

EXHIBIT 4-C.3

REQUIRED CONTRACT SUPPLEMENTAL CONDITIONS

The following supplemental Conditions are hereby made a part of the contract to which they are appended, thereby supplementing that contract and superseding any of its articles which are in conflict with the Conditions contained herein.

1. **INDEPENDENT CONTRACTOR.** It is understood by the parties hereto that the Contractor is an independent contractor and as such neither it nor its employees, if any, are employees of the HOME Grantee for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to Section 39-71-401, *Montana Code Annotated (MCA)*, the Contractor has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principles and employees for the services to be performed hereunder.
2. **CONTRACTOR REGISTRATION.** Under the provisions of Section 39-9-201, *Montana Code Annotated*, each construction contractor shall register with the Department of Labor and be issued a Certificate of Registration upon compliance with registration requirements. Independent contractors without employees and architects, civil or professional engineers licensed in Montana and acting solely in a professional capacity are exempt from registering (Section 39-9-211, *MCA*). An independent contractor may voluntarily elect to register.
3. **ELIGIBILITY.** The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" [24 CFR 24.505].
4. **CONFLICT OF INTEREST.** The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the HOME project that would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in the performance of this Contract, it will employ no person who has any such interest.
5. **DOCUMENTS INCORPORATED BY REFERENCE.** The HOME Grantee's application to the Department for HOME funding, dated _____, 20__, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Contractor.
6. **COMPENSATION.** Neither the cost plus a percentage of cost method nor the percentage of construction cost method will serve as the basis for compensating the Contractor for its services provided under this Contract.
7. **PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE.** This Contract will be construed under and governed by the laws of the State of Montana. In the event of

litigation concerning it, venue is the *(insert Grantee's Judicial District)* Judicial District in and for the County of *(insert Grantee's name)*, State of Montana.

8. **BREACH OF CONTRACT.** *(Applicable to contracts in excess of \$100,000; otherwise remove paragraph)* In the event of breach of Contract by the Contractor, the HOME Grantee may at its option, engage the services of another contractor to complete the work and deduct the cost of the completion from the amount due to the Contractor. In the event if either the HOME Grantee or Contractor do not fulfill performance under this agreement, then the affected party may pursue all legal remedies available for breach of contract.
9. **TERMINATION OF CONTRACT.** This Contract may be terminated as follows:
 - (a) **Termination due to loss of funding.** This Contract will terminate, in whole or in part, at the discretion of the HOME Grantee in the event that the Department reduces or terminates payments under the HOME Program so as to prevent the HOME Grantee from paying the Contractor with HOME funds. In this event, the HOME Grantee will give the Contractor advance written notice which sets forth the effective date of the termination and explains that the termination is due to a loss or reduction of the HOME Program grant.
 - (b) **Termination for cause.**
 - (i) If the HOME Grantee determines that the Contractor has failed to comply with the terms and conditions of the Contract, it may terminate this Contract in whole or in part at any time before the date of completion. If the Contractor fails to comply with any of the terms and conditions of this Contract, the HOME Grantee may give notice, in writing, to the Contractor of any or all deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If all defaults are not cured and corrected within a reasonable period to be specified in the notice, the HOME Grantee may, with no further notice, declare this Contract to be terminated. The Contractor will thereafter be entitled to receive payment for those services reasonably performed to the date of termination, less the amount of reasonable damages suffered by the HOME Grantee by reason of the Contractor's failure to comply with this Contract.
 - (ii) Notwithstanding the above, the Contractor is not relieved of liability to the HOME Grantee for damages sustained by the HOME Grantee by virtue of any breach of this Contract by the Contractor, and the HOME Grantee may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the HOME Grantee from the Contractor is determined.
10. **CIVIL RIGHTS ACT OF 1964 [42 U.S.C. 2000d].** The Contractor will abide by the provisions of the *Civil Rights Act of 1964* which states that under *Title VI*, no person may, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. **NONDISCRIMINATION AND EQUAL OPPORTUNITY.** The Contractor will abide by the Federal requirements set forth in *24 CFR 5.105(a), Nondiscrimination and equal opportunity*, as these apply to the HOME program and activities:
- a) requirements of the *Fair Housing Act [42 U.S.C. 3601-20]* and *Executive Orders 11063 and 12259* (regarding Equal Opportunity in Housing);
 - b) prohibitions against discrimination on the basis of age under the *Age Discrimination Act of 1975 [42 U.S.C. 6101-07]*;
 - c) prohibitions against discrimination against an otherwise qualified individual with a physical or mental disability, as provided in *Section 504 of the Rehabilitation Act of 1973 [42 U.S.C. 794]*; and
 - d) *Executive Order 11246*, as amended, regarding Equal Employment Opportunities.
12. **SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 [12 U.S.C. 1701u].** The Contractor will ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this HOME-assisted project will be extended to lower income project area residents. Further, Contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the awarding of contracts and purchasing of services and supplies.
13. **MINORITY AND WOMEN'S BUSINESS ENTERPRISES [Executive Orders 11625, 12432, 12138, and 11246].** The Contractor will take affirmative steps to assure that minority and women-owned businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the Contractor must document all affirmative steps taken to solicit the participation of minority and women-owned businesses, and will forward this documentation (along with the names of the minority subcontractors and suppliers) to the HOME Grantee.
14. **NONDISCRIMINATION.** The Contractor will not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
15. **LOBBYING PROVISIONS.** The Contractor certifies that 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.
16. **OWNERSHIP AND PUBLICATION OF MATERIALS.** All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are to be the

