EXHIBIT 3-E

CDBG *SUPPLEMENTAL* CONDITIONS TO STANDARD CONTRACTS FOR ARCHITECTURAL, ENGINEERING, AND GRANT ADMINISTRATION SERVICES

Note: This document should be used as a *supplement to* a firm's existing contract format*, i.e., in conjunction with* a firm's existing contract format.

These Supplemental Conditions must be attached to the firm's existing contract format, and specifically incorporated by reference therein. The firm's contract must also contain the following language: "In the event of a conflict between any term and provision of this Contract or any attachments hereto and the CDBG Supplemental Conditions, the terms and provisions of the CDBG Supplemental Conditions shall prevail."

1. LIAISONS.

For the [CITY/TOWN/COUNTY]:
(Name, Title, Mailing Address, Business Location, Phone Number)

For the Grantee:
(Name, Title, Mailing Address, Business Location, Phone Number)

2. 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 [CITY/TOWN/COUNTY] for purposes of tax, retirement system, or social security (FICA) withholding.

3. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Contract shall take effect upon execution by the parties and will terminate upon completion of the SCOPE OF SERVICES hereunder as determined by the [CITY/TOWN/COUNTY], unless terminated earlier in accordance with the terms of this Contract. The activities to be performed by the Contractor will be completed according to the schedule attached hereto as Attachment ____ and specifically incorporated herein by this reference.

4. SCOPE OF SERVICES. The Contractor will perform the following services:

   [Here, or in an exhibit to the Contract, explicitly and completely list the services and products the grant recipient expects of the Contractor, including the timetable for completion of key tasks. Consult with your CDBG liaison as to the specific services

that may be appropriate for each grant category.]

It is understood and agreed by the parties that the services of the Contractor do not include any of the following: the disbursement or accounting of funds distributed by the [CITY'S/TOWN'S/COUNTY'S] financial officer, legal advice, fiscal audits, or assistance with activities not related to the CDBG project.

5. COMPENSATION. Neither the cost of architectural, engineering, or grant administrative services plus a percentage of that cost method nor the percentage of construction cost method will serve as the basis for compensating the architect, engineer, or grant administrator for its services provided under this Contract.

For the satisfactory completion of the services to be provided under this Contract, the [CITY/TOWN/COUNTY] will pay the Contractor a sum not to exceed $_____ in the manner set forth in the attached Attachment ____, attached hereto and specifically incorporated herein by this reference. Each specific service the Contractor will provide under this Contract, and the maximum amount that the [CITY/TOWN/COUNTY] will pay the Contractor for each of these services, is set forth in the attached Attachment ____.

The amount to be paid will be calculated according to the hourly billing rates for the various personnel as described in Attachment ____. The Contractor may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING. The Contractor may not assign, transfer, or subcontract its rights (including the right to compensation) or duties arising hereunder without the prior written consent of the [CITY/TOWN/COUNTY]. Any subcontractor or assignee will be bound by the terms and conditions of this Contract.

7. CONTRACT AMENDMENT. Except as otherwise set forth herein, this Contract may not be enlarged, modified, or altered except upon written agreement by all parties to the Contract.

8. PRE-CONSTRUCTION CONFERENCE. Before the start of construction, a conference will be held for the purpose of familiarizing the successful bidder with the federal and State requirements that apply to projects funded in whole or in part by a Community

Development Block Grant (CDBG). The conference will also include a discussion of 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 issues pertinent to the project. The Contractor may be responsible for conducting this conference.

9. CONDITIONAL AGREEMENT. It is expressly understood by the parties hereto that this Contract is dependent and conditioned upon the receipt by the [CITY/TOWN/COUNTY] of CDBG funds from the Department and that, in the event that said funds are not provided, the [CITY/TOWN/COUNTY] incurs no responsibilities or liabilities under this Contract.

10. TERMINATION OF CONTRACT. This Contract may only be terminated in whole or in part as follows:

(a) Termination due to loss of funding. The [CITY/TOWN/COUNTY] may, at its sole discretion, terminate or reduce the scope of this Contract if available CDBG funding is eliminated or reduced for any reason. If a termination or modification is required, the [CITY/TOWN/COUNTY] will, to the extent permitted by available CDBG funds, compensate the Contractor for eligible work elements the Contractor has completed and for approved, eligible, reasonable, and necessary expenses incurred by the Contractor as of the revised termination date. The [CITY/TOWN/COUNTY] will give the Contractor written notice of the effective date of the modification or termination of this Contract and, if a reduction in funding is required, will provide the Contractor with a modified Project budget.

