AGREEMENT

BETWEEN

THE CITY OF DELRAY BEACH

AND

CDM SMITH INC.

FOR

CITY-WIDE PROJECT MANAGEMENT SERVICES

This is an Agreement ("Agreement"), made and entered into by and between: Delray Beach, a municipal corporation of the State of Florida, hereinafter referred to as "City,"

and

CDM Smith Inc., a Massachusetts corporation, authorized to transact business in the State of Florida, hereinafter referred to as "Second Party," (collectively referred to as the Parties).

WITNESSETH:

In consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

The following definitions apply unless the context in which the word or phrase is used requires a different definition:

1.1 **Agreement** - This Agreement includes Articles 1 through 9, the exhibits and documents that are expressly incorporated herein by reference.

1.2 **Board** - The City Commission of Delray Beach, Florida.

1.3 **Contract Administrator** - The Delray Beach City Manager or the Director of the Delray Beach Environmental Services Department. The primary responsibilities of the Contract Administrator are to coordinate and communicate with Second Party and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In

the administration of this Agreement, as contrasted with matters of policy, all Parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

1.4 **City Manager** - The administrative head of City appointed by the Board.

1.5 **City Attorney** - The chief legal counsel for City appointed by the Board.

1.6 **Project** - The Project consists of the services described in Article 2.

ARTICLE 2
SCOPE OF SERVICES

2.1 The project scope of work and specific services to be performed by Second Party, time of completion, and budget shall be authorized by a Service Authorization. Services shall only be performed by the Second Party after receipt of a fully executed Service Authorization duly executed by the City and the Second Party. The Service Authorization shall include a description of the services required (scope of work); budget cost itemized by labor hours, rates, reimbursable expenses, subcontractor costs and other related costs; and time required to complete the additional service.

2.2 Second Party shall perform all work identified in this Agreement and Exhibit "A", and as further set forth in each Service Authorization. The Scope of Services is a description of Second Party's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by Second Party impractical, illogical, or unconscionable.

2.3 Second Party acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement.

ARTICLE 3
TERM AND TIME OF PERFORMANCE

3.1 This Agreement is in full force and effect upon full contract execution by the City of Delray Beach. The term of the Agreement shall be for one (1) year with four (4), one-year options to renew. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

3.2 In the event services are scheduled to end due to the expiration of this Agreement, the Second Party agrees that it shall continue service upon the

request of the Contract Administrator. The extension period shall not extend for greater than three months beyond the term of the Agreement. The Second Party shall be compensated for the service at the rate in effect when the extension is invoked by the City upon the same terms and conditions as contained in this Agreement as amended. The Chief Purchasing Officer shall notify Second Party of an extension authorized herein by written notice delivered prior to the end of the term of the Agreement.

ARTICLE 4
COMPENSATION

4.1 City will pay Second Party, in the manner specified in Section 4.3, the amount of each Service Authorization for a total not-to-exceed Two Hundred and Fifty Thousand Dollars ($ 250,000.00) for work actually performed and completed pursuant to this Agreement. Second Party acknowledges that this amount is the maximum payable and constitutes a limitation upon City's obligation to compensate Second Party for its services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon Second Party's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

4.1.1 Second Party acknowledges that the dollar limitation set forth in Section 4.2.1 is a limitation upon, and describes the maximum extent of, City's obligation, but does not constitute a limitation, of any sort, upon Second Party's obligation to incur expenses or perform the services identified in each Service Authorization.

4.1.2 The hourly rate fee to be paid by the City to the Second Party, for all services under this Agreement, shall be in accordance to the Rate Schedule as attached in Exhibit D and incorporated herein.

4.2 METHOD OF BILLING AND PAYMENT

4.2.1 Second Party may submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Invoices shall designate the nature of the services performed. Second Party shall submit with each invoice a Certification of Payments to Subcontractors and Suppliers (Exhibit "B"). The certification shall be accompanied by a copy of the notification sent to each subcontractor and supplier listed in item 2 of the form, explaining the good cause why payment has not been made.

4.2.2 City shall pay Second Party within thirty (30) calendar days of receipt of Second Party's proper invoice, or as required by Florida Law. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Second Party to comply with a term, condition, or requirement of this Agreement.

4.2.3 Second Party shall pay its subcontractors and suppliers within thirty (30) days following receipt of payment from City for such subcontracted work or supplies. If Second Party withholds an amount from subcontractors or suppliers as retainage, such retainage shall be released and paid within thirty (30) days following receipt of payment of retained amounts from City.

