

# AFSAR LAW GROUP

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November 10, 2014

**VIA FACSIMILE & U.S. MAIL ONLY**

State of California Department of Transportation/Caltrans  
Division of Engineering Services  
Office Engineer  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816

**Re: Bid Protest – Contract No. 05-0R8304  
Response to Brough Response to Bid Protest Letter**

Dear Mr. McMillian:

As you may recall, this office represents the legal interests of Desert Concepts Construction, Inc. with regard to the above-referenced contract number. Please accept this correspondence in response to the responsive letter provided by Brough Construction, Inc. dated November 3, 2014.

We appreciate Brough's response while disputing its conclusion that our "protest lacks any merit" with regard to their requirement to perform and its impact on the DBE commitment requirement.

More importantly, however, Brough's response wholly fails to address discrepancies between their Subcontractor List / DBE Commitment form submitted as their original bid and the full and complete bid submitted with "backup" four days thereafter. More specifically, the Subcontractor List submitted as part of the original bid failed to list item 46 (Detectable Warning Surface) altogether. However, the full bid with "backup" submitted four days thereafter by Brough includes bid item 46 along with DBE subcontractor Kellie Avila Construction Services assigning a dollar value pushing the bid in line with the contract DBE goal. Desert Concepts contends that the addition of Bid Item #46 changes the description of work to be performed by the subcontractor constituting a change not consistent with the Subcontractor List form thereby violating subcontractor listing laws and form instructions. Based on this violation, Brough's bid must be deemed non-responsive and the contract awarded to the lowest responsible bidder.

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If we can provide any further assistance with regard to this bid protest, please contact this office or Desert Concepts Construction, Inc. at your earliest opportunity.

Very truly yours,

AFSAR LAW GROUP, A.P.C.



Amir H. Afsar

cc: Client  
AHA/jbl  
L111014.BidProtest2.doc



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Total Number of Pages 3 (Including This Cover Letter)

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Company: State of California Department of Transportation/Caltrans  
Office Engineer  
Recipient's Fax No.: (916) 227-6282

From: Afsar Law Group, A.P.C.  
Transmitted From: (760) 345-3220

Re: Contract Number 05-0R8304

Please see the attached follow-up correspondence.

If you have any additional questions, please don't hesitate to contact this office.

Thank you

Original Sent By U.S. Mail:  Yes  No

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