



**BOARD OF EDUCATION
CONTRACT ABSTRACT**

Agenda Item: F.7.d.
Page: 1 of 9
Board Meeting Date: 06/24/20
Consent: Yes

Board Meeting Date: June 24, 2020
Name of Vendor: R & S Erection of South Alameda County, Inc.
Purpose/Scope: Installation of new security gates at Anthony Ochoa Middle School
Expected Outcomes: To provide additional site security for student and staff safety at Anthony Ochoa Middle school
Is this a Multi-Year Agreement? Yes
Term: From: 06/29/2020 To: 08/13/2020
Length of Term: 1 month 15 days
Cost: \$25,430.00
Total Contract NTE: \$25,430.00
Funding Source: 01.8150.05610.920.9319.8110.260.000
Restricted Routine Maintenance
Selection Criteria: Industry experience and pricing
Quotes/Bids Obtained: Yes

Name	Quote	Comments
R&S Erection	\$25,430.00	Low Bid
Chain Link Fence & Supply	\$27,550.00	
Bailey Fence Co	\$34,000.00	

If NO, Select Reason:

- ☐ Grant Related ☐ Unique Provider ☐ Required Service
☐ Professional Service ☐ Continuing Service ☐ Other:

- ☒ **Verified by Departmental Leader for budgetary compliance.**
☒ **Verified by Departmental Leader for applicable statute and policy compliance, redundancy, and conflicts of interest contractual or otherwise.**
☒ **Verified by Purchasing Manager for Public Contract Code (PCC) compliance.**

Contract Vendor Contact:

Nick Trindade	Gates Division Manager
Name	Title
31298 San Antonio Street	Hayward, CA 94544
Mailing/Notice Address	City, State, Zip
Same as above	Same as above
Physical Address	City, State, Zip
(510) 489-6881	nickt@rsdoors.com
Telephone	Email

Hayward Unified School District

Creating a Culture of Success



Independent Contractor Agreement

R&S Erection

Security Gates at Ochoa MS



INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into between the **Hayward Unified School District (DISTRICT)** and **R&S Erection of Alameda County,** (CONTRACTOR).

Recitals

1. DISTRICT is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal and administrative matters with persons specially trained, experienced and competent to perform such services.
2. DISTRICT needs special services and advice as follows:
R&S will manufacture and install new security gates at Ochoa Middle school where existing doors are not securing the school site.
3. CONTRACTOR is specially trained, experienced and competent to provide such services.
THEREFORE, the parties agree as follows:

Terms

1. **Services/Work Product.** CONTRACTOR agrees to provide the following services:

R&S Erection will manufacture and install a total of 2 of the following security gates at Ochoa Middle School. This will replace the existing doors that do not provide security to the school and these security gates will comply with HFD fire code for access compliance. Double swing pass gates, one set of 3' x 7' tall full transom header gate, self-closing and locking with panic hardware. Gates will have a removable mullion.

Gate to be built with 2" tube frame, full transom outer frame with hydraulic door closer mounted overhead on frame. Pickets

3/4" set 3" air gap and covered with 1/2" expanded mesh.

(2) Von Duprin interior panic exit device keyed with lever set on outside.

Pass gates will include (2) permanently attached wing panels to close off openings between gates and building.

All iron will be anchored to concrete slab and building. Touch up paint of stucco repair of building to be done by customer.

All Iron will be Powder coated black in color

☒ EXHIBIT 'A' IS ATTACHED

2. **Term.** CONTRACTOR shall provide services for the period June 29th, 2020 to August 13th, 2020 or until terminated by either party by giving thirty (30) days advance notice in writing to the other party.
3. **Compensation.** DISTRICT shall pay CONTRACTOR a total fee of a total not to exceed \$25,430. All billings are payable within thirty (30) days of invoice delivery after each scheduled event.
4. **Completeness of Agreement.** This Agreement constitutes the entire understanding of the parties and any changes shall be agreed to in writing.
5. **Status of Contractor.** This is not an employment contract. CONTRACTOR is an independent contractor. CONTRACTOR is responsible for providing Unemployment Insurance and Worker's Compensation coverage for CONTRACTOR's employees and for payment of all federal, state and local payroll taxes for and on behalf of CONTRACTOR's employees.