4.3 Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by City.

4.4 Payment shall be made to Second Party at:

CDM Smith, Inc.
P.O. Box 100902
Atlanta, GA 30384-0902

ARTICLE 5
INDEMNIFICATION

Second Party shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Second Party, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action, or demand, Second Party shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The obligations of this section shall

survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Second Party under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by City.

ARTICLE 6
INSURANCE

6.1 Second Party shall maintain at its sole expense, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit C, Insurances, in accordance with the terms and conditions stated.

ARTICLE 7
TERMINATION

7.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by City, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health, safety, or welfare. If City erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

7.2 This Agreement may be terminated for cause for reasons including, but not limited to, Second Party's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if the Second Party is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if the Second Party provides a false certification submitted pursuant to Section 287.135, Florida Statutes. This Agreement may also be terminated by the Board:

7.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager,

which the City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

7.4 In the event this Agreement is terminated for convenience, Second Party shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. Second Party acknowledges that it has received good, valuable and sufficient consideration from City, the receipt and adequacy of which are, hereby acknowledged by Second Party, for City's right to terminate this Agreement for convenience.

7.5 In the event this Agreement is terminated for any reason, any amounts due Second Party shall be withheld by City until all documents are provided to City pursuant to Section 9.1 of Article 9.

ARTICLE 8
NON-DISCRIMINATION

8.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Failure by Second Party to carry out any of these requirements shall constitute a material breach of this Agreement, which shall permit the City, to terminate this Agreement or to exercise any other remedy provided under this Agreement, or under the Delray Beach Code of Ordinances or under applicable law, with all of such remedies being cumulative.

Second Party shall include the foregoing or similar language in its contracts with any subcontractors or sub consultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as City deems appropriate.

Second Party shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement and shall not otherwise unlawfully discriminate in violation of any State or Federal law. Second Party shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Second Party shall take affirmative steps to prevent discrimination in employment against disabled persons.

By execution of this Agreement, Second Party represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. City hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle City to terminate this Agreement and recover from Second Party all monies paid by City pursuant to this Agreement, and may result in debarment from City's competitive procurement activities.

ARTICLE 9
MISCELLANEOUS

9.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City, and, if a copyright is claimed, Second Party grants to City a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Second Party, whether finished or unfinished, shall become the property of City and shall be delivered by Second Party to the Contract Administrator within eight (8) days of termination of this Agreement by either party. Any compensation due to Second Party shall be withheld until all documents are received as provided herein.

9.2 PUBLIC RECORDS

9.2.1 IF THE SECOND PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SECOND PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK MAY BE REACH VIA TELEPHONE AT 561-243-7060 OR BY EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

9.2.2 Second Party shall comply with public records laws, specifically to:

i. Keep and maintain public records required by the City to perform the service.

ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected

or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Second Party does not transfer the records to the City.

iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Second Party or keep and maintain public records required by the City to perform the service. If the Second Party transfers all public records to the City upon completion of the Agreement, the Second Party shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Second Party keeps and maintains public records upon completion of the Agreement, the Second Party shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

v. If the Second Party does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

9.3 INSPECTOR GENERAL.

Second Party is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Second Party and its sub licensees and lower tier sub licensees. Second Party understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Second Party or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

9.4 AUDIT RIGHTS, AND RETENTION OF RECORDS

City shall have the right to audit the books, records, and accounts of Second Party and its subcontractors that are related to this Project. Second Party and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of Second Party and its subcontractors shall be

kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Second Party or its subcontractor, as applicable, shall make same available at no cost to City in written form.

Second Party and its subcontractors shall preserve and make available, at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

Second Party shall ensure that the requirements of this Section 9.4 are included in all agreements with its subcontractor(s).

9.5 TRUTH-IN-NEGOTIATION REPRESENTATION

Second Party's compensation under this Agreement is based upon representations supplied to City by Second Party, and Second Party certifies that the information supplied is accurate, complete, and current at the time of contracting. City shall be entitled to recover any damages it incurs to the extent such representation is untrue.

9.6 PUBLIC ENTITY CRIME ACT

Second Party represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by City pursuant to this Agreement, and may result in debarment from City's competitive procurement activities.

In addition to the foregoing, Second Party further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Second Party has been placed on the convicted vendor list.

