

May 28, 2025

TO: Board of Directors
Orange County Sanitation District

FROM: Kelly Lore
Clerk of the Board

RE: LATE COMMUNICATION

The Clerk of the Board received the attached correspondence (Attachment No. 1) on May 27, 2025, from Max H. Kohn, Weinberg Roger & Rosenfeld regarding Item No. 9 after the agenda had published.

Purchasing & Contracts Manager, Kevin Wor provided a response to the correspondence received from Max H. Kohn, Weinberg Roger & Rosenfeld (Attachment No. 2) in regard to Item No. 9, received by the Clerk of the Board today, May 28, 2025.

CONSENT CALENDAR:

4. SAFETY SHOWER AND EYEWASH STATIONS INSPECTIONS AND TESTING, SPECIFICATION NO. S-2025-669BD [2025-4292](#)

RECOMMENDATION: Recommend to the Board of Directors to:

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

- A. Receive and file Zeco, Inc. protest statement dated April 2, 2025;
- B. Receive and file Orange County Sanitation District's Protest Response letter dated April 16, 2025;
- C. Approve a General Services Contract to Haws Corporation for Safety Shower and Eyewash Stations Inspections and Testing, Specification No. S-2025-669BD, for a total amount not to exceed \$224,594; and
- D. Approve a contingency of \$33,689 (15%).

Originator: Riaz Moinuddin

Attachments: [Agenda Report](#)
[Letter of Protest - Zeco, Inc.](#)
[OC San Protest Response Letter - Zeco, Inc.](#)
[General Services Contract, S-2025-669BD](#)
[Correspondence received at Operations Committee 5/7/2025](#)
[Correspondence received by COB 5/13/2025](#)

**Weinberg
Roger &
Rosenfeld**
A Professional Corporation

MAY 27 AM 11:18
OC SAN FRONT DESK

1375 55th Street
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TELEPHONE: (510) 337-1001
FACSIMILE: (510) 337-1023
Max H. Kohn
mkohn@unioncounsel.net

May 23, 2025

Via U.S. Mail & Email

Jeremy Arbiso
Senior Buyer
Orange County Sanitation District
18480 Bandilier Circle
Fountain Valley, CA 92708
jarbiso@ocsan.gov

Re: Orange County Sanitation District's Safety Shower & Eyewash Stations Inspections & Testing Project Requires A Contractor License

Dear Mr. Arbiso:

Our law office represents the Construction Industry Force Account Council ("CIFAC"). CIFAC is a non-profit coalition of construction industry associations, contractors and labor unions that monitors state and local agencies' compliance with competitive bidding laws. These laws, enshrined mostly in the California Public Contract Code, ensure that agencies use taxpayer funds responsibly and "obtain the best result for the public," while allowing contractors on public construction projects to compete on an open and level playing field.¹ CIFAC seeks to promote fair and open bidding on all public projects throughout the state and does not advocate on behalf of any specific contractors.

This letter concerns the Orange County Sanitation District's ("District") Safety Shower and Eyewash Stations Inspections and Testing project, Specification No. S-2025-669BD ("Project"). CIFAC understands that Haws Corporation was or will soon be awarded the contract for the Project, and that Project requires a C36-Plumbing License. This correspondence apprises the District that Haws Corporation, appears to be an unlicensed contractor and therefore **cannot lawfully perform the Project work**. CIFAC requests that the District comply with California licensing and public contracting laws by rejecting Haws Corporation's bid and awarding the Project to an eligible bidder.

I. The Project's Scope of Work Describes Repair Work & Requires a Contractor's C-36 License

According to the Project's Scope of Work, included as Exhibit A of the District's Notice Inviting Bids, the Project requires the awarded contractor ("Contractor") to perform weekly and annual inspections and testing to ensure that the District's safety showers and eye wash stations within Reclamation Plant Numbers 1 and 2 comply with American National Standards Institute

¹ *M & B Construction v. Yuba County Water Agency* (1999) 68 Cal.App.4th 1353, 1360; *see also Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 170-171.

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Admitted in California, unless
otherwise noted
Admitted in Hawaii
Also admitted in Nevada
Also admitted in New York and
Alaska
Admitted in Nevada and
Washington
Also admitted in Idaho
Also admitted in New York
Admitted in New York

("ANSI") requirements. Section 3.3 of the Scope of Work, titled "Corrective Maintenance" outlines the Contractor's obligations regarding repair work. If the Contractor discovers during inspections that a safety shower or eye wash station requires repair in order to meet ANSI standards, Section 3.3 obligates them to schedule repair service, specifically stating "the Contractor shall schedule a follow up service for any necessary corrective maintenance and parts replacement." (Emphasis added). Section 3.3.1 establishes the procedure the Contractor must follow for approval for the repairs. Section 3.3.2 of the Project's Scope of Work states "[t]he Contractor should abide by the 2024 Uniform Plumbing Code Guidelines 609.10 when cutting, replacing, or tying into any potable water piping. New or repaired potable water systems shall be disinfected prior to use."

