to COMMERCE’s satisfaction, the work performed, and the progress of the NSP3 Project. The invoice shall include the Agreement number. If expenses are invoiced, provide a detailed breakdown of each type. COMMERCE reserves the right to request backup documentation (such as invoices, bills, receipts, etc.) supporting the costs for which the Grantee requires reimbursement.

The Grantee must submit the last request for reimbursement no later than 30 calendar days after the end of this Agreement, or **on or before April 7, 2014**.

Payments shall be considered timely if made by COMMERCE within 30 calendar days after receipt of properly completed invoices. Payments shall be sent to the address designated by the Grantee.

In the event that the Grantee receives reimbursement for costs that are later determined by COMMERCE to be ineligible, these funds shall be repaid to COMMERCE by payment to the Department of Commerce, or its successor, within 30 calendar days of written notification to the Grantee.

COMMERCE may, in its sole discretion, terminate the Agreement or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Agreement, including completion of the Environmental Review. No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subgrantee(s).

1.13. PERFORMANCE REPORTING

The Grantee, at such times and in such forms as COMMERCE may require, shall furnish periodic progress and performance reports pertaining to the NSP3 Project activities undertaken pursuant to this Agreement. These reports may include environmental review records, publication affidavits, procurement and contracting records, documentation of compliance with U.S. Department of Housing and Urban Development requirements, job creation records, Program Income reports, reports of the costs and obligations incurred in connection therewith, the final Project Closeout Report (as described in Section 1.14), and any other matters pursuant to this Agreement.

Failure to file periodic reports as requested in this section may result in termination of this Agreement.

1.14. PROJECT CLOSEOUT

COMMERCE will advise the Grantee to initiate project closeout procedures when there are no impediments to closing the NSP3 Project and the following criteria have been met or soon will be met:

- A. All costs have been incurred with the exception of closeout costs and any unsettled third-party claims against the Grantee. Costs are incurred when goods and services are received or contract work is performed.

- B. All Local Match funds have been expended on the NSP3 Project. Local Match expenditures will be certified by the Grantee in the Project Closeout Report and verified by COMMERCE.
- C. The Grantee has submitted the final Project Closeout Report. Failure to submit a Project Closeout Report will not preclude COMMERCE from effecting closeout if it is deemed to be in the state's interest. COMMERCE will provide the necessary Project Closeout Report forms to Grantee.
- D. If applicable, the Grantee has provided a description of its plan to manage Program Income (as described in Section 1.15) anticipated to be received after the end of this Agreement, either through the implementation and management of a revolving account or through other means, as appropriate.
- E. Other responsibilities of the Grantee under this Agreement and any closeout agreement and applicable laws and regulations appear to have been carried out satisfactorily or there is no further state interest in keeping the grant open for the purpose of securing performance.

1.15. PROGRAM INCOME

Program Income, as defined in 24 CFR 570.500(a), is gross income received by the Grantee or its Subgrantee(s) that is directly generated from the use of NSP (NSP1 or NSP3) funds. Program Income retains federal identity and must be spent by the Grantee or its Subgrantee(s) before drawing additional NSP funds to complete activities identified in the Attachment A – Statement of Work & Budget. COMMERCE may not reimburse the Grantee for activities identified in the Attachment A – Statement of Work & Budget until the Grantee shows evidence that all the Program Income funds were expended.

If this NSP3 Project is a continuation of a NSP1 project that received funding from COMMERCE under a previous grant agreement, the Grantee must also spend the Program Income resulting from NSP1 activities before drawing additional NSP3 funds.

The Grantee must maintain records of Program Income received and expended. Program Income must be reported to COMMERCE when the Grantee submits requests for reimbursement. Program Income received by the Grantee or its Subgrantee(s) after the end of this Agreement in a single year that equals or exceeds \$25,000 must be reported to COMMERCE and must be used by the Grantee or its Subgrantee(s) to continue the same NSP3 eligible activities as identified in Attachment A – Statement of Work & Budget, while meeting one of the CDBG National Objectives.

The Grantee may use **up to 10 percent** of its Program Income to pay for administrative, operational, and planning activities related to the NSP3 Project.

As described in Section 1.10, the Grantee is prohibited from depositing NSP3 funds into an interest-bearing account. If interest is earned by the Grantee on Program Income funds deposited into an interest-bearing account, the accrued interest is considered to be Program Income and shall be used in accordance with the provisions in this Section.

1.16. ACQUISITION AND DISPOSITION OF ASSETS

The Grantee will account for any tangible property acquired with NSP3 grant funds.

The use and disposition of real property and equipment under this Agreement will be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, 570.504, as applicable, which include but are not limited to the following:

Real property that was acquired or improved, in whole or in part, with NSP3 funds under this Agreement shall be used to meet one of the CDBG National Objectives for **10 years** after the end of this Agreement. Any exception must be made with COMMERCE's approval and the Grantee will be responsible to pay COMMERCE an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-NSP3 funds for acquisition of, or improvement to, the property.

Real property acquired, improved or sold, in whole or in part, with NSP3 funds shall comply with the requirements of Public Law 110-289, HERA, section 2301, which includes but is not limited to:

- Section 2301(d)(1) current market appraisal requirements to determine the statutory purchase discount and to ensure purchasers are paying below-market value for the home or property. Each foreclosed-upon property shall be purchased at a discount of at least **one percent** from the current market-appraised value of the home or property.
- Section 2301(f)(3) affordability requirements as stipulated in 24 CFR 92.252 for rental housing units or 24 CFR 92.254 for owner-occupied housing units or for a longer period of time if practicable (as described in Section 1.11 of this Agreement).
- Section 2302(d)(3) sale amount restrictions for any abandoned or foreclosed upon home or residential property purchased, redeveloped, or otherwise sold to an individual as a primary residence to an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

Purchase agreements for properties purchased with NSP3 funds must identify the NSP3 funds as being the source, or one of the sources, of funding.

In cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds will be Program Income.

1.17. SUBGRANTEE AGREEMENTS

The Grantee must ensure that subcontracts between the Grantee and Subgrantees hired to implement, administer, and/or manage the NSP3 Project, or a portion thereof, ("Subgrantee agreements"), are in compliance with all the provisions, rules, and regulations described in this Agreement.

At a minimum, the Subgrantee agreements will include provisions or descriptions for the following:

- A. Time of Performance: The Subgrantee agreement must include a timeline that meets the requirements under Section 1.9 of this Agreement.
- B. Dispute Resolution: The Subgrantee agreement must include a provision by which disputes between the Grantee and Subgrantee are resolved.
- C. Environmental and Cultural Resources Review Process: The Subgrantee agreement must include a provision requiring the Subgrantee to ensure that all the environmental and cultural resources reviews are completed as required under Section 1.22 of this Agreement.