property of the HOME Grantee and the Montana Department of Commerce (MDOC) which have nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. Any reuse without written verification or adaptation by Contractor for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Contract may be subject to copyright or patent in the United States or in any other country without the prior written permission of the HOME Grantee and the Montana Department of Commerce (MDOC).

- 17. REPORTS AND INFORMATION.** The Contractor will maintain accounts and records, including personnel, property and financial records, which are adequate to identify and account for all costs pertaining to this Contract; and such other records as may be deemed necessary by the HOME Grantee to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the HOME Grantee or its authorized representative, and will be retained by the Contractor for five years after the expiration of this Contract, unless permission to destroy them is granted by the HOME Grantee.

The contractor, at such times and in such forms as the owner may require, shall furnish the owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

- 18. ACCESS TO RECORDS.** It is expressly understood that the Contractor records relating to this Contract will be available during normal business hours for inspection by the HOME Grantee, Montana Department of Commerce, the U.S. Department of Housing and Urban Development, the U.S. Comptroller General, and, when required by law, the Montana Legislative Auditor.

- 19. INDEMNIFICATION.** The Contractor waives any and all claims and recourse against the HOME Grantee, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to the Contractor's performance of this contract, except for liability arising out of concurrent or sole negligence of the HOME Grantee or its officers, agents or employees. Further, the Contractor will indemnify, hold harmless, and defend the HOME Grantee against any and all claims, demands, damages, costs, expenses or liability arising out of the Contractor's performance of this Contract except for liability arising out of the concurrent or sole negligence of the HOME Grantee or its officers, agents or employees. In the event that the HOME Grantee is named as a co-defendant in any action relating to activities to be performed by the Contractor or a subcontractor under this Contract, the Contractor will notify the HOME Grantee of this fact and will represent the HOME Grantee in the legal action unless the HOME Grantee undertakes to represent itself as a co-defendant, in which case the HOME Grantee will bear its own litigation costs, expenses, and attorneys' fees.

- 20. LEGAL FEES.** In the event either party incurs legal expenses to enforce the terms and conditions of this Contract, the prevailing party is entitled to recover reasonable

attorney's fees and other costs and expenses, whether the same are incurred with or without suit.

21. MODIFICATION AND ASSIGNABILITY OF CONTRACT. This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement. The Contractor may not subcontract or assign its rights (including the right to compensation) or duties arising hereunder without the prior written consent of the HOME Grantee. Any subcontract or assignee will be bound by the terms and conditions of this contract.

(The following conditions apply only to contracts entered into to carry out a HOME-assisted construction project. If not applicable, remove paragraphs)

22. COPELAND ANTIKICKBACK ACT. The Contractor shall not induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which (s)he is entitled under contract of employment.

23. ACCESSIBILITY REQUIREMENTS. All design specifications for the construction of any building shall comply with the applicable accessibility requirements of the *Fair Housing Amendments Act of 1988 (Fair Housing Act)*; the *Uniform Federal Accessibility Standards* adopted by HUD in *24 CFR Part 8* (implements *Section 504 of the Rehabilitation Act of 1973*); and the accessibility requirements of the *Americans with Disabilities Act*.

24. CERTIFICATION OF COMPLIANCE WITH FEDERAL CLEAN AIR AND WATER ACTS. (Applicable to federally assisted construction contracts and related sub-contracts exceeding \$100,000; otherwise remove paragraph) During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the *Clean Air Act*, as amended, *42 U.S.C. 1857 et seq.*, the *Clean Water Act*, as amended, *33 U.S.C. 1368 et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at *40 CFR 15*, as amended.

25. PRECONSTRUCTION CONFERENCE. After the construction contract(s) for the project contemplated by this Contract have been awarded, but before the start of construction, a conference will be held for the purpose of familiarizing the successful bidder with the federal and State requirements which apply to projects funded in whole or in part by a HOME Grant. Additionally, discussions will take place on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The Contractor may be responsible for conducting this conference. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated

26. FEDERAL LABOR STANDARDS PROVISIONS. (required for construction contracts which include 12 or more HOME-assisted units, otherwise remove)

(Attach and Reference HUD-4010 form that by this reference is made a part hereof, if applicable.)

27. SCHEDULE OF MINIMUM HOURLY WAGE RATES. (required for construction contracts which include 12 or more HOME-assisted units under a single contract; otherwise remove)

(Attach and Reference Davis-Bacon Wage Determination that by this reference is made a part hereof.)