CIFAC understands that Zeco, Inc., a bidder on the Project, submitted a bid protest to the District in which it notified the District that Haws Corporation could not perform the work given it is an unlicensed contractor. In its April 16, 2025, response to Zeco, Inc.'s bid protest, the District claimed that "[t]his is a service contract, not a public works contract, so a contractor's license would not be required. The proposed work is to conduct safety shower and eyewash inspections as a regulatory compliance obligation, not to construct or alter those facilities."

Respectfully, the District's position runs contrary to facts and law.

First, the scope of work in Section 3.3.2 clearly describes repair work and section 3.3 outlines procedure obligating the awarded Contractor to schedule follow up repair work. This repair work meets the definition of public work under Public Contract Code section 1101 which defines a public works contract as "an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind."

While it is hypothetically possible that the Contractor will not determine that any repair work is necessary on any of the safety shower and eye wash stations during Contractor's numerous inspections over the lifetime of the contract and therefore never have to act upon their obligation to conduct repair service under Section 3.3, the Scope of Work anticipates repair work that requires a C36-Plumbing license, and provides a detailed procedure requiring the Contractor to schedule follow up service to make such repairs. Section 3.3.2 even specifies the Plumbing Code Guideline that the repairs should abide by. Therefore, the Contractor awarded the Project will likely have to make plumbing repairs for the District.

Second, the Contractors State License Board ("CSLB") has confirmed that a contractor's license, specifically one with a C36 Plumbing classification, is required under the Project contract. On May 6, 2025, a CIFAC Regional Compliance Manager contacted the Contractors State License Board regarding a review of this scope of work. On May 7, 2025, Hal Clay, a CSLB Special Investigator, Licensing Classification Deputy, stated that any potential shower/eye wash station repairs fall under the C36-Plumbing license classification and any repairs **require a license**. (See attached correspondence).

Thus, the Project awardee must have the appropriate contractor's license, in this case a C36-Plumbing license.

II. Haws Corporation, as an Apparently Unlicensed Contractor, Cannot Lawfully Perform the Project Contract

CIFAC conducted a thorough search regarding whether Haws Corporation is a licensed contractor in the State of California. Haws Corporation does not appear when conducting a contractor name search on the CSLB website. Similarly, no license appears when searching by personnel name using the names of Haws Corporation's officer listed on its bid, Chuck Gruber. While it appears that another entity related to Haws Corporation, Spot Devices, Inc., was at one point licensed, that license (number 911352) was cancelled in March 2013. Thus, it appears that Haws Corporation is not a licensed contractor in California.

Haws Corporation cannot lawfully perform the Project under two different state laws.

First, Business and Professions Code section 7028.15 clearly states that "a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency." As Haws Corporation does not hold the required contractor's license, it cannot lawfully be awarded or perform the Project.

Second, Public Contract Code section 20783 obligates County Sanitation Districts to award public works contracts for work greater than \$35,000 to only **responsible** bidders.² A responsible bidder means "a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract."³ Here, Haws Corporation is not a responsible bidder because it lacks the attributes of fitness and capacity to complete the Project given it does not possess the required license to engage in the plumbing repair work included in the Scope of Work. Moreover, because Haws Corporation lacks the license that CSLB states is necessary to complete the repair work described in the contract, it also likely lacks the attribute of experience because it cannot have performed other public works projects doing similar repairs. As such, Haws Corporation cannot satisfactorily perform the public works contract and is not a responsible bidder.

Thus, both the Business and Professions Code and the Public Contract Code apply in this case to make it unlawful both for the District to award the Project contract to Haws Corporation and for Haws Corporation to perform the Project work.

III. Conclusion

CIFAC respectfully requests that District respond to this letter by **June 4, 2025** indicating that it will comply with state law by (1) refraining from awarding the Project to Haws Corporation or rescinding any Project award to Haws Corporation and (2) awarding the Project to an eligible bidder who submitted a responsive bid.

Please provide your response to the undersigned at mkohn@unioncounsel.net and amatsuoka@unioncounsel.net, and to CIFAC's Executive Director, Michelle Pickens, at mpickens@cifac.org.