- D. Acquisition and Disposition of Assets: The Subgrantee agreement must include provisions requiring the Subgrantee to comply with the requirements described in Section 1.16 and Section 1.11 of this Agreement.
- E. Selecting and Monitoring Contractors: The Subgrantee agreement must describe the process followed to ensure compliance with performance standards and licensing (as described in Section 1.24) and code requirements (as described in Section 1.25) for the any contractors hired to perform construction or demolition work associated with the NSP3 Project.
- F. Program Income: The Subgrantee agreement must include provisions requiring the Subgrantee to comply with the Program Income requirements described in Section 1.15 of this Agreement.
- G. Vicinity & Section 3 Hiring: The Subgrantee agreement must include a provision requiring the Subgrantee to comply with the vicinity hiring and Section 3 requirements identified in Section 1.19 of this Agreement.
- H. Insurance Requirements: The Subgrantee agreement must include a provision requiring, at a minimum, evidence of Subgrantee's insurance as described in Section 1.29.
- I. Federal and State Requirements: The Subgrantee agreement must include provisions requiring the Subgrantee to comply with all the applicable state and federal requirements as identified in the Special Terms and Conditions, the General Terms and Conditions, and Attachment C of this Agreement.

1.18. SUBCONTRACTING FOR ENGINEERING SERVICES

Engineering services providers must certify that they are authorized to do business in the state of Washington and are in full compliance with the requirements of the Board of Professional Registration. The Grantee shall require that the engineering services providers be covered by errors and omissions insurance in an amount not less than the amount of their subcontract with the Grantee. If the engineering services provider is unable to obtain errors and omissions insurance, the engineering services provider shall post a bond with the Grantee for not less than the amount of the subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that cancellation or lapse of the bond or insurance during the term of the subcontract shall constitute a material breach of the subcontract and cause for subcontract termination. The Grantee shall cause the engineering services provider to provide 30-day notice of cancellation. If the engineering services provider is also the project administrator, the Grantee shall require that the bond or insurance shall be for not less than the amount of the entire NSP3 Project.

1.19. VICINITY HIRING

The Grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity of the NSP3 Project or contract with small businesses that are owned and operated by persons residing in the vicinity of the NSP3 Project. The NSP3 vicinity hiring requirement does not replace the responsibilities of the Grantee under Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135, except to the extent the obligations may be in direct conflict.

For the purposes of NSP3, vicinity means the neighborhood identified by the Grantee, in the Grantee's application/proposal for NSP3 funding, as being its NSP3 Project's target area.

1.20. TENANT PROTECTION

The Grantee agrees to comply with the Recovery Act provisions concerning tenant protections applicable to NSP3 acquisitions of foreclosed property. The Grantee must document its efforts to ensure that the initial successor in interest (ISII) in a foreclosed upon dwelling or residential real property (typically, the ISII in property acquired through foreclosure is the lender or trustee for holders of obligations secured by mortgage liens) has provided bona fide tenants with the notice and other protections outlined in the Recovery Act. The Grantee will not use NSP3 funds to finance the acquisition of property from any ISII that failed to comply with applicable requirements unless the Grantee assumes the obligations of such ISII with respect to bona fide tenants. If the Grantee elects to assume such obligation, the Grantee may only do so if the tenant is still occupying the property and the Grantee will provide any tenant displaced as a result of the NSP3 funded acquisition with the assistance outlined in 24 CFR 570.606. If the Grantee knows that the ISII did not comply with the Recovery Act tenant protection requirements and vacated the property contrary to these requirements, NSP3 funds cannot be used to acquire such properties.

1.21. REHABILITATION STANDARDS

The Grantee must ensure that all gut rehabilitation (i.e., general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls) or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation or new construction of mid- or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent (which is the Energy Star standard for multifamily buildings piloted by the Environmental Protection Agency and the Department of Energy). Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken, e.g., replace older obsolete products and appliances (such as windows, doors, lighting, hot water heaters, furnaces, boilers, air conditioning units, refrigerators, clothes washers and dishwashers) with Energy Star-labeled products. Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed. Where relevant, the housing should be improved to mitigate the impact of disasters (e.g., earthquake, hurricane, flooding, fires).

1.22. ENVIRONMENTAL REVIEW

The Grantee must prepare an environmental assessment of the NPS3 Project and make a finding of environmental impact. A notice of this finding must be published along with a notice of the Grantee's intent to request release of funds for the NPS3 Project unless the project is exempt from the publication requirements as described. The Grantee must allow a seven (7) or fifteen (15) day period for public review and comment following publication of the notices unless exempt under the National Environmental Policy Act (NEPA) and the Washington State Environmental Policy Act (SEPA). When this review and comment period expires, the Grantee may, after considering any comments received, submit a request for release of funds to COMMERCE. Upon receipt of the request, COMMERCE must allow a fifteen (15) day period for public review and comment. When COMMERCE's public review

and comment period expires, COMMERCE may, after considering any comments received, formally notify the Grantee in writing of the release of federal funds for the NSP3 Project.

This special condition is satisfied when the Grantee completes the environmental review and request for release of funds from COMMERCE. The special condition is effectively removed on the date COMMERCE provides the Grantee with written notice of release of funds.

1.23. FISCAL MANAGEMENT

Grantee shall have a budgeting, accounting, and reporting system that meet the standards of Washington State Chapter 43.88 RCW – Fiscal Management, and United States Department of Energy CFR Title 10 Part 600 – Financial Assistance Rules, demonstrating good internal control policies, procedures, and practices.

Grantee must segregate the obligations and expenditures related to funding under this Agreement. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. No part of the funds from this Agreement shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable under this Agreement.

1.24. PERFORMANCE STANDARDS AND LICENSING

The Grantee shall comply with all applicable local, state, and federal licensing and accrediting requirements/standards, and any other standard or criteria established by COMMERCE to assure quality of services necessary for the performance of all work and services resulting from this Agreement and additional requirements contained in all documents incorporated by reference in the Agreement.

1.25. CODE REQUIREMENTS

The Grantee must ensure that all construction and rehabilitation projects resulting from this Agreement satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy, and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990, 28 C.F.R. Part 35 will be required, as specified by the local building department.