6. Fingerprinting. By execution of this Agreement/Contract, the CONTRACTOR acknowledges that Education Code Section 45125.1 applies to contracts for the provision of school and classroom janitorial, school site administrative, school site grounds and landscape maintenance, pupil transportation and school site food-related services, and any similar services. Section 45125.1 requires that employees of entities providing such services to school districts must be fingerprinted by the California Department of Justice for a criminal records check, unless the DISTRICT determines that the CONTRACTOR and CONTRACTOR's employees will have limited contact with pupils. In making this determination, the DISTRICT will consider the totality of the circumstances, including factors such as the length of time the CONTRACTOR and CONTRACTOR'S employees will be on school grounds, whether pupils will be in proximity with the site where the CONTRACTOR and CONTRACTOR'S employees will be working, and whether the CONTRACTOR and CONTRACTOR'S employees will be alone or with others.

(a) DISTRICT Determination of Fingerprinting Requirement Application

The DISTRICT has considered the totality of the circumstances concerning the Project and has determined that the CONTRACTOR and CONTRACTOR's employees:

☐ are subject to the fingerprinting requirements of Education Code Sections 45125.1 and/or 45125.2 and Paragraph (b) below, is applicable.

☒ are not subject to the fingerprinting requirements of Education Code Section 45125.1 or 45125.2 and Paragraph (c) below, is applicable.

- (b) If the DISTRICT has determined that fingerprinting is required, the CONTRACTOR expressly acknowledges that: (1) CONTRACTOR and all of CONTRACTOR's employees working on the school site must submit or have submitted fingerprints in a manner authorized by the Department of Justice, together with the requisite fee as set forth in Education Code Section 45125.1; (2) CONTRACTOR shall not permit any employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a serious or violent felony; (3) CONTRACTOR shall certify in writing to the Governing Board of the DISTRICT that none of its employees who may come in contacts with students have been convicted of a serious or violent felony; and (4) CONTRACTOR shall provide to the Governing Board of the DISTRICT a list of names of its employees who may come in contact with students. The CONTRACTOR is required to fulfill these requirements at its own expense.
- (c) Even if the DISTRICT has determined that fingerprinting is not required, the CONTRACTOR expressly acknowledges that the following conditions shall apply to any work performed by the CONTRACTOR and/or CONTRACTOR's employees on a school site: (1) CONTRACTOR and CONTRACTOR's employees shall check in with the school office each day immediately upon arriving at the school site; (2) CONTRACTOR and CONTRACTOR's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, CONTRACTOR and CONTRACTOR's employees shall not change locations without contacting the school office; (4) CONTRACTOR and CONTRACTOR's employees shall not use student restroom facilities; and (5) If CONTRACTOR and/or CONTRACTOR's employees find themselves alone with a student, CONTRACTOR and CONTRACTOR's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

7. Indemnification. CONTRACTOR agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims and losses accruing or resulting from injury, damage or death of any person, firm or corporation in connection with its performance of this Agreement.

CONTRACTOR also agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services or materials to CONTRACTOR in connection with the performance of this Agreement.

8. Insurance. CONTRACTOR shall maintain general liability insurance, including automobile coverage with limits of one million dollars (\$1,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to the DISTRICT and shall name the DISTRICT as an additional insured. Copies of all policies shall be forwarded within ten (10) days of the signing of this Agreement, but in all instances prior to the start of CONTRACTOR'S work.
9. Equipment and Materials. CONTRACTOR shall provide all equipment, materials and supplies necessary for the performance of the Agreement.
10. Licenses and Permits. CONTRACTOR shall obtain and keep in force all licenses, permits and certificates necessary for the performance of this Agreement.

License Number: 630834 and Type: C-61/D28, Issued by Contractors State Board License.

11. Assignment. CONTRACTOR shall not assign the obligations of CONTRACTOR under this Agreement without the express prior written consent of DISTRICT.
12. Non-Discrimination. CONTRACTOR shall not engage in unlawful discrimination in the employment of persons because of race, color, national origin, age, ancestry, religion, sex, marital status, medical condition or physical handicap.
13. Termination. DISTRICT may at any time terminate this Agreement upon written notice to CONTRACTOR. DISTRICT shall compensate CONTRACTOR for services satisfactorily provided through the date of termination.

In addition, DISTRICT may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. In the event of termination for cause, DISTRICT may secure the required services from another contractor. If the cost to DISTRICT exceeds the cost of providing the service pursuant to this Agreement, CONTRACTOR shall pay the additional cost.