(b) Termination for cause.

(i) If the [CITY/TOWN/COUNTY] determines that the Contractor has failed to comply with the terms and conditions of the Contract, the [CITY/TOWN/COUNTY] may terminate this Contract in whole or in part at any time. 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 [CITY/TOWN/COUNTY] by reason of the Contractor's failure to comply with this Contract.

Any costs or expenses incurred by the Contractor from obligations arising during a suspension or after termination of this Contract are not allowable unless the [CITY/TOWN/COUNTY] expressly authorizes them in the notice of suspension or termination or subsequently in writing thereafter. Other

necessary and not reasonably avoidable Contractor costs incurred during suspension or after termination are allowable if:

1) They result from obligations properly incurred by the Contractor before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, non-cancellable; and

2) The costs would be allowable if the Contract were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(ii) Notwithstanding the above, the Contractor is not relieved of liability to the [CITY/TOWN/COUNTY] for damages sustained by the [CITY/TOWN/COUNTY] by virtue of any breach of this Contract by the Contractor, and the [CITY/TOWN/COUNTY] may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the [CITY/TOWN/COUNTY] from the Contractor is determined.

11. AVOIDANCE OF CONFLICT OF INTEREST. The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the CDBG project that would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in the performing this Contract, it will employ no person who has any such interest. The Contractor will comply with the provisions of the applicable HUD regulations of 24 C.F.R. Parts 84, 85, and 570.611, and with sections 2-2-121,2-2-201, 7-3-4256, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

12. DOCUMENTS INCORPORATED BY REFERENCE. The [CITY/TOWN/COUNTY] application to the Department for CDBG funding, dated_____, 20__, including any written modifications resulting from the review of the application by the Department, and all applicable federal, state, and local laws, rules, and regulations, are incorporated into this Contract by this reference and are binding upon the Contractor.

13. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are the property of the [CITY/TOWN/COUNTY], and the Department , which both have royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, in whole or part, such property and any information relating thereto. Any reuse without written verification or adaptation by the 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 part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the the [CITY/TOWN/COUNTY], and the Department.

To the extent the CDBG funds dispersed under this Contract will be used by any small business firm or non-profit organization, as defined in 37 C.F.R. 401.2, such firm(s) or organization(s) are subject to the standard patent rights clause set forth in its entirety in 37 C.F.R. 401.14 and specifically incorporated herein by this reference.

14. ACCESS TO AND RETENTION OF RECORDS. The Contractor agrees to provide the [CITY/TOWN/COUNTY], the Department, HUD, Comptroller General of the United States, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. The Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of four (4) years after either the completion date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Contractor's offices in _____, Montana.

15. PROJECT MONITORING. The [CITY/TOWN/COUNTY], the Department, or any of their authorized agents may monitor and inspect all phases and aspects of the Contractor's performance to determine compliance with the SCOPE OF ACTIVITIES, and other technical and administrative requirements of this Contract, including the adequacy of the Contractor's records and accounts. The [CITY/TOWN/COUNTY] will advise the Contractor of any specific areas of concern and provide the Contractor opportunity to propose corrective actions acceptable to the [CITY/TOWN/COUNTY].

16. JURISDICTION AND VENUE. This Contract is governed by the laws of Montana. The parties agree that any litigation concerning the Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

This Contract will be construed under and governed by the laws of the State of Montana.

17. INDEMNIFICATION. The Contractor agrees to protect, defend, and save the and the State, their elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor

of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, and subcontractors.

18. INSURANCE.

A. General Requirements. The Contractor shall maintain for the duration of this Agreement, at its cost and expense, primary liability insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the duties and obligations in this Contract by the Contractor, its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

B. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the [CITY/TOWN/COUNTY], the Department, the State of Montana, and their elected or appointed officers, officials, employees, or volunteers. The [CITY's/TOWN's/COUNTY's] and the State's insurance coverage is excess to the Contractor's insurance coverage and shall not contribute with it.