1.26. PREVAILING WAGE LAW, DAVIS-BACON ACT

All contractors and subcontractors performing work on a **construction** project funded through this Agreement shall comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

- A. State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the NSP3 Project funded by this Agreement, including but not limited to the filing of the “Statement of Intent to Pay Prevailing Wages” and “Affidavit of Wages Paid” as required by RCW 39.12.040. The Grantee shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE’s review upon request; or
- B. The Davis Bacon Act, 40 U.S.C. 276a-276a-5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors in the performance or work or services resulting from this Agreement shall be paid wages at rates not less than

those prevailing on similar construction in the locality as determined by the Secretary of Labor.

Pursuant to Reorganization Plan No 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses found in 29 CFR 5.5 (a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alternation or repair (including painting and decorating).

1.27. WORK HOURS AND SAFETY STANDARDS

The Grantee must ensure that, where applicable, all contracts resulting from this Agreement awarded in excess of \$100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Section 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

1.28. ANTI-LOBBYING CERTIFICATION AND DISCLOSURE FORM

The Grantee, defined as the primary participant and its principals, certifies that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, 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.
- B. The above provisions will be met if the grant award from COMMERCE exceeds \$100,000 and will further ensure that their provisions are included in any Subgrantee agreements exceeding \$100,000 of grant funds.

1.29. INSURANCE

The Grantee must provide insurance coverage as set out in this section. The intent of the required insurance is to protect COMMERCE, should there be any claims, suits, actions, costs, damages, or expenses arising from any loss, or negligent or intentional act, or omission of the Grantee or its Subgrantees, or agents of either, while performing under the terms of this Agreement.

The insurance required shall be issued by an insurance company authorized to do business within the State of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall

name the State of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE 30 calendar days advance notice of any insurance cancellation, non-renewal, or modification.

The Grantee shall submit to COMMERCE, within 15 calendar days of the Agreement execution date, a certificate of insurance that outlines the coverage and limits defined in this insurance section. During the term of this Agreement, the Grantee shall submit renewal certificates not less than 30 calendar days prior to the expiration of each policy required under this section.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Agreement, as follows:

- A. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Agreement activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that its Subgrantees provide adequate insurance coverage for the activities associated with the NSP3 Project.
- B. Automobile Liability. In the event that performance pursuant to this Agreement involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
- C. Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under contract to the Grantee. The State of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.
- D. Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:
 - a. The amount of fidelity coverage secured pursuant to this Agreement shall be \$100,000 or the highest of planned reimbursement for the Agreement period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
 - b. The Subgrantees or any of their subcontractors that receive \$10,000 or more per year in funding through this Agreement shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantee and their subcontractors pursuant to this paragraph shall name the Grantee as beneficiary.

- c. The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided 30 calendar days advance written notice of cancellation.

Additional Provisions

The above insurance policy shall include the following provisions:

- A. Additional Insured. The State of Washington, COMMERCE, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella, and property insurance policies. All insurance provided in compliance with this Agreement shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
- B. Identification. The policy must reference COMMERCE's Agreement number and the State agency name.
- C. Insurance Carrier Rating. All insurance and bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by COMMERCE's Risk Manager, or the Risk Manager for the State of Washington, before the Agreement is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
- D. Excess Coverage. By requiring insurance herein, COMMERCE does not represent that coverage and limits will be adequate to protect Grantee and such coverage and limits shall not limit Grantee's liability under the indemnities and reimbursements granted to COMMERCE in this Agreement.

Local Government Grantees that Participate in a Self-Insurance Program

With prior approval from COMMERCE, the Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Grantee shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: (1) Governmental Accounting Standards Board (GASB), (2) Financial Accounting Standards Board (FASB), and (3), the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The State of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Grantee shall provide annually to COMMERCE a summary of coverages and a letter of self insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self insurance will be provided on the anniversary of the start date of this Agreement.

1.30. RECORD KEEPING AND ACCESS TO RECORDS

These terms supersede the terms in Section 2.30. Records Maintenance in General Terms and Conditions.

The Grantee must maintain sufficient documentation about the purchase and sale amounts of each property the Grantee or its Subgrantee(s) purchase or sell and the sources and uses of funds for each activity so that COMMERCE can determine whether the Grantee is in compliance with this requirement. A Grantee will be expected to provide this documentation individually for each activity.

COMMERCE, the COMMERCE agents, and duly authorized officials of the state and federal governments shall have full access and the right to examine, copy, excerpt, or transcribe any pertinent documents, papers, records, and books of the Grantee and of persons, firms, or organizations with which the Grantee may contract, involving transactions related to the NSP3 Project and this Agreement.

The Grantee agrees to retain these records for a period of **six (6) years** from project completion. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

1.31. RECAPTURE PROVISION

In the event that the Grantee fails to expend NSP3 funds in accordance with state law and/or the provisions of this Agreement, COMMERCE reserves the right to recapture NSP3 funds in an amount equivalent to the extent of noncompliance. Repayment by the Grantee of NSP3 funds under this Recapture Provision shall occur within 30 days of demand. In the event that COMMERCE is required to institute proceedings to enforce this Recapture Provision, COMMERCE shall be entitled to its cost thereof, including reasonable attorney's fees.

1.32. REDUCTION IN FUNDS

In the event that NSP3 funds appropriated for the NSP3 Project activities identified in this Agreement are withdrawn, reduced, or limited in any way by the U.S. Department of Housing and Urban Development or the U.S. Treasury during the period of this Agreement, the parties hereto shall be bound by any such revised funding limitations as implemented at the discretion of COMMERCE, and shall meet and renegotiate this Agreement accordingly.

PART 2 – GENERAL TERMS AND CONDITIONS

2.1. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meaning set forth below:

- A. “Authorized Representative” shall mean the Director and/or the designee authorized in writing to act on the Director’s behalf.
- B. “Grantee” shall mean the entity identified on the face sheet performing service(s) under this Agreement, and shall include all employees and agents of the Grantee.
- C. “COMMERCE” shall mean the Department of Commerce, or its successor agency.
- D. “Personal Information” shall mean information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. “State” shall mean the state of Washington.
- F. “Subgrantee” shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Agreement under a separate contract with the Grantee. The terms “Subgrantee” and “Subgrantees” mean Subgrantee(s) in any tier.

2.2. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

2.3. AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

2.4. AMERICANS WITH DISABILITIES ACT (ADA)

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

2.5. APPROVAL

This Agreement shall be subject to the written approval of COMMERCE’s Authorized Representative and shall not be binding until so approved. The Agreement may be altered, amended, or waived only by a written amendment executed by both parties.

2.6. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

2.7. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Agreement, in the event of litigation or other action brought to enforce Agreement terms, each party agrees to bear its own attorneys fees and costs.

2.8. AUDIT

A. General Requirements

Grantees are to procure audit services from the State Auditor's Office based on the following guidelines under the Single Audit Act.

The Grantee shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subgrantees also maintain auditable records.

