

Agreement for Services

December 12, 2018

FACILITY DEVELOPMENT AND DESIGN SERVICES:

- PRE-DESIGN
- CONCEPTURAL DESIGN
- COST MODELING

BETWEEN:

GRO DEVELOPMENT LLC

89 Front Street – Suite 311
Marblehead MA 01945

AND:

AUBURN YMCA-WEIU

27 William Street
Auburn, NY 13021

For the Project known as:

YMCA FACILITY DEVELOPMENT AND DESIGN PROJECT

This Agreement is entered into by and between Gro Development LLC ("Gro") and the Auburn YMCA-WEIU ("Owner").

IN CONSIDERATION of the mutual promises made herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Gro and Owner agree as follows:

A. SERVICES TO BE RENDERED

1. Facility Architectural Programming and Scope Determination Phase (3 weeks)

For the Facility Architectural Programming and Scope Determination Phase, Gro will:

- a) Analyze goals and operational intent for improvements to the YMCA facility, and develop programming and project scope materials; assess facility requirements for intended program / service delivery, and
- b) Develop a comprehensive architectural program inclusive of all rooms, areas and venues, depicting their recommended size and conceptual character and design criteria.

2. Conceptual Design Phase (4 weeks)

For the Conceptual Design Phase, Gro will prepare design concepts and model development options in line with the YMCA's ("Owner") objectives and program requirements as determined in the Facility Architectural Programming and Scope Determination Phase of the Project. The design concepts and modeled development options will illustrate and diagram such aspects as venue adjacencies, phased development scenarios, and future expansion of the building form(s) and massing.

Tasks:

- a) Applying the program and scope as established in the Pre-Design Phase of the Project, define and illustrate the overall building design and development concepts, and site concept as applicable, featuring such key aspects as adjacencies, circulation, general building composition and form, primary design features, building/site interface, and general aesthetic,
- b) Identify specific design traits or aspects that address the project objectives while incorporating in the design adaptable YMCA design standards,
- c) Prepare the above reflective of any phased development requirements as required by the Owner's budget and/or funding parameters, and
- d) Refine the preliminary budget as drafted in the Pre-Design Phase of the Project.

Meetings:

- a) Up to one (1) onsite Conceptual Design Meeting to present and process conceptual design progress and refine/inform the general concept design direction, and
- b) Up to two (2) virtual meetings to further review and inform the general conceptual design.

Deliverables:

At the completion of the Conceptual Design Phase, Gro will provide, in a digital format, a deliverable comprised of the following:

- a) Conceptual illustrated site plan (as applicable)
- b) Conceptual building/Project design diagrams
- c) Massing studies and initial three-dimension models
- d) Precedent and related imagery of project venues
- e) Refined Project Program and Project Budget

3. Cost Modeling Phase (4-6 weeks)

For the Cost Modeling Phase of the Project, Gro will assist the Owner in facilitating the preparation of a project cost estimate by a third party, and interface with the party in concert with the Owner, as estimates for the Project are prepared and reviewed.

Tasks:

- a) Transfer materials to the cost estimator, providing any necessary review of the materials in doing so, and throughout the Phase interface with the estimator and Owner as requested,
- b) With the Owner, review the estimate(s) when delivered, analyzing and leveling said estimates as they are refined to inform the scope and budget for the Project, and
- c) Apply the output of the Cost Modeling Phase of the Project to the overall Project Budget, making any adjustments to the project scope documents as requested.

Meetings:

- a) Up to two (2) virtual meetings to prepare the appropriate parties for subsequent cost estimating activity, and to review cost estimating output.



B. PAYMENTS FOR SERVICES

In consideration for the delivery of services as outlined above, the total value of the services to be provided is twenty-four thousand dollars (\$24,000.00) set forth as follows:

Retainer Fee - A fee of four thousand dollars (\$4,000.00) shall be paid by Owner at the time of signing this Agreement.