9.7 INDEPENDENT CONTRACTOR

Second Party is an independent contractor under this Agreement. Services provided by Second Party pursuant to this Agreement shall be subject to the supervision of Second Party. In providing such services, neither Second Party nor its agents shall act as officers, employees, or agents of City. No partnership, joint venture, or other joint relationship is created hereby. City does not extend to Second Party or Second Party's agents any authority of any kind to bind City in any respect whatsoever.

9.8 THIRD PARTY BENEFICIARIES

Neither Second Party nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

9.9 NOTICES

Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For City:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
C/o City Manager

For Second Party:

Suzanne E. Mechler, P.E.
CDM Smith Inc.
621 NW 53rd Street, Suite 265
Boca Raton, FL 33487

9.10 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. In addition, Second Party shall not subcontract any portion of the work required by this Agreement, except as may specifically provide for herein. Notwithstanding the Termination provision of this Agreement, City may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by Second Party of this Agreement or any right or interest herein without City's written consent.

Second Party represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

Second Party shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Second Party's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to ordinary care and skill used by members of Second Party's profession practicing under similar conditions at the same time and in the same locality.

9.11 CONFLICTS

Neither Second Party nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Second Party's loyal and conscientious exercise of judgment and care related to its performance under this Agreement.

None of Second Party's officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he, she, or Second Party is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse

or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Second Party or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event Second Party is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Second Party shall require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as Second Party.

9.12 MATERIALITY AND WAIVER OF BREACH

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

9.13 COMPLIANCE WITH LAWS

Second Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

9.14 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Second Party elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days of final court action, including all available appeals.

9.15 JOINT PREPARATION

The Parties and their counsel have participated fully in the drafting of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language

in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

9.16 INTERPRETATION

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

9.17 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 9 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 9 shall prevail and be given effect.

9.18 LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All Parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, SECOND PARTY AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR

JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

9.19 AMENDMENTS

The Parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and Second Party or others delegated authority to or otherwise authorized to execute same on their behalf.

9.20 PRIOR AGREEMENTS

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

9.21 PAYABLE INTEREST

9.21.1 Payment of Interest. Except as required by the Prompt Payment laws, City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Second Party waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

9.21.2 Rate of Interest. In any instance where the prohibition or limitations of Section 9.21.1 are determined to be invalid or unenforceable, the annual rate of interest payable by City under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

9.22 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties. All Exhibits are incorporated into and made a part of this Agreement.

9.23 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

9.25 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 10
ORDER OF PRECEDENCE

The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

A. Terms and conditions as contained in this Agreement;

B. RFP No. 2016-111C, City-Wide Project Management Services, dated August 10, 2016, and all its addenda;

C. Second Party's response to RFP No. 2016-111C, City-wide Project Management Services, and any subsequent information submitted by Second Party during the evaluation and negotiation process.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: City through its Board, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 6th day of June, 2017, and Second Party, signing by and through its Principal, duly authorized to execute same.

ATTEST:

Katerri Johnson, City Clerk

CITY OF DELRAY BEACH, FLORIDA

By_____
Cary D. Glickstein, Mayor

18th Day of July, 2017.

APPROVED AS TO FORM:

R. Max Lohman, City Attorney

AGREEMENT BETWEEN DELRAY BEACH, FLORIDA

AND

CDM SMITH INC.

SECOND PARTY

By _____
(Signature)

Suzanne E. Mechler, P.E., BCEE, Principal
(Printed name, Title)

8th Day of July, 20 17

WITNESS:

_____
(Signature)

Maria C. Monroe
(Printed name)

WITNESS:

_____
(Signature)

Pooja Kalaria
(Printed name)

CDM SMITH INC. 1970 (SEAL) MASSACHUSETTS

EXHIBIT A
SCOPE OF SERVICES

1. **Scope:** The Successful Proposer (hereinafter in this Scope of Services referred to as Consultant) shall provide Program and Project Management Consulting Services to act as an extension of City staff with the primary role of managing and administering multiple capital improvement projects (CIP). The Consultant will support and advise the City in project related matters, oversee the work of other consultants; coordinate and communicate with City staff, local governmental and non-governmental agencies. The Consultant will provide a full range of services, including assistance with development of project procurement; and management of capital projects. The Consultant shall also provide assistance with contract administration and oversight of contractors and project engineers for capital projects. Specific tasks identified in the Scope of Services include review of City contracts and neighborhood revitalization and sustainability initiatives.

2. **Inclusive Scope of Services:** The City and Consultant acknowledge that the services, as described herein, do not delineate every detail and minor work task required to be performed by the Consultant to complete the work and/or services described in the scope of work of each Service Authorization. Any ancillary services that may be required or necessary shall be deemed to be included in the Scope of Services.