The Grantee is responsible for any audit exceptions incurred by its own organization or that of its Subgrantees.

COMMERCE reserves the right to recover from the Grantee all disallowed costs resulting from the audit.

As applicable, Grantees required to have an audit must ensure the audits are performed in accordance with Generally Accepted Auditing Standards (GAAS); Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Grantee must respond to COMMERCE requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. Federal Funds Requirements - OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations

Grantees expending \$500,000 or more in a fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with Office of Management and Budget (OMB) Revised Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations." Revised OMB A-133 requires the Grantee to provide the auditor with a schedule of Federal Expenditure for the fiscal year(s) being audited. The Schedule of State Financial Assistance must be included. Both schedules include:

- Grantor agency name
- Federal agency
- Federal program name
- Other identifying agreement numbers
- Catalog of Federal Domestic Assistance (CFDA) number
- Grantor agreement number
- Total award amount including amendments (total grant award)
- Beginning balance
- Current year revenues

Current year expenditures
Ending balance
Program total

If the Grantee is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of nonprofit organizations are to be conducted by a certified public accountant selected by the Grantee in accordance with OMB Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

The Grantee shall include the above audit requirements in any subcontracts.

In any case, the Grantee's financial records must be available for review by COMMERCE.

C. Documentation Requirements

The Grantee must send a copy of any required audit Reporting Package as described in OMB Circular A-133, Part C, Section 320(c) no later than nine (9) months after the end of the Grantee's fiscal year(s) to:

Department of Commerce
ATTN: Audit Review and Resolution Office
906 Columbia Street SW, Fifth Floor
PO Box 48300
Olympia WA 98504-8300

In addition to sending a copy of the audit, when applicable, the Grantee must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by COMMERCE.
- Copy of the Management Letter.

2.9. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS

- A. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - 2) Have not within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this section; and
 - 4) Have not within a three-year period preceding the signing of this Agreement had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Grantee is unable to certify to any of the statements in this Agreement, the Grantee shall attach an explanation to this Agreement.
- C. The Grantee agrees by signing this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D. The Grantee further agrees by signing this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- 1) The lower tier grantee certifies, by signing this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - 2) Where the lower tier grantee is unable to certify to any of the statements in this Agreement, such grantee shall attach an explanation to this Agreement.
- E. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

2.10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
- 1) All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
 - 2) All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
 - 3) All Personal Information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal Information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other

identifying numbers, and “Protected Health Information” under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Agreement and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Agreement whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

2.11. CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

2.12. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered “works for hire” under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

“Materials” means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. “Ownership” includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Agreement, but that incorporate pre-existing materials not produced under the Agreement, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Agreement. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

2.13. DISALLOWED COSTS

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subgrantees.

2.14. DISPUTES

Except as otherwise provided in this Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Agreement number; and
- be mailed to the Director and the other party's (respondent's) Agreement Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this Agreement shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

2.15. DUPLICATE PAYMENT

The Grantee certifies that work to be performed under this Agreement does not duplicate any work to be charged against any other Agreement, subcontract, or other source.

2.16. ETHICS/CONFLICTS OF INTEREST

In performing under this Agreement, the Grantee shall assure compliance with the Ethics in Public Service Act (Chapter 42.52 RCW) and any other applicable state or federal law related to ethics or conflicts of interest.

2.17. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

2.18. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, all other agencies of the state and all officers, agents and employees of the state, from and against all claims or damages for injuries to persons or property or death arising out of or incident to the Grantee's performance or failure to perform the Agreement. The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by the Grantee's agents, employees, representatives, or any Subgrantee or its agents, employees, or representatives.

The Grantee's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of the state or its agents, agencies, employees and officers.

Subcontracts with Subgrantees shall include a comprehensive indemnification clause holding harmless the Grantee, COMMERCE, the state of Washington, its officers, employees and authorized agents.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

2.19. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent contractor relationship will be created by this Agreement. The Grantee and its employees or agents performing under this Agreement are not employees or agents of COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

2.20. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Agreement, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

2.21. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

United States Laws, Regulations and Circulars (Federal)

A. Audits

Office of Management and Budget (OMB) Revised Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations.”

B. Labor and Safety Standards

Convict Labor, 18 U.S.C. 751, 752, 4081, 4082.

Drug-Free Workplace Act of 1988, 41 USC 701 et seq.

Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.

Work Hours and Safety Act of 1962, 40 U.S.C. 327-330 and Department of Labor Regulations, 29 CFR Part 5.

C. Laws against Discrimination

Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90
Nondiscrimination in Federally Assisted Programs.

Americans with Disabilities Act of 1990, Public Law 101-336.

Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375
and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60.

Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.

Handicapped Employees of Government Subgrantees, Rehabilitation Act of 1973, Section 503,
29 U.S.C. 793.

Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section
504, 29 U.S.C. 794.

Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631.

Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551.

Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a).

Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42
U.S.C. 2002d et seq, 24 CFR Part 1.

Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352.

Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42
U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60.

Section 3, Housing and Urban Development Act of 1968, 12 USC 1701u (See 24 CFR 570.607(b)).

D. Office of Management and Budget Circulars

Cost Principles for State, Local and Indian Tribal Governments, OMB Circular A-87, 2 CFR, Part 225.

Cost Principles for Nonprofit Organizations, OMB Circular A-122 (if the Grantee is a nonprofit organization).

Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-102 (if the Grantee is a local government or federally recognized Indian tribal government).

Uniform Administrative requirements for Grants and Other Local Agreements with Institutions of Higher Education, Hospitals and Other NonProfit Organizations, OMB Circular A-110.

E. Other

Anti-Kickback Act, 18 U.S.C. 874; 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54.

Governmental Guidance for New Restrictions on Lobbying; Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989.

Hatch Political Activity Act, 5 U.S.C. 1501-8.

Internal Revenue Service Rules, August 31, 1990.

Lobbying and Disclosure, 42 USC 3537a and 3545 and 31 USC 1352 (Byrd Anti-Lobbying Amendment). 31 U.S.C. 1352 provides that Grantees who apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or other award covered by 31 U.S.C. 1352. Each tier must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Non-Supplanting Federal Funds.

Section 8 Housing Assistance Payments Program.

F. Privacy

Privacy Act of 1974, 5 U.S.C. 552a.

G. Washington State Laws and Regulations

1) Affirmative action, RCW 41.06.020 (11).

- 2) Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- 3) Disclosure-campaign finances-lobbying, Chapter 42.17 RCW.
- 4) Discrimination-human rights commission, Chapter 49.60 RCW.
- 5) Ethics in public service, Chapter 42.52 RCW.
- 6) Office of minority and women’s business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- 7) Open public meetings act, Chapter 42.30 RCW.
- 8) Public records act, Chapter 42.56 RCW.
- 9) State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

2.22. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Agreement.

