

**JUSTIFICATION FOR NON-COMPETITIVE PROCUREMENT**

**COMPLETE THIS SECTION IF NEW CONTRACT**

For contract(s) in this request, answer applicable questions in each of the 4 major subject areas below in accordance with the Instructions for Preparation of Non-Competitive Procurement Form on the reverse side.

Request that negotiations be conducted only with Old World Industries for the product and/or services described herein.  
 (Name of Person or Firm)

This is a request for  (One-Time Contractor Requisition # 41245, copy attached) or \_\_\_\_\_ Term Agreement or \_\_\_\_\_ Delegate Agency (Check one). If Delegate Agency, this request is for "blanket approval" for all contracts within the

\_\_\_\_\_ (Program Name) (Attach List) Pre-Assigned Specification No. \_\_\_\_\_  
 Pre-Assigned Contract No. \_\_\_\_\_

**COMPLETE THIS SECTION IF AMENDMENT OR MODIFICATION TO CONTRACT**

Describe in detail the change in terms of dollars, time period, scope of services, etc., its relationship to the original contract and the specific reasons for the change. Indicate both the original and the adjusted contract amount and/or expiration date with this change, as applicable. Attach copy of all supporting documents. Request approval for a contract amendment or modification to the following:

Contract #: 18624 Company or Agency Name: Old World Industries  
 Specification #: 69447 Contract or Program Description: Modify contract to procure potassium acetate (PA)  
 Modification #: \_\_\_\_\_ Liquid Runway Deicer  
 (Attach List, if multiple)

Al Perez 773-894-1823 al Perez WP Department of Aviation 12/16/08  
 Originator Name Telephone Signature Department Date

Indicate **SEE ATTACHED** in each box below if additional space needed:

<input checked="" type="checkbox"/> <b>PROCUREMENT HISTORY</b>	SEE ATTACHED
<input checked="" type="checkbox"/> <b>ESTIMATED COST</b>	SEE ATTACHED
<input checked="" type="checkbox"/> <b>SCHEDULE REQUIREMENTS</b>	SEE ATTACHED
<input type="checkbox"/> <b>EXCLUSIVE OR UNIQUE CAPABILITY</b>	SEE ATTACHED
<input type="checkbox"/> <b>OTHER</b>	SEE ATTACHED

**S. S. R. B.**

DATE 12/17/08

APPROVED 4-0

CONDITIONALLY APPROVED \_\_\_\_\_

RETURN TO DEPT. \_\_\_\_\_

DISAPPROVED \_\_\_\_\_

APPROVED BY: [Signature]  
 DEPARTMENT HEAD OR DESIGNEE  
[Signature]  
 CHIEF PROCUREMENT OFFICER

12-17-08  
 DATE

[Signature]  
 BOARD CHAIRMAN

12/17/08  
 DATE

12-18-08  
 APPROVAL DATE

## PROCUREMENT HISTORY

A Sole Source contract (PO#18624) for Propylene Glycol Urea (PGU) liquid runway deicer was recently awarded on November 14, 2008. That contract calls for the supply of 1,500,000 gallons of PGU to O'Hare International Airport to be delivered as required by the Department of Aviation (DOA). The contract allowed the contractor a minimum of thirty (30) days after award to procure the needed raw materials and the required blending equipment. Originally it was hoped to award the contract by 11/1/08 and have access to PGU by 12/1/08, however a delay in award has the target date for delivery of PGU set back to the week of December 22, 2008. An amendment for up to 350,000 gallons of Potassium Acetate (PA) **Req. 40144** was recently approved. However, the recent snows and icy weather has depleted most of that inventory. In the meantime while we await the PGU availability there is a concern that DOA's existing inventory of PA may be depleted prior to then leaving the City with an inability to deice its runways. This could jeopardize safety and lead to closure of runways and possibly the airport. The resulting chain reaction would impact air traffic across the USA and World. As such DOA would like to amend the contract again to allow the contractor to provide PA in the interim if weather dictates the need to do so. If our current supply holds up we would not be committed to procuring the PA. Similarly, Old World would only be responsible for providing the product if they have it. They have the right to sell to others on a first come, first serve basis.