14. Copyright. Any written product produced under this Agreement shall be a work for hire and shall be the property of the DISTRICT. DISTRICT shall have the right to secure a copyright and the product may not be used, in any manner, without DISTRICT's written permission.
15. Waiver. No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
16. Attorney's Fees. If any litigation is initiated to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees.
17. Governing Law. This Agreement shall be governed by the laws of the State of California.
18. Severability. In the event that any portion of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

19. Notice. All notices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:

Consent: Yes

DISTRICT

CONTRACTOR

Hayward Unified School District

R&S Erections

Purchasing Department

Att: Nick Trindade

24411 Amador Street

31298 San Antonio St

Hayward, CA 94544

Hayward Ca, 94544

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party may give written notice of a change in address.

Hayward Unified School District

R&S Erections

Sign Here: _____ Sign Here: _____

Signed By: **Allan Garde** Signed By: _____

Title Assistant superintendent of Business Title _____

School/Dept. M&O Date _____

Date Service Requested by: **Ryan Taylor**

- **ALL INDEPENDENT CONTRACTOR AGREEMENTS MUST BE SIGNED BY THE SITE ADMINISTRATOR AND THE CONTRACTOR PRIOR TO SUBMISSION FOR DISTRICT APPROVAL.**
- **WORK MUST NOT BEGIN PRIOR TO RECEIVING DISTRICT PURCHASE ORDER.**
- **AN AUTHORIZED HUSD REPRESENTATIVE MUST SIGN ALL INDEPENDENT CONTRACTOR AGREEMENTS.**
- **IN ADDITION, AGREEMENTS OF OVER \$5,000 MUST BE APPROVED BY THE SCHOOL BOARD PRIOR TO COMMENCING ANY WORK.**
- **A COMPLETED AND SIGNED W9 MUST ACCOMPANY THE INDEPENDENT CONTRACTOR AGREEMENT**

By: _____ Date _____
Allan Garde Assistant Superintendent of Business
Authorized HUSD Representative

HUSD Board Approval Date

EXHIBIT A



R & S ERECTION OF SOUTH ALAMEDA COUNTY, INC.
 31298 San Antonio Street
 Hayward, California 94544
 Ph: (510) 489-6881 Fax: (510) 489-8709
 Cont. Lic. No. 630834

Agenda Item: F.7.d.

Page: 7 of 9

Board Meeting Date: 06/24/20

Consent: Yes 220365

PROPOSAL

Customer Info

Hayward Unified School District

Purchasing Department
 PO Box 5000
 Hayward, CA 94540

Attn: **Ryan Taylor**

Job Info

Ochilla School

Re: Est to remove store front & add egress gates
 2121 Depot Road
 Hayward, CA 94545

Date	Offer No	Submitted By	Reference	
5/26/2020	220365	Nick Trindade	Estimate for security gates and fencing	
Description			Amounts	
<p>Furnish and install: 9'9" x 7'11" opening.</p> <p>(1) Double swing pass gates, one set of 3' x 7' tall full transom header gate, self closing and locking with panic hardware. Gates will have a removable mullion.</p> <p>Gate to be built with 2" tube frame, full transom outer frame with hydraulic door closer mounted overhead on frame. Pickets 3/4" set 3" air gap and covered with 1/2" expanded mesh.</p> <p>(2) Von Duprin interior panic exit device keyed with lever set on outside.</p> <p>Pass gates will include (2) permanently attached wing panels to close off openings between gates and building.</p> <p>All iron will be anchored to concrete slab and building. Touch up paint of stucco repair of building to be done by customer.</p> <p>All Iron will be Powder coated black in color.</p>			\$12,715.00	
<p>Location homeroom room #27</p> <p>Furnish and install: 9'2" x 8'10" opening</p> <p>(1) Double swing pass gates, one set of 3' x 7' tall full transom header gate, self closing and locking with panic hardware. Gates will have a removable mullion.</p> <p>Gate to be built with 2" tube frame, full transom outer frame with hydraulic door closer mounted overhead on frame. Pickets 3/4" set 3" air gap and covered with 1/2" expanded mesh.</p> <p>(2) Von Duprin interior panic exit device keyed with lever set on outside.</p> <p>Pass gates will include (2) permanently attached wing panels to close off openings between gates and building.</p> <p>All iron will be anchored to concrete slab and building. Touch up paint of stucco repair of building to be done by customer.</p> <p>All Iron will be Powder coated black in color.</p>			\$12,715.00	
<p>Re-key to schools key to be done by customers lock smith.</p> <p>School district will remove all old glass aluminum doors and framing.</p>				
Date	Payment Terms	Acceptance Terms	Valid Thru	Total Amount
5/26/2020	25% Deposit, 75% Completion	90 Days	8/24/2020	\$25,430.00
Submitted By		Phone No	Email	
Nick Trindade, Gates Manager		(510) 750-3798	nickt@rsdoors.com	
Terms & Conditions				
<p>WARRANTY: One year on labor, One years on new materials, limited to defects on new equipment.</p> <p>NOTE: Offer does not include permits or fees. All permits and fees by others.</p> <p>NOTE: Offer does not include electrical and phone line and conduits all electrical to be brought within 3' of equipment as needed</p> <p>NOTE: Offer does not include cost to repair any damage to under ground utilities during installation</p> <p>NOTE: Offer does not include programming of tenant list. R&S will set up software and train. All data entry by others</p>				

