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**CONTRACT
FOR
REQUEST FOR PROPOSAL (RFP) #00000104, DOCUMENTARY STUDY AND
ARCHAEOLOGICAL EVALUATION FOR FORT WARD HISTORICAL PARK**

This Contract, made this 5th day of October 2010, between City of ALEXANDRIA, a Municipal Corporation of Virginia, by the Procurement Department (hereinafter called "City"), and The Ottery Group (hereinafter called "Contractor"):

WITNESSETH:

WHEREAS: The City of Alexandria, Virginia wishes to retain Contractor to provide documentary study and archaeological evaluation for fort ward historical park for the Office of Historic Alexandria in accordance with Request for Proposal #000000104, dated, April 7, 2010.

NOW, THEREFORE, for and in consideration of the payments set forth in Section 6 below, and the mutual promises contained herein, the parties agree as follows:

1. CONTRACT DOCUMENTS

The following documents are incorporated herein by reference and are made a part of this Contract:

- Exhibit I, Request for Proposal (RFP) No. 00000104, dated April 7, 2010;
- Exhibit II, Contractor's Proposal Response to RFP No. 000000104; I, dated May 5, 2010; and
- Exhibit III, Scope of Work, Pricing and Maps, dated October 4, 2010.

This Contract with Exhibit I through III shall constitute the whole and entire agreement between the parties. Where there is a conflict between the requirements of this contract and the requirements of Exhibits I through IV, the requirements of this contract shall govern.

2. DEFINITIONS

- A. "Contract Documents" shall mean those documents identified in Section 1.
- B. "Contract Sum" shall mean the amounts payable to Contractor in accordance with Section 6.

- C. "Final Payment" shall have the meaning ascribed to it in Section 7.
- D. "Scope of Work" shall have the meaning ascribed to it in Section 4B.
- E. "Term" shall have the meaning ascribed to it in Section 5.

3. RELATIONSHIP OF THE PARTIES

- A. The Contractor covenants with the City to perform the work required under this Contract to the satisfaction of City, within the care and skill a Contractor would exercise under similar conditions; to cooperate with City, and such other contractors as city may retain; to exercise Contractor's skill and judgment in furthering the interests of the City; to furnish efficient business administration and supervision; and to perform the Work in an expeditious and economical manner consistent with the City's interests. The City agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.
- B. It is the intent of the parties hereto that the Contractor shall be legally considered as an independent contractor, that neither it nor its employees shall, under any circumstances, be considered servants or agents of the City, and that the City shall be at no time legally responsible for any negligence or intentional wrongdoing on the part of Contractor, its servants or agents, resulting in either bodily injury to any person or property damage to any individual, firm, or corporation.

4. SCOPE OF WORK

- A. The scope of work shall include Exhibit III, and The Ottery Group's proposal response. The Office of Historic Alexandria or designee shall serve as the Director of Procurement's Technical Representative (DPTR) for the performance of the scope of services listed in Part 1 of the RFP. The Contractor is only authorized to perform work outlined in the Scope of Work included hereto.
- B. The Contractor shall coordinate with the City, as necessary, in performance of the services as set forth in Exhibit III.

Contractor shall commence Historical research shall begin within one week of executing of the contract. Fieldwork shall begin within one week of the City Engineering Department's approval of the Grading Plan for the Stage One archaeological evaluation, with a target start date of mid-October.

5. TERM

- A. The contemplated term for a contract awarded through this RFP is from October 1, 2010, through September 30, 2011. Additionally, and at the sole discretion of the Director of Procurement and funding availability, this contract may be renewed for two (2) one (1) year renewal options.
- B. Contract renewals shall be authorized by City's Procurement Department. Automatic Contract renewals are prohibited.
- C. Non-Appropriation of Funds- Any contract awarded pursuant to Request for Proposal No. 000000104 will be conditioned upon an annual appropriation made by the Alexandria City Council of funds sufficient to pay the compensation due Contractor under the contract. The contract will provide that if such an appropriation is not made in any fiscal year, and the City lacks funds from other sources to pay the compensation due under the contract, the City will be entitled, at the beginning of or during such fiscal year, to terminate the contract. In that event, the City will not be obligated to make any payments under the contract beyond the amount properly appropriated for contract payments in the immediately prior fiscal year. The City will provide Contractor with written notice of contract termination due to the non-appropriation of funds at least thirty (30) calendar days before the effective date of the termination. However, the City's failure to provide such notice will not extend the contract into a fiscal year in which funds for contract payments have not been appropriated.