² Pub. Contract Code, § 20783.

³ Pub. Contract Code, § 1103.

Thank you in advance for your consideration of this important matter.

Sincerely,



Max H. Kohn
Andrea Matsuoka

MHK:sma
opeiu 29 afl-cio(1)

Enclosure

cc: Michelle Pickens, Executive Director, CIFAC,
mpickens@cifac.org (via email)

Andrea Matsuoka, Shareholder, Weinberg Roger & Rosenfeld,
amatsuoka@unioncounsel.net (via email)

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From: [Clay, Hal@CSLB](#) on behalf of [CSLB Classifications Deputy@CSLB](#)
To: [Patricia Rascon](#)
Subject: EXTERNALRE: Plumbing Contractor license classification question
Date: Wednesday, May 7, 2025 7:53:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[S-2025-669BD_250506_130549.pdf](#)

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Good morning,

Based on the information provided, the proper license classification for any potential shower/eye wash station repairs is C36-Plumbing. The testing and inspections do not require a license, but the repairs would. Thank you.

Hal Clay
Special Investigator
Licensing Classification Deputy
Contractors State License Board
916 255-4149

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From: Patricia Rascon <prascon@cifac.org>
Sent: Tuesday, May 6, 2025 2:17 PM
To: CSLB Classifications Deputy@CSLB <Classifications@cslb.ca.gov>
Cc: Gus Garcia <Gusg@socalccc.org>
Subject: Plumbing Contractor license classification question

You don't often get email from prascon@cifac.org. [Learn why this is important](#)

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Good afternoon,

I am reviewing the attached Scope of Work for Safety Shower and Eyewash Stations

Inspections and Testing. Would a C-36 Plumbing license be required for this work?

Page 18, 3.3.2 states the following: The Contractor should abide by the 2024 Uniform Plumbing Code Guidelines 609.10 when cutting, replacing, or tying into any potable water piping. New or repaired potable water systems shall be disinfected prior to use.

Thank you in advance for your assistance.

Patricia (Patti) Rascon

Southern Regional Compliance Manager

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prascon@cifac.org www.cifac.org

P.O. Box 2102 Beaumont, CA 92223



Attachment No. 2
Clerk of the Board - Received May 28, 2025

From: Work, Kevin <KWork@ocsan.gov>

Sent: Wednesday, May 28, 2025 12:00 PM

To: Lore, Kelly <klore@ocsan.gov>

Subject: Fwd: EXTERNAL: RE: Correspondence received re: Orange County Sanitation District's Safety Shower & Eyewash Stations Inspections.

Hi Kelly,

In response to the letter dated May 23, 2025, from Weinberg Roger & Rosenfeld regarding Board Item No. 9, Specification No. S-2025-669BD for Safety Shower and Eyewash Stations Inspections and Testing, OC San outlines the following points:

1. Under the Notice Inviting Bid and OC San protest policy, only Zeco, Inc. can protest the award of contract as the interested bidder. Neither Weinberg Roger & Rosenfeld nor the Construction Industry Force Account Council (CIFAC) were bidders on the project and have the right to protest or appeal. Zeco, Inc., the 2nd lowest bidder on the project, submitted a protest on 4/2, which was responded to on 4/16 and found to be without any merit by OC San. No appeal was received, and the appeal period has closed, and so no new protests can be filed.
2. OC San properly investigated the protest and responded. This is a service contract that does not require a construction contractor's license, not a public works contract, as nothing is being altered or constructed. The service provider is to provide inspections and testing of the safety showers and eyewash stations, and there is only minor, routine and preventative maintenance contemplated within the scope of work, and thus no contractor license is required.
3. Regarding the use of a C-36 Plumbing license, OC San has confirmed with Maintenance that there will be no altering, cutting or replacing of any piping or connections from the water source to the eyewash station. All preventative maintenance, if needed, is limited strictly to the station itself. As such, a C-36 license is not required.
4. No contract license requirement was included within the solicitation and resulting contract, and thus Haws is allowed to perform the work.
5. The Zeco, Inc. protest focuses on Haws Corp.'s low price for the work and protests that it is not feasible and too low. This is not a protestable item.

General Counsel has reviewed the originally filed protest as well as the contents of the law firm's letter. Counsel does not have any issues with the Board adopting staff's recommendation and awarding a contract to Haws.



Kevin Work, CPPB

Purchasing & Contracts Manager

Office: 714-593-7512 | www.ocsan.gov