The Sole Source for this contract was originally required as bids for PA has yielded no responsible bidders as the workers who mine one of the raw materials (Potash) were on strike. Although this strike has been recently settled, the other large manufacturers of PA, Clariant, Octagon Process and Cryotech have stated that they will not have PA for at least six to eight weeks and then only in limited quantities.

## ESTIMATED COST

\$11.49 gallons which is the same as the PGU price. Based on 1,000,000 gallons the potential value is \$11,490,000.

## SCHEDULE REQUIREMENTS

DOA requires immediate execution of the amendment to ensure its ability to secure an additional deicer while we await the availability of PGU. The extended forecast for the next week shows the potential for higher than average precipitation/snow.

## EXCLUSIVE OR UNIQUE CAPABILITY

Pursuant to the attached emails from Clariant, Octagon Process and Cryotech, those firms are unable to provide PA at this time. Old World currently has an inventory and production capabilities (approximately 1,000,000 additional gallons beyond the original 350,000 gallons including finished product and raw materials) that they are making available on a first come, first served basis. Although Cryotech has their newly approved deicer NX360, ready for delivery, DOA is not yet comfortable using the product until it is used more widely and passes its long term storage test. The long term storage tests results will not be in place until next year. In addition the pricing for this new product would be similar to PA and as we do not have a contract with Cryotech, the timeline for procurement is not favorable. Cryotech would have to figure out logistics, compliance, etc and we would be at a point of using a Sole Source product that we have no familiarity with.

## OTHER

For this additional product, Old World will meet the MBE/WBE compliance commitment percentages of the original contract.

OLD WORLD INDUSTRIES, INC.  
1065 COMMERCIAL AVENUE  
NORTHBROOK, ILLINOIS 60062 1851  
847-559-2000 • FAX 847-559-1329

December 15, 2008

Mr. Dave Bowman  
City of Chicago  
Department of Procurement Services  
Room 403, City Hall  
121 North LaSalle Street  
Chicago, IL 60602

**Re: Propylene Glycol Urea Runway Deicer Supply Agreement (the "Agreement") for Chicago O'Hare International Airport ("O'Hare Airport") between the City of Chicago (the "City") and Old World Industries, Inc. ("Old World")**  
**Specification No.: 69447**  
**P.O. No.: 18624**  
**Vendor No.: 1050120**

Dear Mr. Bowman:

Old World is pleased to submit the following non-binding proposal to the City relative to the above-referenced Agreement.

This proposal would provide to O'Hare Airport (and Midway Airport if requested), first come-first served, subject-to-availability basis, varying quantities of Peak Potassium Acetate Runway Deicer Fluid ("PA Deicer").

This proposal is not intended to be and shall not be construed as a binding agreement. Any proposed obligations arising from this proposal shall be subject to and conditioned upon the execution, by and between the City and Old World of an actual amendment to the Agreement that is unconditionally acceptable to and accepted by both parties and executed by the appropriate authorized individuals.

In addition, this proposal and any amendment drafted therefrom is not intended to be and shall not change the existing terms or conditions of the Agreement.

This proposal and any amendment drafted therefrom is also not intended to be and shall not be construed to be a minimum purchase obligation by the City for PA Deicer or a minimum sale and supply obligation by Old World of said product.

Mr. David Bowman  
Department of Aviation  
City of Chicago  
December 15, 2008  
Page 2 of 2

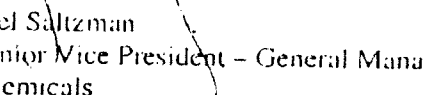
**Proposed Non-Binding Commercial Terms:**

**Product:** PEAK Potassium Acetate Runway Deicer (specification attached)  
**Price:** \$11.49 per gallon, delivered to the Chicago-O'Hare International Airport or Chicago-Midway Airport  
**Payment Terms:** Net 60 days from the date of invoice  
**Freight Terms:** Freight to be prepaid by Old World  
**Lead Times:** Old World would begin to load trucks no later than 24 hours after placement of product orders with deliveries to begin no later than 3 hours after initial pick-up  
**Quantity:** Subject-to-availability on a first come-first served basis.  
**Term:** Until supplies of PA Deicer are gone or until Old World terminates the availability of PA Deicer.