2.23. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative’s designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement.

2.24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Agreement, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee’s non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Agreements with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the “Disputes” procedure set forth herein.

2.25. POLITICAL ACTIVITIES

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

2.26. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with OMB Circulars A-102, Uniform Administrative Requirements for Grants in Aid for State and Local Governments, for all purchases funded by this Agreement.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, for all purchases funded by this Agreement.

The Grantee's procurement system should include at least the following:

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
 - B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
 - C. Minimum procedural requirements, as follows:
 - 1) Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
 - 2) Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
 - 3) Positive efforts shall be made to use small and minority-owned businesses.
 - 4) The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
 - 5) Contracts shall be made only with reasonable Subgrantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
 - 6) Some form of price or cost analysis should be performed in connection with every procurement action.
 - 7) Procurement records and files for purchases shall include all of the following:
 - a) Grantee selection or rejection.
 - b) The basis for the cost or price.
 - c) Justification for lack of competitive bids if offers are not obtained.
 - 8) A system for Agreement administration to ensure Grantee conformance with terms, conditions and specifications of this Agreement, and to ensure adequate and timely follow-up of all purchases.
 - D. Grantee and Subgrantee must receive prior approval from COMMERCE for using funds from this Agreement to enter into a sole source Agreement or an Agreement where only one bid or proposal is received when value of this Agreement is expected to exceed \$5,000.
- Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

2.27. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Grant shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Grant provided, however, that the reasonable fees or bona fide technical consultant,

managerial, or other such services, other than actual solicitation are not hereby prohibited if otherwise eligible as project costs.

2.28. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

2.29. RECAPTURE

In the event that the Grantee fails to perform this Agreement in accordance with state laws, federal laws, and/or the provisions of this Agreement, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

2.30. RECORDS MAINTENANCE

The Grantee shall maintain all books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Grantee shall retain such records for a period of six years following the date of final payment. If any litigation, claim or audit is started before the expiration of the **six (6) year** period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

2.31. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

2.32. RIGHT OF INSPECTION

At no additional cost all records relating to the Grantee's performance under this Agreement shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Agreement. The Grantee shall provide access to its facilities for this purpose.

2.33. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, COMMERCE may terminate the Agreement under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Agreement may be amended to reflect the new funding limitations and conditions.

2.34. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Agreement and to this end the provisions of this Agreement are declared to be severable.

2.35. SURVIVAL

The terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

2.36. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee

2.37. TERMINATION FOR CAUSE / SUSPENSION

In event COMMERCE determines that the Grantee failed to comply with any term or condition of this Agreement, COMMERCE may terminate the Agreement in whole or in part upon written notice to the Grantee. Such termination shall be deemed "for cause." Termination shall take effect on the date specified in the notice.

In the alternative, COMMERCE upon written notice may allow the Grantee a specific period of time in which to correct the non-compliance. During the corrective-action time period, COMMERCE may suspend further payment to the Grantee in whole or in part, or may restrict the Grantee's right to perform duties under this Agreement. Failure by the Grantee to take timely corrective action shall allow COMMERCE to terminate the Agreement upon written notice to the Grantee.

"Termination for Cause" shall be deemed a "Termination for Convenience" when COMMERCE determines that the Grantee did not fail to comply with the terms of the Agreement or when COMMERCE determines the failure was not caused by the Grantee's actions or negligence.

If the Agreement is terminated for cause, the Grantee shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement Agreement, as well as all costs associated with entering into the replacement Agreement (i.e., competitive bidding, mailing, advertising, and staff time).

2.38. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement, COMMERCE may, by 10 business days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, COMMERCE shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

2.39. TERMINATION PROCEDURES

After receipt of a notice of termination, except as otherwise directed by COMMERCE, the Grantee shall:

- A. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the Agreement;
- C. Assign to COMMERCE all of the rights, title, and interest of the Grantee under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by the Grantee to settle such claims must have the prior written approval of COMMERCE, and
- D. Preserve and transfer any materials, Agreement deliverables and/or COMMERCE property in the Grantee's possession as directed by COMMERCE.

Upon termination of the Agreement, COMMERCE shall pay the Grantee for any service provided by the Grantee under the Agreement prior to the date of termination. COMMERCE may withhold any amount due as COMMERCE reasonably determines is necessary to protect COMMERCE against potential loss or liability resulting from the termination. COMMERCE shall pay any withheld amount to the Grantee if COMMERCE later determines that loss or liability will not occur.

The rights and remedies of COMMERCE under this section are in addition to any other rights and remedies provided under this Agreement or otherwise provided under law.

2.40. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

ATTACHMENT A – STATEMENT OF WORK & BUDGET

**Washington State Department of Commerce
Community Development Block Grant (CDBG)
Neighborhood Stabilization Program (NSP3)**

Agreement Number: 11-67400-002

Grantee: City of Lakewood

NSP3 Project Name: Tillicum Low-Income Housing Project

NSP3 Grant Amount: \$640,000.00

Section 1: Brief Description of the NSP3 Project

The City of Lakewood is awarded \$640,000 from the Neighborhood Stabilization Program 3 (NSP3) to acquire and rehabilitate or build 11 single-family housing units in the Tillicum neighborhood for purposes of reselling them to low-income families. The 11 housing units exceed the minimum impact housing units number of 2 identified by U.S. Department of Housing and Urban Development (HUD) for the project's target area. The target area map and HUD report are attached as Attachment B – Target Area Map and HUD Report. This NSP3 Project will only address/recover housing units located within the boundaries of the target area map.

Department of Commerce designated City of Lakewood's target area as an area with a high rate of home foreclosures and, therefore, in great need of this type of emergency financial assistance. The City of Lakewood will enter into a subgrantee agreement with Habitat for Humanity (non-profit) to acquire the properties and provide affordable homeownership for families earning 30-50% of the area median income (\$25,000-\$34,050 for a family of four). Houses will vary in size based on household size, but will be between 2- and 5-bedroom homes. NSP3 funds will be used for administrative and project related expenses, land acquisition, demolition, infrastructure, site improvements, and house construction costs.

The City of Lakewood will assure the continued affordability of the properties in accordance with the requirements of 24 CFR 92.252 for rental housing units or 24 CFR 92.254 for owner-occupied housing units. Redevelopment of existing housing and/or the provision of new housing will comply with the minimum housing quality standards for Section 8 housing as defined in 24 CFR 982.401.