3. **Additional Services:** As authorized by the City, the Consultant may provide additional services and functions including, but not limited to:

   A. Public outreach involvement and communication services.
   B. Planning level support for capital projects.
   C. Additional technical support for capital projects (including constructability and value engineering reviews).
   D. Construction inspection reviews.

4. **Service Authorization:** Any additional services shall only be performed by the Consultant after receipt of a fully executed Service Authorization duly executed by the City. The Service Authorization shall include a description of the additional services required; an hourly fee and not to exceed amount; reimbursable expenses (if any) with a not to exceed amount; time required to complete the additional service; and an amended Project Schedule (if applicable). 'Not to exceed' is defined as the maximum cumulative hourly fee allowable which the Consultant shall not exceed without additional written authorization. The not to exceed amount is not a guaranteed maximum fee for the additional service.

5. **Project Documentation:** The Consultant shall establish, maintain and categorize any and all project documents and records pertinent to the services and shall provide the City, upon request, with copies of any and all such documents and/or records. In addition, the Consultant shall provide electronic files to the City upon completion of the project, or termination or expiration of the agreement.

6. **Project Managers:** Consultant will designate Project Managers to provide the Services under the terms of the RFQ. The Project Managers shall be authorized and responsible to act on behalf of the Consultant with respect to directing, coordinating and administrating all

aspects of the services. The Project Managers shall not be authorized to execute any amendments to executed agreement.

A. Replacement: Consultant may not, without advanced written notification and consent of the City, reassign or replace the Project Managers or any member of the Consultant's team assigned to the City. Replacement of Project Managers or any other personnel shall be subject to the advanced written approval of the City, which shall not be unreasonably withheld or delayed. City shall at all times have the right to approve the specific Consultant employees performing work on City projects. City, in its sole discretion, shall have the right to require Consultant to substitute or remove any Consultant employee from a project if such employee's conduct or performance is detrimental to the project. Removal or replacement of the Project Managers or other team member without the prior written consent of the City may be considered default of the terms and conditions of the Agreement.

B. As Needed Basis: Project Managers shall provide services on an as needed basis. Consultant shall acknowledge and agree the Consultant's Project Managers may be required to provide services outside of normal working hours in order to monitor progress of a contractor's and/or engineer's work. Consultant acknowledges and agrees that any costs associated with such scheduling requirements will be incorporated into fees/hourly billing rates as negotiated.

C. Location: The local office for Consultant's Project Managers must be in the corporate office located in City of Boca Raton 621 NW 53rd Street, Suite 265 Boca Raton Florida, 33487. Project Managers and/or team will travel as necessary for project related duties.

D. Working Relationships: Consultant and Project Managers shall use reasonable professional efforts to maintain a constructive, professional, cooperative, working relationship with City staff, contractors, engineer and any other individuals and/or firms that have been contracted, or otherwise retained, by the City to work on projects.

E. No Authorization: Neither the Consultant or Project Managers is authorized to do the following:

i. Expedite the work for the contractor(s).
ii. Advise the contractor(s) on building techniques or scheduling.
iii. Get involved in disputes or problem between contractor(s) and sub- contractor(s).
iv. Provide final design services for any project.

7. COMPLETION SCHEDULE:

A. Schedule - Consultant agrees to complete its Project Management Services and provide the indicated deliverables in accordance with the schedule established for each such project as indicated in the applicable Service Authorization. Consultant acknowledges and agrees that time is of the essence in the completion of the Services required under each Service Authorization.

B. Delay - Consultant acknowledges responsibility for any delay damages suffered by the City to the extent it is the sole result of Consultant's negligent, reckless or intentional wrongful actions or inactions. In the event that the City suffers suffer actual delay damages solely as a result of Consultant aforesaid actions or inactions, the City, in its sole discretion, said discretion to be exercised reasonably and in good faith, shall have the right and be entitled to terminate this Agreement upon thirty (30) day's written notice and such termination shall not be construed to constitute a breach by the City. Consultant shall have fifteen (15) days to cure the delay, or provide a recovery schedule or mitigation plan to the City.

8. **CONSULTANT SERVICES FEE & EXPENSES:**

A. Fee Schedule: The fee to be paid by the City to Consultant, for all Consultant services of Consultant and administrative reimbursements shall be set forth in a detailed Fee Schedule as negotiated.