Thank you in advance for your consideration. Please contact me with any questions.

Sincerely,

**Old World Industries, Inc.**

  
Joel Saltzman  
Senior Vice President - General Manager  
Chemicals



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Office of the Associate Administrator  
for Airports

800 Independence Ave., SW  
Washington, DC 20561

NOV 18 2008

Mr. Gregory Principato  
President  
Airports Council International - North America  
1775 K Street, NW  
Washington, DC 20006

Dear Mr. Principato:

*Greg*

This past October, the Federal Aviation Administration Technical Center completed pavement friction evaluations of several newer generation runway deicing fluids (RDFs). Preliminary results showed that when used for anti-icing, that is, on wet pavements free from ice/snow masses, the evaluated RDFs affected runway friction comparably to propylene glycol with urea and potassium acetate products.

Manufacturers of the tested RDFs have recently gained third-party lab certification on their products in accordance with Society of Automotive Engineers Aerospace Material Specification 1435, except for the one year Storage Stability Test (SST) requirement. The SST is necessary to determine if the remaining RDFs may be used the following winter season.

Given the shortage of available RDFs, and since the third-party lab certification reports show that all other material compatibility tests have passed, airports may use newer RDFs under the following conditions:

1. Only those RDFs that have been evaluated by the FAA Technical Center and have displayed comparable frictional effects to existing RDFs may be used. A list of those evaluated to date is enclosed.
2. At the end of the 2008/2009 winter season, airport operators must store unused RDFs until the SST is complete. At that point, RDFs passing the SST can be used for the following winter seasons. The failing RDFs cannot be used after long-term storage.

Sincerely,

D. Kirk Shaffer  
Associate Administrator  
for Airports

Enclosure

**FAA Technical Center Runway Friction Tested of Runway Deicing Fluids (RDFs)**

**Currently available RDFs that were tested:**

Octagon Process Inc. product trade names:

Octagon RD-1426 (Propylene Glycol + Urea)

Octamelt™ (Potassium Acetate + Propylene Glycol)

Cryotech product trade name:

E36 (Potassium Acetate)

**New RDFs that demonstrated satisfactory friction characteristics under test conditions were:**

Battelle product trade names:

RDF 6-2

RDF 6-3

RDF 6-3

RDF 6-4

RDF 6-12 (all are a Polyol/Organic salt)

Cryotech product trade names:

NX360 (aqueous acetate based solution + Sodium Acetate)

XT360 (aqueous bio-based solution)

FMC Corporation product trade name:

LithMelt™ (Potassium Acetate + Lithium)

**Clarification of Reference AC 150/5200-30:**

The FAA only recommends runway de/anti-icer products for use on paved areas that have been certified by a 3rd party lab to meet SAE AMS 1431 [solids] or SAE AMS 1435 [fluids]. That is, we do not generate a listing of approved product trade names. Furthermore, we do not conduct SAE AMS certification testing nor do we specify which labs. Since this is a highly specialized technical field all product manufacturers send their products to 3-4 labs worldwide for 3rd party certification. We, through the FAA Technical Center, test frictional properties of proposed new products.

We recommend that airport operators only buy deicer products that have passed SAE AMS 1431 or 1435. They should also obtain a copy of the lab certification for their record. For airports certificated under 14 Code of Federal Regulations, Part 139, that copy should be placed in the Snow and Ice Control Plan.