6. CONTRACT COSTS

- A. City Shall Pay Contractor for the Work Performed for City Facilities and Schools Recycling Collection as set forth in Exhibit III the Project Budget, dated June 9, 2010 herein by reference and made a part of this contract.
- B. Such costs, as shown in Exhibit III, include salary, payroll taxes social security, workers' compensation and fringe benefits, such as vacation and holiday pay, without additional contractor mark-up. City shall pay only for work performed, and at the budgeted prices.
- C. Such cost shall be firm for the scope of work denoted in this Contract. Increases in budget amounts for additional scopes of work shall be negotiated based on the funding made available for this project.

7. PAYMENT AND COMPLETION

- A. Payments, totaling \$43,670 shall be made in accordance with the following schedule:
 - 50% upon completion of the fieldwork
 - 40% upon completion of the drafts
 - 10% upon approval of the final management summary and report

8. ADMINISTRATION OF THE CONTRACT

The Office of Historic Alexandria of the City of Alexandria, Virginia or designated representatives, shall administer the Contract and will be referred to in the Contract Documents as the "Director of Procurement's Technical Representative (DPTR)", "City", or "Owner". The Contractor shall forward all communications to the City through the DPTR.

9. SUPERVISION

Contractor shall supervise the work, and shall be solely responsible for all means, methods, sequences, and procedures and for coordination of all portions of the Work under this Contract. Contractor shall be responsible for coordination of all subcontractors, if applicable. Contractor is responsible for all acts and omissions of its employees, its subcontractors, and its subcontractors' employees performing any work pursuant to this Contract. A project manager designated in writing by Contractor for purposes of these services shall attend all requested meetings with City's representative or his/her designee. The City reserves the right to request replacement of such project manager, or any personnel who are considered not performing in accordance with the Contract requirements.

10. SUBCONTRACTORS

By an appropriate agreement, Contractor shall require each subcontractor, with which it executes a subcontract, to be bound to Contractor by the terms of the Contract Documents, and to assume toward Contractor all of the obligations and responsibilities which Contractor, by the Contract Documents, assumes toward City.

11. TERMINATION OF CONTRACT

- A. For Convenience. The City may terminate this Contract for convenience, in whole or in part, at any time by providing fifteen (15) days written notice to the Contractor. During the notice period, the Contractor shall perform no work not specifically authorized by the City that is not required to preserve the Work and/or prevent injury to persons or damage to property.

The Contractor shall be paid for its work performed prior to the date of termination, in accordance with the Contract.

- B. For Default. The City may, by written notice of default to Contractor, terminate the whole or any part of this Contract in any one of the following circumstances:

- (1) If the Contractor fails to perform the services within the time(s) specified in this Contract or any Task Order; or

- (2) If the Contractor fails to perform any of the other provisions of this Contract, fails to make progress so as to endanger performance of this Contract in accordance with its terms, and does not cure such failure within a period of ten (10) days after receipt of written notice from the City's Purchasing Agent or designee.
- C. Contract Cover. In the event City terminates this Contract for default, in whole or in part as indicated above, City may purchase from other vendor's supplies or services similar to those terminated, and Contractor shall be responsible to City for any excess costs of reprourement.

13. CHANGES

- A. The City may order changes in the Work consisting of additions, deletions, or modifications, the Contract Sum and the time for performance being adjusted accordingly. Such changes in the Work shall be authorized only by written change order signed by the Director of Procurement. The Contract Sum and time for performance shall be changed only by change order signed by the Director of Procurement.
- B. Contractor acknowledges and agrees that no claim for extra work done or materials furnished by Contractor will be allowed by City except as provided herein, nor shall Contractor do any work or furnish any materials not covered by this Contract unless such work is first authorized in writing. Any such work or materials furnished by Contractor without such written authorization first being given, shall be at Contractor's own risk, cost, and expense, and Contractor hereby agrees that without written authorization it will make no claim for compensation for such work or materials furnished.

14. DISPUTES

Contractual disputes shall be submitted in writing no more than sixty (60) days after final payment in accordance with Section 3-3-107 of the Code of the City of Alexandria, Title 3, and Chapter 3. However, written notice of an intention to file such a claim shall be made at the time of the occurrence or at the beginning of the work upon which the claim is based. The Procurement Director shall render a final decision within fifteen (15) days of the date of receipt of the written claim.