Section 2: NSP3 Project Performance Measures

OUTPUTS	<ul style="list-style-type: none"> ▪ 11 housing units acquired and rehabilitated or built in the target area by March 8, 2014. ▪ Homeownership provided to approximately 35 low-income individuals. ▪ 100% of the NSP3 funds, less administrative costs, will be used to benefit households earning 50% or less of the area median income.
OUTCOMES	<ul style="list-style-type: none"> ▪ New affordable housing units will spark long-term housing change in the target area. ▪ The increase in the number of owner-occupied units will bring stability to a community with high rates of rental units and tenant turnover. ▪ The NSP3 Project will improve area property values, add to the local tax base, and inspire surrounding homeowners to improve and maintain their own properties; a greater sense of community will be engendered.

Section 3: Work Activities, Estimated Completion, and Budget

NOTE: At NSP3 Project's completion, the Grantee must have expended the Local Match that the Grantee identified in their application to Commerce for NSP3 funding (per Sections 1.1 and 1.14. of this Agreement).

Activity Type	Description of Work Activity	Estimated Completion Date	NSP3 Funds	Other Funds
Acquisition & Redevelopment Set-Aside	<ul style="list-style-type: none"> ▪ City of Lakewood will sub-grant NSP3 funds to Habitat for Humanity to purchase multiple foreclosed, abandoned, or vacant lots to build or rehabilitate 11 single-family housing units. ▪ Habitat for Humanity will sell the houses to families earning 30-50% of the area median income (Type E NSP Eligible Use Activity). 	July 2011 to March 8, 2014, or sooner	\$608,000	\$511,500
General Admin.	<ul style="list-style-type: none"> ▪ City of Lakewood will establish and maintain an administrative point of contact and perform the necessary program administration, record keeping, and financial management procedures necessary to comply with the federal and state CDBG and NSP3 requirements. 	July 2011 to March 8, 2014, or sooner	\$32,000	\$0
Subtotals			\$640,000	\$511,500
NSP3 Project Total Cost			\$1,151,500	

Section 4: NSP3 Project Schedule

Milestone #	Milestone Description	Due Date
Milestone #1	<ul style="list-style-type: none"> ▪ City of Lakewood and Habitat for Humanity will execute a subgrantee agreement. 	July 31, 2011
Milestone #2	<ul style="list-style-type: none"> ▪ City of Lakewood and Habitat for Humanity will acquire the foreclosed, abandoned, or vacant housing units, and will start their redevelopment/ rehabilitation in order to sell the housing units to eligible buyers. ▪ City of Lakewood will provide Department of Commerce with an inventory of acquired housing units with information regarding the street addresses, homeowners, and purchase prices for each property. 	March 8, 2013
Milestone #3	<ul style="list-style-type: none"> ▪ City of Lakewood will expend at least 50% of the NSP3 grant on NSP3 Project activities. 	March 8, 2013
Milestone #4	<ul style="list-style-type: none"> ▪ City of Lakewood will complete its redevelopment of the housing units. ▪ The 11 housing units will be sold to eligible buyers. 	March 8, 2014
Milestone #5	<ul style="list-style-type: none"> ▪ City of Lakewood will provide Department of Commerce financial reports itemizing the disbursement of NSP3 funds, an inventory of properties assisted which includes street addresses, purchase amounts, and the financial assistance provided, along with any final steps necessary to close-out the NSP3 Project. 	March 8, 2014
Milestone #6	<ul style="list-style-type: none"> ▪ City of Lakewood will expend 100% of the NSP3 grant on NSP3 Project activities. 	March 8, 2014

ATTACHMENT B – NSP3 PROJECT TARGET AREA MAP AND HUD REPORT

**Washington State Department of Commerce
Community Development Block Grant (CDBG)
Neighborhood Stabilization Program (NSP3)**

Agreement Number: 11-67400-002

Grantee: City of Lakewood

NSP3 Project Name: Tillicum Low-Income Housing Project

NSP3 Grant Amount: \$640,000.00

The target area map and U.S. Department of Housing and Urban Development report (HUD report) for the NSP3 Project are attached on the following pages. The NSP3 Project must only address/recover housing units located within the boundaries of the target area map and identified in the HUD report included herein.

WEDNESDAY, APRIL 13, 2011



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Neighborhood Stabilization Program Grants

The Neighborhood Stabilization Program (NSP) provides grants to address the problems associated with homes that have been foreclosed upon and are creating economic problems for their communities.

Enter an Address, city or state Go Select a State Select a County Go

Map Options : Clear | Reset

Click Mode: Zoom | Info

NSP3 Legend (%) Tract Outline

LOG OUT

NSP3 Options

Current Zoom Level

Show Tracts Outline (Zoom 11+)

DRAW

NSP3

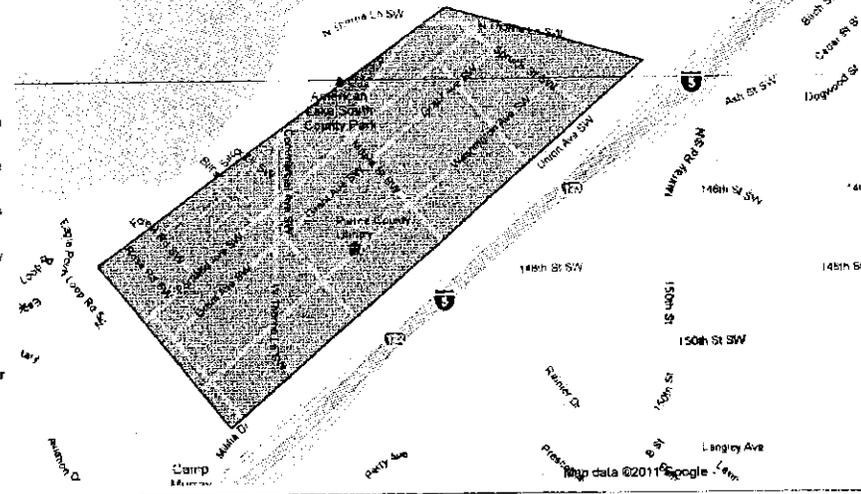
Project Name : Titicum-NSP3

American Lake	Block Group	Neighborhood Housing Units	Block Group Housing Units	Block Group Score	State Min	USPS	HMDA
	530539337636039072000U2	258	292	15	9	275	42
	530539337636039072000U3	291	298	15	9	261	43
	530539337636039072000U4	271	487	15	9	458	70

Total Neighborhood Housing Units: 820
 Neighborhood NSP3 Score: 15.00
 State Minimum Threshold NSP3 Score: 9

METHODOLOGY INSTRUCTIONS

The NSP3 mapping tool now provides a summary NSP3 score for all projects drawn. Click on "View Projects", which will list all of the projects (target areas) that have data calculated. It shows the NSP3 score for each target area along with the total estimated housing units in that area. At the bottom of the list is a sum of all housing units in all target areas and the NSP3 score for all target areas drawn. Grantees are advised to know their state minimum and if the summary score is less than the state minimum the grantee should delete, add, or revise target areas. Note that if you delete or add, the tool only recalculates after you close the "View Projects" box and reopen it. HUD also advises grantees to think carefully about the size of their target areas in total. If those target areas have a very large number of total housing units relative to the dollars available, HUD will likely ask that the grantee reduce the number and/or size of their target areas.