**Runway Deicer Manufacturers and Commercially Sold Product Line**

Company and Trade Names	Fluid Potassium Acetate KAC	Fluid Potassium Acetate + propylene glycol KAC+PG	Fluid Propylene glycol+Urea PG+Urea	Fluid Potassium Formate KFor	Fluids New Entries & <u>Developmental</u> Products	Solid Sodium Acetate NAAC	Solid Sodium Formate NAFO	Airside Urea
Clariant Corp North Carolina and Canada POC= Bryan McCreary Bryan.mccreary@clariant.com 704-822-2184 Cell 704-904-0799	Safeway KA HOT SAE AMS 1435	Does not produce the product	Does not produce the product	Safeway KF and Safeway KF HOT SAE AMS 1435		Does not produce the product	Safeway SF SAE AMS 1431	
Cryotech Deicing Technology Fort Madison, Iowa POC=Keith L. Johnson -President & CEO keith.johnson@cryotech.com 800-346-7237 or 319-372-6012 www.cryotech.com	Cryotech E36 SAE AMS 1435	Does not produce the product	Does not produce the product	Does not produce the product	Cryotech BX36 Susterra™ propanedio l, a new 100 percent renewably sourced product	Cryotech NAAC SAE AMS 1431	Does not produce the product	
Octagon Process, Inc Edison, NJ POC=Alex Myers ameyers@octagonprocess.com 1-732-346-8000	Octagon RD - 1435 SAE AMS 1435	Octamelt SAE AMS 1435	Octagon RD-1426 SAE AMS 1435	Does not produce the product		Does not produce the product	Does not produce the product	
Old World Industries,	Peak PA	Does not	ORD 2000	Does not		Does not	PEAK SF	



Inc Northbrook, Ill POC= Mike Buschek <a href="mailto:mbuschek@okaworldind.com">mbuschek@okaworldind.com</a> 1-847-559-2116 1-800-323-5440 <a href="http://www.okaworldind.com">www.okaworldind.com</a>	SAE AMS 1435	produce the product	SAE AMS 1435	produce the product	produce the product	SAE AMS 1431	
<b>Other/Secondary Suppliers</b>							
Jarchem Industries, Inc Newark, NJ POC=Mary Ellen Fitzgerald <a href="mailto:mfitzgerald@jarchem.com">mfitzgerald@jarchem.com</a> 973-344-0600x557 <a href="http://www.jarchem.com">www.jarchem.com</a>	Jargrip 2000 SAE AMS 1435	Cleanway 1500 SAE AMS 1435	Cleanway 1000 None for last 4-5 years	Does not produce the product	Does not produce the product	Does not produce the product	
Basic Solutions Ontario, Canada POC Kelvin Williamson-Director <a href="mailto:Kelvin@basicsolutions.ca">Kelvin@basicsolutions.ca</a> 905-562-0770 Cell-647-801-4109 <a href="http://www.basicsolutions.ca">www.basicsolutions.ca</a>	Airport Ice Melt-Liquid	Does not produce the product	Does not produce the product	Does not produce the product	Does not produce the product	Airport Ice Melt-Solid	

CLARIANT

704 904-0799

From: <Bryan.McCreary@clariant.com>  
To: <DAVID.BOWMAN@cityofchicago.org>  
Date: 12/2/2008 11:02:14 AM  
Subject: Re: Delcer availability for 2008/09 snow season

Dave,

The strike at the mines owned by Potash Corp. of Saskatchewan was settled on Nov 13th. We were told through industry briefings and letters from the KOH manufacturers, that any KOH plants which had to convert to produce NaOH (sodium hydroxide) during the strike would require approximately 8-10 weeks to convert back to producing KOH and start supplying their customers. Of course, some plants may come back up sooner than others or take longer than others. While we may start to see some availability by years end, we are not expecting to have "production material" available until sometime in January, and even at that point we do not expect to be producing at full capacity and certainly nowhere near the volumes produced last year to support O'Hare. This limited capacity will most likely be sold on an "as available" basis as we would likely not pursue any "contract volume" commitments.

