CONDITIONS OF PURCHASE

1. ACCEPTANCE. This Purchase Order can be accepted only on the conditions set forth herein. Vendor shall be bound by this Purchase Order upon Governor's confirmation performance. City shall be bound by the Purchase Order only upon receipt of the materials or services as identified on the Purchase Order executed by Vendor. The Conditions of the Purchase Order shall be the exclusive agreement between City and Vendor with respect to the material/services ordered hereunder. In no event shall any modification be effective unless in writing signed by an authorized representative of each party. The addition of any fund not specifically mentioned in the Purchase Order and agreed to in writing by Vendor shall result in a separate Purchase Order. In no event shall a subcontractor of Vendor be considered a party to this Agreement, and Vendor agrees to indemnify City against any damages caused or engendered by, or traceable to, materials purchased hereunder (whether or not hazardous), or the transportation or handling thereof, prior to the completion of unloading and acceptance by the City at City's location.

2. PRICES. Vendor shall not provide the materials/services ordered under this Purchase Order at prices higher than those specified herein.

3. INVOICES. Payment of invoice shall not constitute acceptance of the material and shall be subject to adjustments for errors, shortages, defects in the material or other failure of Vendor to meet the requirements of this Purchase Order.

4. CASH DISCOUNTS. Payment in accordance with any discount offered will be computed from the date of actual delivery at City's specified location, or the date and invoice conforming with Paragraph 3 is received, whichever is later.

5. TAXES. The City of Englewood is exempt from Federal and State taxes and will provide the required exemption certificates.

6. OVERSHIPPING. City shall pay only for maximum quantities ordered. Vendor shall pay return shipping charges for excess quantities delivered to City.

7. PACKING AND SHIPPING. Vendor shall mark all containers with necessary lifting, handling and shipping information as well as a list of contents and weight as well as the inside dimensions of the carton. An itemized packing list must accompany each shipment unless otherwise specified. No partial or complete delivery shall be made hereunder prior to the date or dates shown without prior written consent of the City.

8. MSDS. An appropriate Material Safety Data Sheet ("MSDS") and labeling, as if required by law will precede or accompany each shipment. Further, Vendor shall send to City updated MSDSs and labeling by law.

9. F.O.B. POINT. The price includes delivery of the material F.O.B. freight and cartage prepaid to City's designated location(s) unless otherwise specified.

10. WARRANTIES

a. Vendor warrants that all material delivered hereunder shall comply fully with the requirements of this Purchase Order. Vendor further warrants that all materials purchased hereunder shall be of merchantable quality, new and unused (unless specified in this Purchase Order as remanufactured or reconditioned). Vendor shall indemnify City against all warranties, liabilities, damages, and in addition to any other claims, whether expressed or implied, and shall survive any delivery, inspection, acceptance or payments by the City, City approval of Vendor material or design shall not relieve Vendor of the warranties set forth herein, including injuries to employees and other persons and the cost of replacing City materials which may be damaged or rendered defective by materials furnished or work done in breach of such warranties.

b. Vendor warrants to City that all material furnished to City hereunder shall conform to and comply with all applicable requirements of the Occupational Safety and Health Act of 1970 and Toxic Substances Control Act of 1976. Vendor agrees to defend and indemnify City against all damages occasioned by or resulting from any breach of the warranties set forth herein, including injuries to employees and other persons and the cost of replacing City materials which may be damaged or rendered defective by materials furnished or work done in breach of such warranties.

c. Vendor warrants that the goods delivered are clean, free from defects and fit for the purpose for which they are delivered, and are in condition to perform the services ordered hereunder.

d. Vendor warrants that all materials delivered hereunder shall be in conformance with applicable Federal, State and local laws and regulations, and that the materials do not contain any hazardous substances. Vendor warrants that all materials delivered hereunder shall be new or of such kind as to render defective by material or workmanship. Vendor shall indemnify City against all claims arising as a consequence of any breach of this warranty. Vendor shall provide the City with a copy of any report of demonstration or test of performance of material or services rendering the material or services defective by manufacture or workmanship. Any claim under this warranty shall be subject to City's approval. Vendor agrees to repair or replace any such materials or services rendering the same defective, at the option of City in its sole discretion.

e. Vendor warrants that all materials delivered hereunder shall be new or of such kind as to render defective by material or workmanship. Vendor shall indemnify City against all claims arising as a consequence of any breach of this warranty. Vendor shall provide the City with a copy of any report of demonstration or test of performance of material or services rendering the material or services defective by manufacture or workmanship. Any claim under this warranty shall be subject to City's approval. Vendor agrees to repair or replace any such materials or services rendering the same defective, at the option of City in its sole discretion.

11. INSPECTION.

a. All materials purchased hereunder shall be subject to inspection and test by City to the extent practicable at all times and places including during regular business hours either at the site of manufacture or at the site of destination. Vendor agrees to defend and indemnify City against any damages or other remedy provided by law. Nonconforming material may be returned at Vendor's expense, including any transportation and handling costs.

b. In the event any material is found defective or not in conformity with City specifications per the requirements of this Purchase Order, such material shall be subject to review and test by City's meets. City shall have the right to reject the material and require Vendor to replace it within the delivery schedule or accept it with an adjustment in price, all at the expense of Vendor, including any transportation and handling costs. If Vendor shall correct the materials, which shall be made very clear to Vendor. If Vendor fails to correct the materials as required, Vendor may, at City's option, return it at Vendor's expense, including any transportation and handling costs.