Signature



ACCEPTED BY

Ryan Taylor

PRINT NAME

rt910@husd.us

EMAIL ADDRESS

6/5/20

DATE

NOTICE: IT IS UNDERSTOOD AND AGREED BY EACH PARTY HERETO IF SUIT IS BROUGHT TO ENFORCE ANY TERM, CONDITION OR COVENANT OF THIS SALES AND SERVICE AGREEMENT, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER ALL COSTS OF SUCH ACTIONS, INCLUDING REASONABLE ATTORNEY'S FEES AS MAY BE FIXED BY THE COURT. I REPRESENT TO R&S SO ALAMEDA THAT I AM AUTHORIZED TO BIND THE PURCHASER TO THE TERMS SET FORTH HEREIN. BY EXECUTING THIS WORK ORDER, I ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT, AND I ACKNOWLEDGE THE SATISFACTORY COMPLETION OF THE OR THE DESIRED WORK.

"NOTICE TO OWNER" (Section 7019 - Contractor's License Law) Under the Mechanic's Lien Law, any contractor, subcontractor, laborer, material man or other person who helps to improve your property and is not paid for his labor, services or material, has a right to enforce his claim against your property. Under the law, you may protect yourself against such claims by filing, before commencing such work of improvement, an original contract for work of improvement or a modification thereof, in the office of the county recorder of the county where the property is situated and requiring that a contractor's payment bond be recorded in such office. Said bond shall be in an amount not less than fifty percent (50%) of the contract price and shall, in addition to any conditions for the performance of the contract, be conditioned for the payment in full claims of all persons furnishing labor, services, equipment or materials for the work described in said contract.

IN THE STATE OF CALIFORNIA: Contractors are required to be licensed and required and regulated by the Contractors State License Board. Any questions concerning a contractor may be referred to the Registrar of the board whose address is: Contractors State License Board, P.O. Box 26000, Sacramento, CA 958261) CUSTOMER, at its own expense, shall guarantee that the wall construction around openings is suitable for hanging all closures, door seals, and accessories, and that there are proper clearances for their erection. CUSTOMER, at its own expense, shall further guarantee that the openings into which closures or around which door seals are to be installed are complete, unobstructed, and available to employees of R & S or any subcontractor of R & S without delay or interruption of their work. At its own expense, Customer shall provide access to everything needed by R&S to perform its work. Customer, at its own expense, shall restore that which was damaged or removed to provide access.

2) R & S will not prepare or furnish the opening, sills, jambs, lintels, structural members to which closures or door seals or accessories are to be attached, or glass or glazing, or, when motor operators are part of the products furnished, any wire, wiring, fuses, or conduits, or any auxiliary steel work for carrying, supporting, or attaching power units. All electrical is the responsibility of customer. R&S is not responsible for errors in the plans, specs or drawings prepared by others. Damages caused by others during or after installation are not the responsibility of R&S.

3) If permits are required, customer shall obtain them at Customer's own expense.

4) Prices quoted for services are based upon performing work during normal straight-time hours. If services are performed at any other time, CUSTOMER agrees to pay R & S the overtime rate of all premium pay and other additional costs incurred by R & S or R & S's subcontractor(s). Additional work or changes in the work will be done at a price agreed upon prior to their start.

5) Until the agreed price (and any interest due thereon) for any and all products sold hereunder have been paid in full by CUSTOMER, R & S reserves a security interest in each and all of said products, and in the proceeds of said products, ("Collateral"), for the price thereof and all allowances under the terms hereof. CUSTOMER agrees that this Collateral and CUSTOMER'S acceptance of the Contract or order to R & S based on this Contract and R & S's acceptance of said order, if any, shall constitute a security agreement evidencing such security interest and CUSTOMER by accepting this OFFER or by placing an order based on this Contract appoints R & S as CUSTOMER'S attorney in fact to execute any and all documents necessary to perfect this security interest. Customer grants R&S a security interest in the Collateral to secure payment by CUSTOMER.