I hope this update helps with your planning. Please let me know what your current delcing fluid agreement is at O'Hare, should potassium acetate become available, i.e. are you commented to ORD 2000 for specific volumes or time frames.

regards,

Bryan

"DAVID BOWMAN"  
<DAVID.BOWMAN@cityofchicago.org>  
To  
<Bryan.McCreary@clariant.com>  
cc  
Subject  
12/01/2008 02:32 PM Re: Delcer availability for  
2008/09 snow season

Bryan,  
Per my phone message please advise on when you will be able to possibly begin providing limited quantities of PA. I believe last week you mentioned it would be at least 8-10 weeks until you would even have limited

capacity now that the mining strike is over.

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This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (or the person responsible for delivering this document to the intended recipient), you are hereby notified that any dissemination, distribution, printing or copying of this e-mail, and any attachment thereto, is strictly prohibited. If you have received this e-mail in error, please respond to the individual sending the message, and permanently delete the original and any copy of any e-mail and printout thereof.

**From:** "Munday, Amy" <amy.munday@cryotech.com>  
**To:** <dbowman@ohare.com>  
**Date:** 12/1/2008 1:34:11 PM  
**Subject:** Potassium Acetate supply

Hello David,

As discussed, we are meeting with our potassium hydroxide (KOH) supplier later this week. KOH is a key raw material in the production of Cryotech E36 liquid runway deicer (potassium acetate). This meeting will give us a better understanding of when KOH will be available. With the information available today, we expect to begin producing E36 no earlier than February 2009.

In the interim, we do have Cryotech NX360 available and could ship to Chicago directly from Fort Madison, Iowa. I've attached a fact sheet and MSDS on NX360.

Please let me know if you would like additional information or have any questions.

Best Regards,

Amy Munday

Cryotech

1850 N. Clark St. - unit 405

Chicago, IL 60614

Ph: 312/951-1115

Cell: 515/770-2737

www.cryotech.com

**From:** Alex Meyers <ameyers@octagonprocess.com>  
**To:** 'DAVID BOWMAN' <DAVID.BOWMAN@cityofchicago.org>  
**Date:** 12/3/2008 3:30:55 PM  
**Subject:** RE: POTTASIUM ACETATE RUNWAY DEICER AVAILABILITY

David,

As we discussed, Octagon can not offer anything more than spot delivery of our potassium acetate based runway deicers. Although the strike has ended, it may still take months for the acetate supply to replenish itself.

Regards,

Alex Meyers  
Octagon Process, Inc.

-----Original Message-----

**From:** DAVID BOWMAN [mailto:DAVID.BOWMAN@cityofchicago.org]  
**Sent:** Tuesday, December 02, 2008 9:50 AM  
**To:** AMEYERS@octagonprocess.com  
**Subject:** POTTASIUM ACETATE RUNWAY DEICER AVAILABILITY

Alex,

Per our phone conversation this morning please advise on the current availability of Pottassium Acetate runway deicer and when you think you may be in a position to begin filling requests for that product in the future.

Thanks for you quick response to my question.

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This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (or the person responsible for delivering this document to the intended recipient), you are hereby notified that any dissemination, distribution, printing or copying of this e-mail, and any attachment thereto, is strictly prohibited. If you have received this e-mail in error, please respond to the individual sending the message, and permanently delete the original and any copy of any e-mail and printout thereof.

weather

Home > Local > Weather > Local weather forecast  
 Local forecast: Today, Tomorrow, 10 days, 30 days