B. Additional Services: The fee to be paid by the City to Consultant, for all Project Management Services of Consultant and any of its subcontractors and administrative reimbursements for service authorizations issued for "Additional Services" shall be set forth in a detailed Fee Schedule attached to such work authorization. The work authorization Fee Schedule shall detail estimated hours by position category for each phase of Services. All reimbursable expenses and costs, including administrative expenses, documents production, travel, etc., shall be detailed in the work authorization Fee Schedule. All reimbursable expenses and costs, including administrative expenses, documents, production, travel, etc. shall be detailed in the Fee Schedule.

C. Price Escalation/De-Escalation: Pricing submitted in response to this RFQ will be valid for the initial one-year term of the Agreement. Thereafter, on an annual basis prior to exercising any renewal option, requests for escalation in pricing must be submitted to the City for evaluation and will be no greater than the Bureau of Labor Statistics, Employment Cost Index price increase for the most recent twelve month period (Private Industry Workers, Total Compensation, Management, professional and related occupations, Service producing, U.S. workers, Not Seasonally Adjusted, Series ID CIU201S000100000A). The City, at its sole discretion, may request any de-escalation in price during the applicable twelve-month period.

D. Fees: The fee for the project/service authorization(s) shall not exceed the total amount shown on the applicable Fee Schedule (Exhibit D). The fee may be adjusted, if necessary, by a written amendment to applicable service authorization, duly approved and executed by Consultant and City, provided the City's budget includes, or is adjusted to include, the entire fee. The fee shall be the sole compensation paid to Consultant.

The fee and Fee Schedule shall include all fees or payments that Consultant proposes to pay or make to any subcontractors and vendors under the work authorization, unless amended.

E. Administrative and Travel Expenses: The Fee and Fee Schedule shall include all

administrative out-of-pocket expenses to be reimbursed by the City under the Service Authorization. Administrative expenses charged to the City will be credited with all rebates, refunds, or dividends, as well as a proportion of any volume rebates or credits earned with the purchase of materials, goods or services charged to administrative expenses.

Consultant shall maintain complete and accurate documentation underlying all of its invoiced out of pocket expenses, including copies of paid receipts, invoices, or other documentation acceptable to the City. Such documentation shall be sufficient to establish that the expenses were actually incurred and necessary in the performance of the Consultant services. Any agreed travel, per diem, mileage, meals, or lodging expenses, the cost of which are subject to the City's prior written approval, shall be paid in accordance with the rates and conditions established by the City's Travel Policy or the applicable law or ordinance.

F. Subcontracts: Sub-contractual services may be invoiced at the actual sub-consultant fees paid by Consultant plus ten (10%) percent for administrative costs.

G. Invoices: Consultant may invoice for services on a monthly basis. Consultant shall invoice the project and each service authorization separately.

Invoices must identify the PO number and Contract number, and the Project or service authorization number. Invoices shall be submitted directly to:

City of Delray Beach, FL, Accounts Payable
100 N.W. 1st Avenue
Delray Beach, FL 33444

Invoices shall show the name and actual hours worked of the person performing services, Professional Service performed and/or deliverable provided, hourly rate, and date of service. Invoices requesting reimbursement of expenses shall include copies of all documentation of the expenses, to the satisfaction of the City.

H. Payment: Fees shall be paid upon receipt of a accurately itemized invoice from Consultant, and in accordance with any compensation and payment schedule agreed for each specific project service authorization.

Payment of invoices will be made in accordance with the Local Government Prompt Payment Act, Section 218.70, et al., Florida Statutes, as amended, which provides for prompt payment, interest payments, a dispute resolution provided detailed invoices are submitted in compliance with the terms of the Agreement.

No payment made under the Agreement shall be conclusive evidence of the performance of the Agreement by Consultant, either wholly or in part, and no payment shall be construed to be an acceptance of or to relieve Consultant of liability for any defective, faulty or incomplete rendition of the Consultant services.

I. Final Invoice: In order for both parties to close their books and records, Consultant

shall submit its final invoice for the Project, and for each service authorization issued, no later than four (4) months after completion of all Consultant Services for said Project/service authorization. Consultant shall clearly indicate "Final Invoice" on its final invoice(s). Such indication shall certify to the City that all services have been properly performed and all charges and costs owed have been invoiced to the City. Any requests for reimbursement or fee payment, if not properly included on the final invoice or not submitted within four months of completion of Consultant Services, are waived by Consultant.

9. **TERM:**

The Agreement shall commence as of the date of full execution and shall expire one (1) year from the date of full execution, subject to the renewal and termination provisions. The Agreement expiration date may be extended annually for up to four (4) additional years at the sole option of the City. Any term extension shall be evidenced by a formal written amendment to this Agreement, duly executed by City and Consultant.