Neighborhood ID: 5156402

NSP3 Planning Data

Grantee ID: 5399990N
Grantee State: WA
Grantee Name: WA NONENTITLEMENT
Grantee Address:
Grantee Email: jgumm@cityoflakewood.us

Neighborhood Name: Tillicum- NSP3
Date: 2011-04-13 00:00:00

NSP3 Score

The neighborhoods identified by the NSP3 grantee as being the areas of greatest need must have an individual or average combined index score for the grantee's identified target geography that is not less than the lesser of 17 or the twentieth percentile most needy score in an individual state. For example, if a state's twentieth percentile most needy census tract is 18, the requirement will be a minimum need of 17. If, however, a state's twentieth percentile most needy census tract is 15, the requirement will be a minimum need of 15. If more than one neighborhood is identified in the Action Plan, HUD will average the Neighborhood Scores, weighting the scores by the estimated number of housing units in each identified neighborhood.

Neighborhood NSP3 Score: 15
State Minimum Threshold NSP3 Score: 9
Total Housing Units in Neighborhood: 820

Area Benefit Eligibility

Percent Persons Less than 120% AMI: 86.28
Percent Persons Less than 80% AMI: 73.14

Neighborhood Attributes (Estimates)

Vacancy Estimate

USPS data on addresses not receiving mail in the last 90 days or "NoStat" can be a useful measure of whether or not a target area has a serious vacancy problem. For urban neighborhoods, HUD has found that neighborhoods with a very high number vacant addresses relative to the total addresses in an area to be a very good indicator of a current or potentially serious blight problem.

The USPS "NoStat" indicator can mean different things. In rural areas, it is an indicator of vacancy. However, it can also be an address that has been issued but not ever used, it can indicate units under development, and it can be a very distressed property (most of the still flood damaged properties in New Orleans are NoStat). When using this variable, users need to understand the target area identified.

In addition, the housing unit counts HUD gets from the US Census indicated above are usually close to the residential address counts from the USPS below. However, if the Census and USPS counts are substantially different for your identified target area, users are advised to use the information below with caution. For example if there are many NoStats in an area for units never built, the USPS residential address count may be larger than the Census number; if the area is a rural area largely served by PO boxes it may have fewer addresses than housing units.

USPS Residential Addresses in Neighborhood: 772
Residential Addresses Vacant 90 or more days (USPS, March 2010): 60
Residential Addresses NoStat (USPS, March 2010): 20

Foreclosure Estimates

HUD has developed a model for predicting where foreclosures are likely. That model estimates serious delinquency rates using data on the leading causes of foreclosures - subprime loans (HMDA Census Tract data on high cost and highly leveraged loans), increasing unemployment (BLS data on unemployment rate change), and fall in home values (FHFA data on house price change). The predicted serious delinquency rate is then used to apportion the state total counts of foreclosure starts (from the Mortgage Bankers Association) and REOs (from RealtyTrac) to individual block groups.

Total Housing Units to receive a mortgage between 2004 and 2007: 118
Percent of Housing Units with a high cost mortgage between 2004 and 2007: 31
Percent of Housing Units 90 or more days delinquent or in foreclosure: 13.3
Number of Foreclosure Starts in past year: 8
Number of Housing Units Real Estate Owned July 2009 to June 2010: 5

HUD is encouraging grantees to have small enough target areas for NSP 3 such that their dollars will have a visible impact on the neighborhood. Nationwide there have been over 1.9 million foreclosure completions in the past two years. NSP 1, 2, and 3 combined are estimated to only be able to address 100,000 to 120,000 foreclosures. To stabilize a neighborhood requires focused investment.

Estimated number of properties needed to make an impact in identified target area (20% of REO in past year): 2

Supporting Data

Metropolitan Area (or non-metropolitan area balance) percent fall in home value since peak value (Federal Housing Finance Agency Home Price Index through June 2010): -17.6
Place (if place over 20,000) or county unemployment rate June 2005: 6.2
Place (if place over 20,000) or county unemployment rate June 2010: 9.4
Bureau of Labor Statistics Local Area Unemployment Statistics

Market Analysis:

HUD is providing the data above as a tool for both neighborhood targeting and to help inform the strategy development. Some things to consider:

1. Persistent Unemployment. Is this an area with persistently high unemployment? Serious consideration should be given to a rental strategy rather than a homeownership strategy.
2. Home Value Change and Vacancy. Is this an area where foreclosures are largely due to a combination of falling home values, a recent spike in unemployment, and a relatively low vacancy rate? A down payment assistance program may be an effective strategy.
3. Persistently High Vacancy. Are there a high number of substandard vacant addresses in the target area of a community with persistently high unemployment? A demolition/land bank strategy with selected acquisition rehab for rental or lease-purchase might be considered.
4. Historically low vacancy that is now rising. A targeted strategy of acquisition for homeownership and rental to retain or regain neighborhood stability might be considered.
5. Historically high cost rental market. Does this market historically have very high rents with low vacancies? A strategy of acquiring properties and developing them as long-term affordable rental might be considered.

Latitude and Longitude of corner points

-122.550688 47.129279 -122.543607 47.127965 -122.558498 47.119147 -122.563176 47.123089

Blocks Comprising Target Neighborhood

530530720002004, 530530720002005, 530530720002006, 530530720002007, 530530720002003,
530530720002002, 530530720003000, 530530720003003, 530530720003005, 530530720003007,
530530720003009, 530530720003008, 530530720003006, 530530720003004, 530530720003001,
530530720003002, 530530720004000, 530530720004007, 530530720004008, 530530720004006,
530530720004002, 530530720004003, 530530720004005, 530530720004001,

ATTACHMENT C – FEDERAL AND STATE REQUIREMENTS AND ASSURANCES

Washington State Department of Commerce Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP3)

Agreement Number: 11-67400-002

In addition to the laws listed in Section 2.21, in the General Terms and Conditions of this Agreement, the Grantee assures compliance with all applicable laws, ordinances, codes, regulations, and policies of local, state and federal governments, including, but not limited to the following list. The Grantee shall include these requirements in any and all Subgrantee agreement(s) resulting from this Agreement.