Local weather forecast

**Winter Weather Advisory**

Day	Forecast	Description	Precip. chance
Friday Dec 15 Details	Fair	<b>Day:</b> Mostly clear skies. High 10F, humidity 60%. Winds W at 20 to 25 mph. Air Quality: NA, UV Index: 1 <b>Night:</b> Cloudy skies. Low 3F. Winds WNW at 10 to 15 mph.	0%
Saturday Dec 16 Details	Snow Showers	<b>Day:</b> Likely moderate snow. High 25F, humidity 85%. Winds E at 5 to 10 mph. Air Quality: NA, UV Index: 1 <b>Night:</b> Chance of light snow. Low 22F. Winds ESE at 10 to 15 mph.	75%
Sunday Dec 17	Cloudy / PM Sun	Sunny skies. High 25F and low 13F. Winds W at 10 to 15 mph. Air Quality: NA, UV Index: 1	15%
Monday Dec 18	Sleet	Likely moderate freezing rain with snow. High 30F and low 24F. Winds E at 15 to 20 mph. Air Quality: NA, UV Index: 1	60%
Tuesday Dec 19	AM Rain	Sunny skies. High 29F and low 14F. Winds W at 15 to 20 mph. Air Quality: NA, UV Index: 1	15%
Wednesday Dec 20	Cloudy	Cloudy skies. High 23F and low 4F. Air Quality: NA, UV Index: NA	15%
Thursday Dec 21	Snow Showers / Sun	Partly cloudy skies. High 28F and low 16F. Air Quality: NA, UV Index: NA	35%
Friday Dec 22	Cloudy	Cloudy skies. High 19F and low -1F. Air Quality: NA, UV Index: NA	45%
Saturday Dec 23	Cloudy	Cloudy skies. High 10F and low 10F. Air Quality: NA, UV Index: NA	65%
Sunday Dec 24	Snow Showers	Cloudy with snow showers. High 27F and low 27F. Air Quality: NA, UV Index: NA	95%

Winter news

**Utilities struggle to restore N.E. power**

Utility crews worked around the clock to restore electricity Monday to more than 400,000 homes and businesses in six states still without power.

Other top stories:

- Storm prompts Calif. evacuations
- Alaskas advise against travel in blowing snow
- Heavy rains pound Italy, 4 deaths

Contract Finder

Date Detail

	Task	Expected Date	Actual Date
1	Date begin mod work	12/15/2008	12/15/2008
2	Date to CACB	12/16/2008	
3	Mod documents sent to vendor	12/21/2008	
4	Receive completed mod docs from vendor	1/4/2009	
5	CPAC team signoff	1/11/2009	
6	Manager approval	1/12/2009	
7	Deputy approval	1/12/2009	
8	Law approval	1/15/2009	
9	Comptroller approval	1/18/2009	
10	CPO approval	1/19/2009	
11	Mod release	1/20/2009	

Vendor Number

Vendor Name

Project Name

Requisition Number 41245

Contract Number

Record Status ACTIVE

Record Type MOD

Spec Number 69447

Mod Number

Contract Value \$0

Procurement Type

Department Code 85 - DEPT OF AVIATION

DPS Contract Administrator

Type Lookup Code

Req Comments REQUEST MODIFICATION FOR SOLE SOURCE AMENDMENT TO INCREASE VENDOR LIMIT \$11,490,000 TO \$32,746,500 FOR LIQUID RUNWAY DEICER UNDER PO 18624 WITH OLD WORLD INDUSTRIES. SECOND AMENDMENT

PO Comments

PO Start Date

PO End Date

Data Source FMPS

Note

Reason for Mod DOLLAR AMOUNT CHANGE

Contract Type COMMODITIES-AVIATION

PO Action History

Action Date	Action	Mod	Name	Note
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## 9.01 Entire Agreement

### (a) General

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

### (b) No Collateral Agreements

Contractor acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement, promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, lab and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed connected or concerned with it.

### (c) No Omissions

Contractor acknowledges that Contractor was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that he might request inclusion in this Agreement of any statement, representation, promise or provision that he desired or on that he wished to place reliance. Contractor did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Contractor relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

## 9.02 Counterparts

This Agreement may be comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

## 9.03 Amendments

No changes, amendments, modifications or discharge of this Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Contractor and by the Mayor, Comptroller, and Chief Procurement Officer of the City or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 9.03.

Whenever under this Agreement Contractor is required to obtain prior written approval of the City, the effect of any approval that may be granted pursuant to Contractor's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.