10. **SERVICE AUTHORIZATIONS**:

No service authorizations shall be issued after the expiration of the Agreement.

It is agreed that the indemnity provisions, insurance provisions, the right to audit and all covenants, agreements, representations and warranties made in the Agreement or otherwise made in writing by the Consultant, including but not limited to any representations made relating to disclosure or ownership of documents, shall survive the expiration or termination of the Agreement.

11. **REPRESENTATIONS OF THE CONSULTANT:**

A. Authority: Consultant hereby represents to the City that it has full power and authority to enter into and fully perform its obligations without the need for any further corporate or governmental consents or approvals, and that the person that will execute the Agreement are authorized to · execute and deliver it.

B. Duly Licensed: Consultant represents that it is duly licensed to perform the Project Management Services under this RFQ and that it will continue to maintain all licenses and approvals required to conduct its business. Consultant agrees that when any portion of the Services relates to a professional service which, under Florida Statutes, requires a license, certificate of authorization, or other form of legal entitlement to practice and/or perform such Service(s), it shall employ and/or retain only qualified duly licensed certified personnel to provide same.

C. Applicable Laws: Successful Consultant represents to City that it is knowledgeable of applicable Federal, State, and local laws codes, rules and regulations, including, without limitation, applicable Florida Statutes, and State of Florida codes, rules and regulations, and local (City and Palm Beach County) ordinances, codes, and rules and regulations (collectively, Applicable Laws) and that Consultant and Project Manager are experienced, fully qualified, and properly licensed pursuant to all applicable laws to perform the Services. As they relate to the Services and to the Project, the Consultant

agrees to comply with all such Applicable Laws, whether now in effect or as may be amended or adopted from time to time, and shall further take into account all known pending changes to the foregoing of which it should reasonably be aware. The Consultant agrees to maintain in full force and affect all such required licenses, certificates, approvals, and permits throughout the Term of the Agreement.

D. No Solicitation: Consultant represents that it shall not employ or retain any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure an Agreement with the City, and that it shall not pay or agree to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of an Agreement with the City. In the event of a breach or violation of this provision by the Consultant, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the Fee, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

E. Standard of Care: The standard of care for all Project Management Services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of Consultant's profession practicing under similar circumstances.

12. **RESPONSIBILITIES OF THE CITY:** Designation of Representative: The City agrees to designate a single point of contact for Consultant's Project Manager, provided that such representative shall not have the authority to amend or modify the Agreement. Such person shall have complete authority to transmit instructions, receive information and interpret and define the policies and decisions of the City with respect to Consultant's Services.

13. **DOCUMENTS:**
    A. Ownership of Documents: All documents, electronic transmissions, photographs, videos, illustrations, presentations. computer files and/or studies or reports first prepared or obtained under the Agreement of this RFQ, as well as all data collected, together with summaries and charts derived therefrom, regardless of form or format, will be considered works made for hire and will become the exclusive property of the City without restriction or limitation on their use and will be made available, upon request, to the City at any time during the performance of the Services and/or upon completion or termination of the Agreement. Upon delivery to the City of said document(s), the City will become the custodian thereof in accordance with Chapter 119, Florida Statutes. Consultant will not copyright any material and products or patent any invention developed under this Agreement. Consultant specifically waives and releases all rights which Consultant may have in the materials, products or invention pursuant to 17 U.S.C. §§106A and 113(d). Consultant acknowledges and affirms that pursuant to 17 U.S.C. §106A(e) such waiver and release shall be effective as to any and all uses foreseeable and unforeseeable for which such materials, products or invention might be subject. Consultant waives and assigns to City all copyrights under 17 U.S.C. §101, et seq., and all other rights in the materials, products, invention and any work produced. Any reuse of Consultant's prepared documents by the City, except for the specific purpose intended under this Agreement, will be at City's sole risk and without liability or legal exposure to Consultant or its sub-consultant. Notwithstanding any provision to the contrary contained in this Agreement, Consultant shall retain sole ownership to its

preexisting information including but not limited to computer programs, software, standard details, figures, templates and specifications.

B. Project Documentation: Consultant shall establish, maintain, and categorize any and all Project documents and records pertinent to the Services and shall provide the City, upon request, with copies of any and all such documents and/or records. In addition, Consultant shall provide electronic document files to the City upon completion of the Project, or the termination or expiration of the Agreement. When transferring data in electronic media format, Consultant makes no representation as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Consultant at the beginning of the Project. Because the data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City. The original hard copy of the documents containing the professional engineer's seal shall take precedence over the electronic documents.