15. INDEMNIFICATION

The Contractor shall indemnify and hold harmless the City and its officials and employees and agents, of and from any and all claims, lawsuits, costs, damages, liabilities and other losses of any character (including attorney's fees and litigation costs) to the extent caused by the Contractor's negligent performance of professional services under this Contract and that of its Subcontractors or material suppliers.

16. INSURANCE

Within ten (10) days of receipt of notice of Contract award and prior to beginning Work under this Contract, the Contractor shall be required to furnish to the City's Purchasing Agent, a certificate or certificates of insurance, showing that the Contractor has obtained at its own expense all insurance coverage listed in the "CITY OF ALEXANDRIA, VIRGINIA, INSURANCE CHECKLIST", which can be found in Exhibit I, Part 3a, Required Submittal." These certificates of insurance shall list the City of Alexandria as an additional insured in the amounts and types of insurance required by the checklist.

17. LICENSING

Certain vendors and contractors shall possess a current Alexandria business license prior to being issued a purchase order, unit price agreement, or contract by the City:

- A. All vendors with a City of Alexandria address;
- B. All vendors delivering a service.

Vendors or contractors falling into the above categories, that do not have a current business license, will be notified that they have five (5) days to furnish evidence of a current license or the award will be made to another firm.

City of Alexandria business license information can be obtained in person at City Hall, Room 1400, or by calling the Business Tax Branch at (703) 746-3903.

18. PROJECT DOCUMENTS AND COPYRIGHTS

- A. City Ownership of Project Document. All work products (electronically or manually generated) which are prepared in the performance of this Contract (collectively referred to as "Documents") are to be and remain the property of City and are to be delivered to City before the Final Payment on each Task Order is made to Contractor. In the event these documents are altered, modified or adapted without the written consent of Contractor, which consent Contractor shall not unreasonably withhold, City agrees to hold Contractor harmless to the extent permitted by law from the legal liability arising out City's alteration, modification or adaptation of the documents.
- B. Contractor and City agree that City has, to the full extent of Contractor's rights therein, unlimited rights to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so, any and all data prepared or used by Contractor under this contract (except information incidental to contract administration, such as financial, administrative, cost or pricing, or management information), including any and all recorded information, regardless of form or the media

on which it may be recorded, and including technical data and computer software, and Contractor and City agree that Contractor shall provide City full and complete access to such data.

- C. License to City for Reasonable Use. With this Contract, Contractor and its subcontractors hereby grant a license to City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Documents, works or deliverables developed or created as a result of this Contract. This license also included the making of derivative works. In the event that derivative works require City to alter or modify the Documents, then the provisions of subsection (A) above apply.
- D. Documents to Bear Seal. Contractor and its subcontractors shall endorse by professional seal all works, and deliverables prepared by them for this Contract as required by state law.
- E. Delivery. Upon expiration or termination of this Contract, Contractor shall deliver to City work entirely or partially completed, together with all unused materials supplied City.

19. COMPLETENESS AND ACCURACY OF CONTRACTOR'S WORK

Contractor shall be responsible for the completeness and accuracy of its work prepared or compiled in connection with its obligation under this Contract and shall correct, at its expense, all willful or negligent errors, omissions and acts therein which may be discovered. Any damage incurred by City as a result of additional cost caused by such willful or negligent errors, omissions or acts shall be chargeable to contractor to the extent that such willful or negligent errors, omissions and acts fall below the standard of care and skill that a registered professional in Alexandria, Virginia would exercise under similar conditions. The fact that City has accepted or approved Contractor's work shall in no way relieve Contractor of any of its responsibilities.

20. QUALIFICATIONS

Contractor shall employ a team with the skills necessary, as may be determined by City, to perform the work as required. The team members shall have the educational and experiential credentials sufficient to ensure acceptable and timely performance of the work. The team shall be led by a registered or licensed professional, who shall be responsible for certifying the accuracy of the work.

21. PERSONNEL AUTHORIZED TO REPRESENT THE PARTIES

The individuals named below are designated to assume the administration and coordination of all Contract requirements.

A. For the City:

(1) Director of Procurement's Technical Representative (DPTR):

**Ms. Francine Bromberg
Office of Historic Alexandria
Phone: (703) 746-4399**

- (2) Contracting Officer:** Changes made to this Contract throughout the Contract period must be authorized in writing by the City's Director of Procurement or designee and the Contractor's signatory below.