A. State of Washington:

- Relocation Assistance and Real Property Acquisition Policy, Chapter 8.26 RCW
- Prevailing Wages on Public Works, Chapter 39.12 RCW
- State Environmental Policy Act (SEPA), Chapter 43.21C RCW
- State Building Code, Chapter 19.27 RCW; Energy Related Building Standards, Chapter 19.27A RCW; and Provisions in Buildings for Aged and Handicapped Persons, Chapter 70.92 RCW
- Interlocal Cooperation Act, Chapter 39.34 RCW
- Noise Control, Chapter 70.107 RCW
- Shoreline Management Act of 1971, Chapter 90.58 RCW
- Governor's Executive Order 89-10, December 11, 1989: Protection of Wetlands, and Governor's Executive Order 90-04, April 21, 1990: Protection of Wetlands
- Executive Order 83-01, Establishing Policies for Minority and Women's Business Enterprises
- Airborne contaminants, Chapter 296-841, WAC
- Affirmative Action for Employment of Vietnam-era and Disabled Veterans, Laws of 1985, Chapter 43.43 RCW
- Chapter 70.103 RCW, Lead-based paint
- Chapter 365-230 WAC, Accreditation of lead-based paint training programs and the certification of firms and individuals conducting lead-based paint activities
- Regulations for Barrier Free Facilities, Chapter 51.50 WAC

B. Housing and Community Development:

- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), commonly referred to as the Federal Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988 (P.L. 100-430)
- Executive Order 11063, as amended by Executive Order 12259 (24 CFR Part 107)
- The Housing and Community Development Act of 1974, as amended through 1992: Sections 109; 104 (b) 4; 104 (d); and 104 (I), which prohibit discrimination and require identification of housing and community development needs; a “residential anti-displacement and relocation assistance plan”; and adoption and enforcement of policies prohibiting the use of excessive force
- Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630) as amended in 1989)
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831b)
- Equal Opportunity Treatment for Faith Based Organizations, 24 CFR 570.200(j) Housing and Urban Development Department

- Public Law 110-289, section 3, “Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes” (also referred to as the Neighborhood Stabilization Program), of the Housing and Economic Recovery Act, 2008 (Docket No. FR-5255-1-01)
- The American Recovery and Reinvestment Act of 2009
- Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) of 2010

C. Environmental, Cultural, and Historic:

- The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. Section 4321 et seq., and 24 CFR Part 58)
- Lead-Safe Housing Rule, 24 CFR 35
- Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 USC 4851-4856
- Flood Disaster Protection Act of 1973, 42 USC 4001-4128
- The Clean Air Act, as amended (42 U.S.C. 7401 et seq.)
- HUD Environmental Criteria and Standards (24 CFR Part 51)
- Executive Order 11990, May 24, 1977, as amended by Executive Order 11990: Protection of Wetlands (42 FR 26961 et seq.)
- The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.)
- Executive Order 11988, May 24, 1977: Floodplain Management and Wetland Protection (42 FR 26951 et seq.)
- Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)
- The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)
- The Reservoir Salvage Act of 1960, as amended by the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.)
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f et seq., 21 U.S.C. 349, as amended, and 40 CFR Part 149 (Environmental Protection Agency))
- The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251 et seq.)
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.)
- The Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. Section 661 et seq.)
- National Historic Preservation Act of 1966, as amended (16 USC 469a-1 et seq. and 470)
- The Archaeological and Historical Data Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)
- Executive Order 11593, Protection and Enhancement of the Cultural Environment; 1971, as amended
- Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq. and 7 CFR Part 658)
- Environmental Justice (Executive Order 12898), as amended by Executive Order 12948
- Explosive and Flammable Operations (Section 2 of the Housing Act of 1949, as amended (42 U.S.C. 1441), Section 7(d) of the Dept HUD Act of 1965 (42 U.S.C. 3535(d)), Section 2 of the Housing and Urban Development Act of 1969 (42 U.S.C. 1441(a)), and 24 CFR Part 51 Subpart C)
- Airport Clear Zones and Accident Potential Zones (Section 2 of the Housing Act of 1949 as amended (42 U.S.C. 1441), affirmed by Section 2 of the Housing and Urban Development Act of 1969, P.L. No 90-448, Section 7(d) of the Dept HUD Act of 1965 (42 U.S.C. 3535(d)), and 24 CFR Part 51 Subpart D)
- Toxic Chemicals and Radioactive Materials (Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act and 24 CFR 58.5(i))
- Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency – 40 CFR Parts 6, 51, and 93)

D. Administration/Financial Management:

- Functions Guidelines for Finance and Compliance Audit of Federally Assisted Programs (GAO)
- Standards for Audit of Governmental Organizations, Programs, Activities
- Audits 24 CFR part 570.492, 493, as applicable
- Grants Management Common Rule (State and Local Government) 24 CFR Parts 24, 85, 87

E. Affirmative Action/Laws Against Discrimination:

- Employment under Federal Contracts, Rehabilitation Act of 1973, Section 503, 29 USC 793
- Nondiscrimination under Federal Grants and Programs, Rehabilitation Act of 1973, Section 504, 29 USC Section 794
- 39 CFR, Part 777.22, Relocation Assistance for Displaced Persons, Displaced Persons - Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, Public Law 91-846
- Creating a National Women's Business Enterprise Policy, Executive Order 12138, 44 FR 29637
- Fair Housing Act (42 USC 3601-19) and implementing regulations at 24 CFR part 100
- Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section 504, 29 USC Section 794
- Nondiscrimination in Federally Assisted Programs, 10 CFR part 1040

F. Labor, Safety, and Building Code Standards:

- Davis-Bacon Act, as amended (40 U.S.C. 3141 et seq.)
- Prohibition of Use of CDBG for Job-Pirating Activities, 24 CFR Part 570.482(f), revised June 2006
- Department of Labor regulations, 29 CFR Part 5
- All rental units assisted with federal funds must satisfy the requirements of applicable local, state, federal housing code requirements for the duration of the affordability period
- 29 CFR 1926.62, Lead in Construction

G. Minority and Women-Owned Business Enterprises:

- Creating a National Women's Business Enterprise Policy Executive Order 12138, 44 FR 29637, 3 CFR

H. Notification Concerning Violating Facilities:

- Environmental Protection Agency, 42 USC, Sec. 4321 et seq.

I. Political Activities:

- Executive Order 12250, 28 CFR 41
- Certification Regarding Lobbying, 24 CFR 87, Appendix A to Part 87
- Lobbying and Disclosure, 31 USC 1352