C. Obligation to Furnish Documents to the City: Consultant shall deliver to the City for approval and acceptance, and before being eligible for final payment of any amounts due under this Agreement, all documents and materials prepared for the City in connection with the Agreement.

14. PERSONNEL, STAFFING, SUB-CONSULTANTS:

A. Independent Contractor Relationship: All persons employed by Consultant and engaged in any of the work or Services performed by Consultant pursuant to the Agreement shall at all times be subject to Consultant's sole direction, supervision, and control. Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects Consultant's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees of the City. Consultant does not have the power or authority to bind the City in any promise, agreement or representation other than as may be specifically provided for in the Agreement. Consultant shall be responsible to the City for all Consultant Services or work performed by Consultant or any person or firm engaged as a sub-consultant or subcontractor to perform work in fulfillment of the Agreement.

B. Personnel: Consultant represents that its' Project Manager and all key staff identified in Consultant's Proposal shall remain assigned to the Project, unless otherwise specifically agreed by the City. All personnel engaged in performing the Services shall be fully qualified and, if required, licensed or permitted under all applicable federal, state and local laws and regulations to perform such services. Consultant specifically acknowledges that its employees will not be covered by the City's workers'

compensation insurance and Consultant will be solely and exclusively responsible for payment of all federal and state income, social security, unemployment and disability taxes due in respect of all compensation and/or other consideration paid by the City to Consultant.

C. Selection of Sub-Consultants: Consultant shall obtain the prior written approval of the City as to each proposed sub-consultant and the City reserves the right to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under the Agreement. If it becomes necessary to replace a particular sub-consultant to complete its part of the services, Consultant shall promptly do so, subject to prior written approval and acceptance of the new- sub-consultant by the City, which approval shall not be unreasonably withheld

D. Non-Discrimination by Consultant: The Consultant represents that all of its employees and applicants for employment are treated equally without regard to race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status or sexual orientation, and that in providing services, Consultant does not discriminate with regard to any of the aforementioned factors.

E. Right to Audit: Consultant shall maintain (a) timesheets kept in a clear and orderly fashion used to substantiate the monthly invoices to be submitted (b) adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Services, as well as copies of communications regarding the performance of its obligations, for at least five (5) years after the date of final payment made under the Agreement or the final conclusion of any litigation regarding the Agreement. The City shall have access to such timesheets, books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at Consultant's place of business located in the State of Florida during the term hereunder and for at least five (5) years after the date of final payment of the Agreement. Consultant shall allow the City or its representative to interview all current or former employees to discuss matters pertinent to this Agreement. If an audit inspection in accordance with this section discloses overpricing or overcharges (of any nature) by Consultant to the City in excess of one-half of one percent (0.5%) of the total contract billings; (1) the reasonable costs of the City's Internal Audit department shall be reimbursed to the City by the Consultant and (2) a 15% penalty of the overpricing or overcharges shall be assessed. Any adjustments and/or payments which must be made as a result of the audit inspection, including any interest, audit costs and penalties shall be made by the Consultant within 45 days from presentation of City's findings to Consultant. Failure by Consultant to permit such audit shall be grounds for termination of Agreement by the City.

[Remainder of page intentionally left blank]

EXHIBIT B

CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS

RFP/RFQ/Bid/Contract No. _____

Project Title _____

_____

The undersigned CONTRACTOR hereby swears under penalty of perjury that:

1. CONTRACTOR has paid all subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Section 4.2.3 of the Agreement, except as provided in paragraph 2 below.

2. The following subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or Supplier's name and address	Date of disputed invoice	Amount in dispute
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. The undersigned is authorized to execute this Certification on behalf of CONTRACTOR.

Dated _____, 20___

_____
Contractor

By_____
(Signature)

By_____
(Name and Title)

CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS
(Continued)

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 20__.

(NOTARY SEAL)

_____
(Signature of person taking acknowledgment)

_____
(Name of officer taking acknowledgment)
typed, printed, or stamped

_____
(Title or rank)

_____
(Serial number, if any)

My commission expires:

EXHIBIT C
INSURANCE REQUIREMENTS

The Second Party shall supply certificates of insurance for the coverages below. The certificates of insurance must be received and approved by the City Risk Manager within 10 days of the execution of the Agreement.

