

Bill No. 388  
2014

By-law No. A.- \_\_\_\_\_

A by-law to approve an Agreement between The Corporation of the City of London and Tonda Construction Limited for Construction Manager/General Contractor Services for the renovations to the Normal School and to authorize the Mayor and the City Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Council wishes to enter into a contract with Tonda Construction Limited for Construction Manager/General Contractor Services for renovations to the Normal School;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement to be entered into between The Corporation of the City of London and Tonda Construction Limited, for the provision of Construction Manager/General Contractor Services for renovations to the Normal School, attached as Schedule "A" to this by-law, is hereby approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Agreement approved under section 1, above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on September 2, 2014.

J. Baechler  
Mayor

Catharine Saunders  
City Clerk

First Reading - September 2, 2014  
Second Reading - September 2, 2014  
Third Reading - September 2, 2014

**SCHEDULE "A" TO APPENDIX "B"**  
**Contract for Construction Manager/General Contractor Services**  
**THIS AGREEMENT** made in triplicate this       day of       , 2014

**BETWEEN:**

**THE CITY OF THE CITY OF LONDON**  
hereinafter called "the City"

-and

**TONDA CONSTRUCTION LIMITED**  
hereinafter called the "CM/GC"

**WHEREAS** pursuant to Request for Proposals #14-38 (the "RFP") the City sought proposals from qualified construction manager/general contractors in connection with the Renovations to the Normal School , 165 Elmwood Avenue East (the "Project");

**AND WHEREAS** the CM/GC submitted their response to RFP #14-38 dated July 28, 2014 (the "Proposal") wherein the CM/GC offered to act as the construction manager/general contractor throughout the study, design and construction stages of the Project;

**AND WHEREAS** the City has accepted the CM/GC's Proposal and wishes to retain CM/GC to deliver the services described in the RFP and the Proposal;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of these premises, the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.        Contract Management/General Contractor Services to be Provided

The CM/GC shall deliver and perform the duties of contract manager/general contractor in connection with the development of the Project (the "Work"), in accordance with the terms and provisions of the RFP and the Proposal which are attached hereto as Schedules A and B respectively, and form part of this Agreement.

2.        Insurance and Indemnity

The CM/GC shall at its own expense obtain and maintain until the termination of this Agreement, and provide the City with satisfactory evidence of the insurance coverage as outlined in the RFP. This insurance will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the effective date of cancellation or expiry.

The CM/GC shall not commence any work hereunder until satisfactory evidence of insurance has been filed with and approved by the City. Prior to the effective date of this Agreement and thereafter on renewal date of the insurance, the CM/GC shall further provide that evidence of the continuation of said insurance is filed at each policy renewal date for the duration of the contract. The City reserves the right to request such higher limits of insurance or other types of insurance as it may reasonable require from time to time; failure to procure and maintain said insurance shall constitute a default under this agreement.

The CM/GC shall indemnify and hold the City harmless from and against any liability, loss, claims, demands, costs, and expenses occasioned wholly or in part by an acts or omissions either in negligence or in nuisance whether willful or otherwise by the CM/GC, its agents, officers, employees or other persons for whom it is responsible for at law.

3.        Fees and Expenses

The City will pay to the CM/GCs in full payment and compensation for all services performed by them under Section 1 of this Agreement, and expenses incurred therewith in accordance with the terms of the Proposal.

4. Termination and Suspension

The City may, at its option, exclude from the operation of this Agreement any part or parts of the Work, and in such event, notwithstanding any provisions herein the cost of such part shall be negotiated with the CM/GCs and deducted from the amount upon which the fees of the CM/GCs are to be based.

In addition the City may terminate this agreement at any time and the CM/GCs shall have no claims whatsoever against the City except for such work as they have done, as determined by the City before the termination of this Agreement.

5. Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their executors, administrators, successors and assigns, except as otherwise provided herein. Neither party may assign this Agreement or any part thereof without the written consent of the other.

6. Dispute Resolution

In an effort to resolve any conflicts that arise during the course of the Work or following completion of the Work, the City and the CM/GC agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise.

**IN WITNESS WHEREOF** the City and the CM/GC have hereunto affixed their corporate seals attested to by the hands of their proper officers in that behalf duly authorized.

**SIGNED, SEALED AND DELIVERED  
THE CITY OF THE CITY OF LONDON**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(TYPE LEGAL NAME OF CONSTRUCTION  
MANAGER/GENERAL CONTRACTOR  
FIRM)