B. For the Contractor:

Contract Administrator(s):

**Mr. Thomas W. Bodor
The Ottery Group
Phone: (301) 562-1975
Fax: (301) 562-1976**

22. EMPLOYMENT DISCRIMINATION PROHIBITED

In the performance of the Contract, the Contractor covenants and certifies that it will comply in all respects with all pertinent federal, state and local laws and ordinances regarding work on municipal contracts, matters of employment, length of hours, workers compensation, affirmative action and human rights.

The Equal Employment Opportunity provisions of Title 12 of the City Code are hereby incorporated by reference and made a part of this Contract.

23. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference but is not limited to the provisions of law contained in the Virginia Conflict of Interest Act, 2.1-639.1 *et seq.*, the Virginia Governmental Frauds Act, 18.2-498-1 *et seq.*, and Articles 2 and 3 of Chapter 10 of Title 18.2, all of the Code of Virginia, 1950, as amended, and Article I, Title 3, Chapter 3 of the Code of the City of Alexandria, 1981, as amended.

24. TAX REQUIREMENTS

By executing this Contract, the Contractor agrees to comply with the laws, regulations and rulings of the United States Internal Revenue Service related to the requirements for filing information statements, including Form 1099, of the Internal Revenue Service.

25. ASSURANCES

Each party to this Contract warrants the following:

- A. This Contract constitutes a valid, binding and enforceable agreement of the party;
- B. The execution of this Contract and the performance of its obligations are within the party's powers; have been authorized by all necessary actions on behalf of the party; do not constitute a breach by the party of any agreement with another party; and will not cause a breach by the party of any duty arising in law or equity; and
- C. The party possesses the financial capacity to perform all of its obligations under this Contract.

The parties agree that the failure of any of the above representations and warranties to be true during the term of this Contract shall constitute a material breach of this Contract, and the City shall have the right, upon notice to the Contractor, to immediately terminate this Contract. All amounts outstanding hereunder shall be immediately invoiced. Court costs and other costs and expenses, including reasonable attorney's fees, incurred in the collection of any amounts due hereunder may also be recovered by the City.

26. MISCELLANEOUS

- A. Severability. Should any provision of this Contract be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Contract had been executed with the invalid provision(s) eliminated, and it is hereby declared the intention of the parties that they would have executed the other provisions of this Contract without including therein such provision(s) which may for any reason be hereafter declared invalid.
- B. Non-Waiver. The failure of Contractor or the City to exercise any right, power or option arising under this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by Contractor or the City of their rights at any time thereafter to require exact and strict compliance with all the terms hereof.
- C. Successors Bound. The terms and conditions of this Contract shall extend and inure to the benefit of and be binding on, the respective successors and assigns of City and Contractor.
- D. Force Majeure. Contractor is not responsible for failure to have fulfilled its obligations under this Contract due to causes beyond its reasonable control.

- E. Headings. Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Contract are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms hereof.
- F. Audit. All records, reports and documents relating to this Contract shall be maintained by the Contractor for a period of five (5) years following termination of the Contract. Such records, reports and documents shall be subject to review and audit by the City and the City's consultants or auditors at mutually convenient times.
- G. Assignment. The Contractor shall not assign, transfer, convey or otherwise dispose of any or all of its right, title or interest in this Contract, without the prior written consent of the Purchasing Agent or his authorized designee.
- H. Governing Law. This Contract shall be governed in all respects by the laws of the Commonwealth of Virginia.
- I. Drug Free Work Place. In accordance with section 3-3-78 of the Alexandria City Code, "employees are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract."
- J. Survival. The rights, obligations and/or liabilities of both parties, which arose prior to the expiration, or termination of this Contract shall survive the expiration or termination of this Contract.

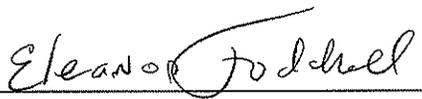
27. SIGNATORIES

The parties agree that they shall be bound by the contents of this Contract.

THE OTTERY GROUP
 1810 AUGUST DRIVE
 SILVER SPRING, MARYLAND 20902

CITY OF ALEXANDRIA
 MUNICIPAL CORPORATION OF
 VIRGINIA

BY 
 TITLE Vice President
 DATE 10/4/2010

BY 
 TITLE: Acting Director of Procurement
 DATE October 5, 2010