C. General Liability Insurance. The Contractor shall purchase and maintain Commercial General Liability (Occurrence coverage), to include bodily injury, personal injury, and property damage, with combined single limits of $1,000,000 per occurrence and $2,000,000 per aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, employees, representatives, assigns, or subcontractors. The [CITY/TOWN/COUNTY], the State, the Department, and their officers, officials, employees, and volunteers are to be covered and listed as additional insured's for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

D. Specific Requirements for Professional Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three (3) year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

E. Construction Insurance [applicable only if DOING CONSTRUCTION WORK is the direct responsibility of the contractor] . At its sole cost and expense, Contractor shall insure all property construction on the premises throughout the term of the Agreement against the following hazards:

(1) Loss of damage by fire and such other risks (not including earthquake damage) in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis. This may be insured against by attachment of standard form extended coverage endorsement to fire insurance policies.

(2) Loss or damage from leakage or sprinkler systems now or hereafter installed in any building on the premises.

(3) Loss or damage by explosion of steam boilers, pressure vessels, and oil or gasoline storage tanks, or similar apparatus now or hereafter installed in a building or buildings on the premises.

F. General Provisions. All insurance coverage shall be placed with a carrier licensed to do business in the State of Montana with a Best's rating of at least A-. All certificates and endorsements are to be received by the [CITY/TOWN/COUNTY] prior to beginning any use, occupancy, operation, or management of the subject property under this Contract. The Contractor shall notify the [CITY/TOWN/COUNTY] immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The [CITY/TOWN/COUNTY] reserves the right to request complete copies of the Contractor's insurance policies at any time, including endorsements.

19. COMPLIANCE WITH NONDISCRIMINATION LAW. The Grantee must, in performance of work under the Contract, fully comply with all applicable federal, state, or local nondiscrimination laws, rules, and regulations, including but not limited to the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 109 of the Housing and Community Development Act of 1974, Section 3 of the Housing and Urban Development Act of 1968, Executive Order 11246 of Sept. 24, 1965, and Section 504 of the Rehabilitation Act of 1973. Any contracting, subletting, or subcontracting by the Grantee subjects contractors, subcontractors, and subrecipient entities to the same provision. In accordance with Mont. Code Ann. § 49-3-207, the Grantee agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Contract.

20. CIVIL RIGHTS ACT OF 1964. The Contractor will abide by the provisions of the Civil Rights Act of 1964 which states that under Title VII, 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.

21. COMPLIANCE WITH WORKERS' COMPENSATION ACT. Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the [CITY/TOWN/COUNTY] under this Contract. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status. Neither the Contractor nor its employees are employees of the [CITY/TOWN/COUNTY] or the State of Montana. This insurance/exemption must be valid for the entire term of the Contract. Proof of compliance and any renewal documents must be sent to the [CITY/TOWN/COUNTY].

22. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Contractor will comply with the following provision:

    No person in the United States may on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 will also apply to any such program or activity.

23. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968. The Contractor will ensure that to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to lower income project area residents. Further, the Contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.

24. MINORITY BUSINESS ENTERPRISE. Consistent with the provisions of Executive Order 11246, the Contractor will take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the Contractor will document all affirmative steps taken to solicit minority businesses and will forward this documentation along with the names of the minority subcontractors and suppliers to the local government CDBG recipient upon request.

25. 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.

26. 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)

27. DEBARMENT. The Contractor certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Contract by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the [CITY/TOWN/COUNTY].

    The Contractor certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

28. FORCE MAJEURE. Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

29. SEPARABILITY. A declaration by any court, or any other binding legal source, that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually dependent.

30. NOTICE. All notices required under the provisions of the Contract must be in writing and delivered to the parties' liaisons as identified herein either by first class mail or personal service.

31. REFERENCE TO CONTRACT. The Contract number must appear on all invoices, reports, and correspondence pertaining to the Contract.

32. NO ARBITRATION. Unless otherwise agreed to in writing or provided for by law, arbitration is not available to the parties as a method of resolving disputes that would arise under this Contract.

33. NO WAIVER OF BREACH. No failure by the Department to enforce any provisions hereof after any event of breach shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of breach shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the Department to enforce each and all of the provisions hereof upon any further or other breach on the part of the Grantee.

34. INTEGRATION. The Contract contains the entire agreement between the parties, and no statements, promises, or inducements of any kind made by either party, or the agents of either party, not contained herein or in a properly executed amendment hereto are valid or binding.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the _____ day of _____.

CONTRACTOR:	CITY/TOWN/COUNTY OF:
_____	_____
BY:_____	BY: _____
TITLE:_____	TITLE:_____
DATE:_____	DATE:_____