6) R&S shall not be liable for any loss or damage due to delays caused by the manufacturer, distributor, shipper, owner, or notwithstanding any provision to the contrary, whether contained in the subcontract or in the contract between the general contractor and the owner, or in any other document, you expressly agree that R&S's obligation to indemnify shall be limited to only the reasonable cost to repair or replace R&S's defective work, and does not include any other damages of any kind whatsoever.

7) Title to the products and the risk of loss of all products shall pass to Customer when they are delivered to Customer, to the jobsite, or a common carrier for transportation to the specified destination.

8) Under no circumstances shall there be any allowance for or reimbursement to customer for repairs or alterations made by anyone other than R & S except and unless previously authorized in writing by R & S.

9) No warranties shall apply if R&S was not paid in full for all of the work it performed. Any obligation of R & S under any warranty, express or implied, is conditioned upon R & S receiving written notice from Customer of any claimed breach promptly after its discovery, and in any event within 90 days for parts and one year for labor from the date of performance by R & S, and does not include consequential damages and is limited to the repair or replacement, without charge, of any item or part which upon inspection by R & S proves not to have been as warranted when shipped, or if erected by R & S, when erected. If a claim of breach of warranty proves unfounded, the expense of the inspection and repair performed by R & S shall be borne by CUSTOMER.

10) In the event that collection efforts are initiated against Customer, Customer agrees to pay for all associated costs of collection including collection agency fees, legal fees, expert fees, and other costs. If any check tendered by Customer does not clear the bank for Insufficient funds, Customer can be held liable for three times the amount of the check, in no case more than \$1,500, nor less than \$100, plus the face value of the check, or the maximum amount allowed by law as set forth in California Civil Code Section 1719. These remedies are in addition to any other right or remedy that R&S may have.

11) Customer agrees that if customer has a dispute or a problem with R&S's work performed under this contract, Customer will notify R&S in writing of the exact nature of the problem or dispute. Customer will give R&S a reasonable opportunity to correct the problem or dispute, before hiring another to correct it or before filing a claim or lawsuit against R&S. Customer's failure to give written notice relieves R&S of all responsibility and liability to customer.

12) No action of any kind arising from or related to this contract or the performance thereof may be commenced by Customer against R&S more than two years after completion or cessation of work under this Contract.

13) No oral or prior written offers, promises, agreements, or understanding relating to the subject matter of this contract shall be binding upon R & S. No person shall depart from the Terms and Conditions herein unless authorized in writing by R&S.

14) CUSTOMER agrees, that if R&S must employ the services of an attorney to collect the amount due to R & S under this agreement, or if legal action, arbitration or mediation be instituted to enforce any term, condition or covenant set forth herein, then the prevailing party shall be entitled to recover all costs and attorneys fees actually incurred in addition to any other damages awarded. CUSTOMER agrees that the California Court located nearest to the address of R & S as set forth on the face of the Contract shall have jurisdiction over the subject matter of the contract and shall be the proper Court for bringing any such legal action and CUSTOMER agrees to be bound by the decision of such California Court which shall interpret the provisions of the contract according to California law.

15) In case one or more of the provisions of this Agreement shall be invalid, unenforceable or illegal, the validity, enforceability and legality of the remaining provisions shall not in any way be impaired thereby.

16) A failure by Customer to make payment when due is a material breach of this agreement by fire, strikes, weather, or any other cause beyond R&S's control.



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VIEW

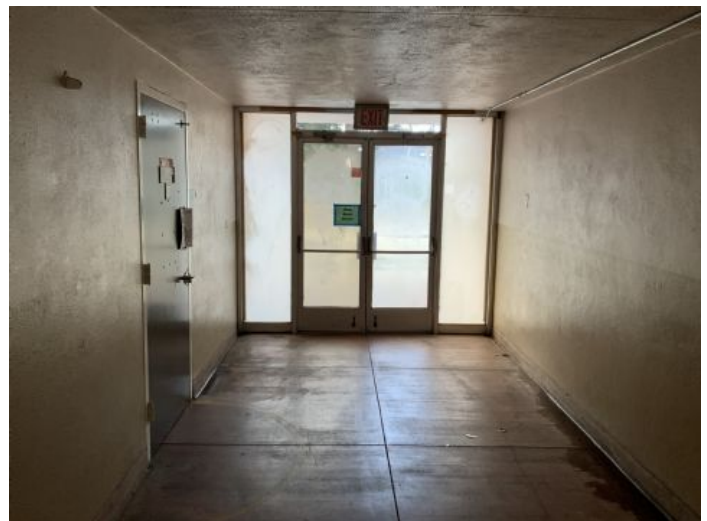


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