Note: The Facility Architectural Programming and Scope Determination Phase will be provided at no charge as it is included in the YMCA's Fair Share Support Payments

1) Schedule of Payments following Retainer Fee:

- a) First Payment - The first payment shall be ten thousand dollars (\$10,000.00) payable upon completion of 50% of the Conceptual Design Phase.
- b) Second Payment - The second payment shall be ten thousand dollars (\$10,000.00) less the retainer fee of four thousand dollars (\$4,000.00) payable upon completion of the Conceptual Design Phase.
- c) Third Payment - The third payment shall be four thousand dollars (\$4,000.00) payable upon completion of the Cost Modeling Phase.

2) Reimbursable Expenses: The Owner shall reimburse Gro, at cost, for any travel-related expenses incurred in performing the services of this Agreement, understanding that such costs will be incurred only upon the approval of the Owner. Additional project related expenses to be reimbursed, at cost, shall be those expenses incurred by Gro for any Project-related, large volume printing required in development and preparation of deliverables for the Project.

3) Late Payments: It is agreed that the payments for services rendered shall be paid within fifteen (15) days from the date of receipt. It is further agreed that all work will be suspended on the Project should payments for services be more than sixty (60) days past due.

4) Taxes: Owner shall pay any and all applicable international, federal, state, and local sales, use, value-added, excise, duty, and any other taxes, fees or duties not based on Gro's net income that are assessed on or as a result of the services rendered to Owner by Gro. Any such taxes, fees and duties collected by Gro from Owner on behalf of a governmental agency shall not be considered a part of, a deduction from, or an offset against, payments due to Gro for the services hereunder.



B. TERMINATION

- 1)** Either Gro or the Owner may, at any time, with or without cause, and at the discretion of either party, postpone or cancel this Agreement through means of written notification to the other party at the addresses listed above, providing seven (7) days' notice of such intent to postpone or cancel this Agreement.
- 2)** Upon such termination or postponement, Gro shall deliver to the Owner all work product completed up to the date of said notice and Owner shall compensate Gro a prorated amount, as mutually agreed upon by both parties, for work performed up to the date of said notice, and for all reimbursable expenses directly incurred in association with performance of the services of this Agreement.

C. GENERAL

Notwithstanding any other provision of the Agreement, the following provisions shall govern:

- 1)** The Owner and Gro agree to act in good faith and in a reasonable manner in all dealings with each other in connection with the Project. Whenever action, consent, or approval of a party is required, said party shall act timely and reasonably and shall not unreasonably delay any action, decision to give or withhold consent, or decision to grant or withhold approval.
- 2)** Nothing herein shall be construed as creating any personal liability on the part of any officer, director, trustee, employee, committee member or agent of either party hereto. In no event shall either party be liable to the other party or any third party for any incidental or consequential damages arising out of this Agreement, or for any claim by any other party, even if the party has been advised of the possibility of such damages. The total liability of either party to the other party for all damages, losses, and causes of action (whether in contract, tort (including negligence), or otherwise) shall not exceed the aggregate fees paid hereunder. The limitations provided in this section shall apply even if any other remedies fail of their essential purpose.
- 3)** All adjustments, amendments or modifications made to this Agreement and exhibits hereto shall be set forth in a writing signed by a duly authorized representative of each party in order to become effective and binding.
- 4)** This Agreement shall constitute the only agreement between the parties relative to the subject matter contained herein and no oral statements or prior written matter not specifically incorporated within the Agreement shall be of any force or effect either in the interpretation or enforcement of the Agreement.



- 5) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (where Gro is domiciled), excluding the conflicts of laws provisions thereof. The parties agree that any disputes among them arising from or related to this Agreement shall be resolved under binding arbitration conducted by following the rules of the American Arbitration Association employing a process that is mutually agreed upon by Gro and the Owner. The parties shall each be responsible for initial payment of one-half of any arbitration fees, but upon final resolution the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

Respectfully submitted by:
Rodney G. Grozier
President & CEO



For:
GRO DEVELOPMENT LLC

Date: December 12, 2018

Accepted by:
Chris Nucerino
CEO



For the:
AUBURN YMCA - WEIU

Date: 12-12-18

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