Selected Proposer shall carry the following minimum types of insurance:

A. Workers' Compensation Insurance: with the statutory limits.

B. Employers' Liability Insurance: with a limit of not less than $100,000 for each accident, $100,000 for each disease, and $500,000 for aggregate disease.

C. Commercial General Liability Insurance: with limits of not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the aggregate for Bodily Injury and Property Damage.

   The Commercial General Liability insurance must include coverage's for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, products, completed operations, and personal injury. Personal injury coverage shall include coverage that has the Employee and Contractual Exclusions removed.

D. Professional Liability Insurance: with limits of not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) in aggregate.

All insurance policies shall be issued by companies that (a) are authorized to do business in the State of Florida; (b) have agents upon whom service of process may be made in Palm Beach County, Florida; and (c) have a Best's rating of A-VIII or better. The City of Delray Beach shall be an additional insured on the Commercial General Liability policy. The Second Party agrees to notify the City within (5) business days of coverage cancellation, lapse or material modification. All renewal or replacement certificates of insurance shall be forwarded to the City Risk Management Department located at 100 N.W. 1st Ave., Delray Beach, FL 33444.

EXHIBIT D
RATES

Direct Labor

Billing category	Hourly Rate
Program Manager/Officer	$220.00
Principal/Associate	$195.00
Senior Professional/ Project Manager	$180.00
Construction Senior Professional	$175.00
Senior GIS Specialist	$170.00
Project Controls Specialist	$160.00
Construction Field Services	$140.00
Senior Support Services	$140.00
Construction Professional	$120.00
Professional II	$120.00
Project Administration	$115.00
Staff GIS Specialist	$100.00
Professional I	$100.00
Billing rates shown were calculated on a blended basis to achieve a multiplier of 3.0	
Billing rates shown are valid for Year 1 of the contract	

Subcontractors:

Tobon Engineering (Advisor Services, Maurice Tobon)	$190.00
The Merchant Strategy (Public Outreach)	
Senior Consultant	$165.00
Staff Consultant	$120.00
A 10% markup will apply to subcontractor invoices. Billing rate above excludes markup.	

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 06/28/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. Boston MA Office One Federal Street Boston MA 02110 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	New Hampshire Ins Co	23841
INSURER B:	American Home Assurance Co.	19380
INSURER C:	Illinois National Insurance Co	23817
INSURER D:	National Union Fire Ins Co of Pittsburgh	19445
INSURER E:	Lloyd's Syndicate No. 2623	AA1128623
INSURER F:		

INSURED
CDM Smith Inc.
75 State Street, Suite 701
Boston MA 02109 USA

COVERAGES **CERTIFICATE NUMBER:** 570067320356 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
D	X COMMERCIAL GENERAL LIABILITY			GL3629894	01/01/2017	01/01/2018	EACH OCCURRENCE	$2,000,000
	CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$4,000,000
	POLICY [X] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$4,000,000
	OTHER:							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	
	ANY AUTO						BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / HIRED AUTOS ONLY / SCHEDULED AUTOS / NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	
	DED RETENTION							
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			WC014649625 AOS	01/01/2017	01/01/2018	X PER STATUTE OTH-ER	
A	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? [N] N/A (Mandatory in NH)			WC014649626 AK, AZ, VA	01/01/2017	01/01/2018	E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000
E	Archit&Eng Prof			PSDEF1700033 Professional/Claims Made	01/01/2017	01/01/2018	Each Claim Aggregate	$1,000,000 $2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: RFP No. 2016-111C. City-wide Project Management Services.

The City of Delray Beach is included as Additional Insured in accordance with the policy provisions of the General Liability policy.

CERTIFICATE HOLDER

The City of Delray Beach
Risk Management Department
100 N.W. 1st Ave.
Delray Beach FL 33444 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast, Inc.

Holder Identifier :

Certificate No : 570067320356

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AGENCY CUSTOMER ID: 10518329
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Northeast, Inc.	CDM Smith Inc.
POLICY NUMBER: See Certificate Number: 570067320356	
CARRIER: See Certificate Number: 570067320356 / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	WORKERS COMPENSATION							
B		N/A		WC014649627 CA	01/01/2017	01/01/2018		
C		N/A		WC014649628 FL	01/01/2017	01/01/2018		
A		N/A		WC014649629 IL, KY, NC, NH, UT	01/01/2017	01/01/2018		
A		N/A		WC014649630 MA, ND, OH, WA, WI, WY	01/01/2017	01/01/2018		
A		N/A		WC014649631 NJ, PA	01/01/2017	01/01/2018		

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