12. DELIVERY. The manner of delivery shall be based solely on City's convenience, then Vendor shall be entitled only to any shipping and handling costs engendered by this Purchase Order prior to City's termination thereof. If there is a cancellation by City occasioned by Vendor's breach of any condition hereof, including breach of warranty, or by Vendor's delay, except delay due to considerations beyond the Vendor's control and without the Vendor's fault or negligence, Vendor shall not be entitled to any claim of costs and City shall have against Vendor all remedies provided by law and in equity. In no event and under no circumstances shall Vendor have any rights to claim from City consequential or indirect damages (including lost profits) hereunder or otherwise.

13. TITLE. The property or title to it, and the risk of loss of materials purchased under this Purchase Order shall remain in Vendor and shall not transfer to City until such materials are delivered and unloaded at the F.O.B. point specified in the Purchase Order. Further, Vendor shall defend and indemnify City against any damages caused or engendered by, or traceable to, materials purchased hereunder (whether or not hazardous), or the transportation or handling thereof, prior to the completion of unloading and acceptance by the City at City's location.

14. WAIVER. The failure of City to enforce at any time any of the provisions of this Purchase Order, or exercise any election or option provided herein, or to require at any time performance by Vendor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions and shall not affect the right of the City hereafter to enforce each and every provision.

15. CHANGES. City shall have the right to make, from time to time and without notice to any sureties or assignees, changes as to packing, testing, destinations, specifications, designs and delivery schedules, but no additional charges shall be allowed unless agreed to in writing by City. If such changes affect the amount to be paid by City, Vendor shall notify City immediately and negotiate an adjustment.

16. ASSIGNMENT, SUBCONTRACTING. Vendor shall not assign this Purchase Order or any part thereof, or subcontract or delegate any performance hereunder without first obtaining City's written consent.

17. PATENT INFRINGEMENT. Vendor shall, at its own expense, defend and indemnify City and its employees with respect to any and all claims that the material furnished by Vendor under this Purchase Order infringes upon any United States Patent, or any other proprietary right of Vendor, and with respect to any and all suits, controversies, demands and liabilities arising out of such claims, provided that the foregoing shall not apply to any infringement claim necessarily resulting from Vendor's adherence to written specifications or drawings submitted by City.

18. LABOR. If this Purchase Order covers the performance of labor on Vendor or City's premises, Vendor agrees to defend and indemnify City against any claims or actions for payment of wages, overtime, or other labor-related matters in connection with said performance and are in addition to all other warranties, whether express or implied, and shall survive any delivery, inspection, acceptance or payments by the City, City approval of Vendor material or design shall not relieve Vendor of the warranties set forth herein.

19. LABOR. If this Purchase Order covers the performance of labor on Vendor or City's premises, Vendor agrees to defend and indemnify City against any claims or actions for payment of wages, overtime, or other labor-related matters in connection with said performance.

20. COMPLIANCE WITH LAWS. Vendor shall defend and indemnify City against all damages, liabilities, losses, suits, actions, costs, expenses, claims or other remedies provided by law, which may result from or arise out of any breach of this Agreement.

21. COMPLIANCE WITH LAWS. Vendor shall defend and indemnify City against all damages, liabilities, losses, suits, actions, costs, expenses, claims or other remedies provided by law, which may result from or arise out of any breach of this Agreement.

22. LIMITATION REGARDING THE "BASIC PILOT PROGRAM:  Contractor shall not use basic pilot program procedures to

23. COMPLIANCE WITH LAWS. Vendor shall defend and indemnify City against all damages, liabilities, losses, suits, actions, costs, expenses, claims or other remedies provided by law, which may result from or arise out of any breach of this Agreement.

24. ENTIRE AGREEMENT. This Purchase Order represents the entire understanding as of the effective date hereof between the parties with respect to the subject matter hereof, and supersedes all prior agreements, negotiations, understandings, representations, statements and writings between the parties relating thereto. No modification, alteration, waiver or change in any of the terms of this Purchase Order shall be valid unless in writing and signed by an authorized representative of each party. Each party hereto agrees that any modification, alteration, waiver or change in any of the terms of this Purchase Order shall be valid unless in writing and signed by an authorized representative of each party.

25. CERTIFICATION OF COMPLIANCE WITH C.R.S. 8-17-101 ET. SEQ. REGARDING ILEGAL ALIENS

(a) Employees, Contractors and Subcontractors: Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not contract with a subcontractor that (i) knowingly employs or contracts with an illegal alien, the Contractor shall:

(b) Verification: Contractor has verified or attempted to verify through participation in the "basic pilot program" (authorized by P.L.204 of 104th Congress and amended by P.L.156 of 108th Congress) that Contractor does not employ any illegal aliens.

(c) Contractor further certifies, Contractor will apply to participate in this program in every three months until Contractor is accepted or this Contract is completed, whichever is earlier.

(d) Noncompliance regarding this paragraph, Contractor shall not use basic pilot program procedures to undertake pre-employment screening of job applicants while performing this Contract.

(e) Duty to Terminate a Subcontract: If Contractor obtains actual knowledge that a subcontractor performing work under this Contract employed an illegal alien, Contractor shall:

(f) (i) Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien and;

(g) Terminate the subcontract with the subcontractor if, within three days of receiving notice that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

(h) Contractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien and the subcontractor stops employing or contracting with the illegal alien.

(i) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's noncompliance with paragraphs (a) and (c).

(j) Time to Comply with State Investigation: Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. 8-17-102 (5).

(k) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's noncompliance with paragraphs (a) and (c).