

**FELDMAN & ASSOCIATES, INC.**

ATTORNEYS AT LAW

11030 SANTA MONICA BOULEVARD  
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April 10, 2015

VIA FACSIMILE

Mr. John C. McMillan  
Deputy Division Chief  
California Department of Transportation  
Division of Engineering Services  
1727 30<sup>th</sup> Street  
Sacramento, CA 95819-8041

Re: Liberty Maintenance, Inc./Caltrans - Contract No. 07-1W2404

This firm represents Liberty Maintenance, Inc., with respect to its bid for Caltrans Contract No. 07-1W2404. The purpose of this letter is to respond to the bid protest letter submitted by CL Industrial Coatings, Inc., on April 8, 2015.

CL Industrial provides no factual support for its conclusion that Anderson Paint Store, LLC, is not a regular dealer and is not performing a commercially useful function. It simply recites the criteria set forth in 49 CFR §26.55 (albeit incorrect, as discussed below), and concludes that Anderson Paint Store does not qualify. Bare assumptions and speculation are not proper bases for a bid protest, and CL Industrial's meritless argument should be rejected out-of-hand.

Moreover, CL Industrial fundamentally misstates the "regular dealer" requirements set forth in 49 CFR §26.55. The federal regulations do not require a DBE provider to buy, keep in stock, or regularly sell individually *specified* materials, as CL Industrial argues, but rather materials or supplies *of the general character* described in the specifications and required under the contract. 49 CFR §26.55(e)(2)(ii) provides:

"For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business." (Emphasis added.)

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Subsection (e)(2)(ii)(A) further provides,

“(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

Anderson Paint Store, LLC, is an established, regular business that operates a storefront and warehouse under its own name at 18429 West 8 Mile Road in Detroit, Michigan, and is a certified DBE industrial paint supplier in fifteen states and the District of Columbia. According to its capability statement, a copy of which is attached, Anderson is a “full service paint supplie[r] for commercial, highway, *bridge*, tunnel, high speed rail and infrastructure” projects. Anderson’s statement specifically identifies bridge paints as one of capabilities, and a bridge project in St. Louis, Missouri is featured in its recent customer list.

Anderson Paint Store is a certified DBE paint supplier, and a regular dealer of the materials and supplies called for in this contract. CL Industrial’s argument lacks any factual basis, and is based on a misstatement of law. For these reasons, Caltrans should choose to award the contract to the lowest responsible bidder Liberty Maintenance.

Sincerely,



Kevin Hanjifan  
for FELDMAN & ASSOCIATES, INC.

cc: Mark Feldman  
Client

**ANDERSON PAINT STORE  
LLC**

18429 West 8 Mile Road  
Detroit, Michigan 48219  
(248) 667-8059  
info@andersonpaintstore.com  
www.andersonpaintstore.com

Marcus W. Anderson

# Capability Statement

**SUMMARY**

Full service paint supplies for commercial, highway, bridge, tunnel, high-speed rail and infrastructure applications

**CAPABILITIES**

- Match colors and products from different companies (crossover matching)
- MUTCD-compliant paints and Removable/Permanent Marking Tape (legends, and crosswalks)
- Thermoplastic pavement marking material
- Concrete surface sealers
- Bridge Paint and Lead Base Paint
- Full line of paint supplies; GSA price schedule to government buyers
- Provide updated Technical Data Sheets (TDS) and Manufacturer Safety Data Sheets (MSDS)
- Shipping within Continental United States

**FACILITIES AND EQUIPMENT:**

- Advanced inventory control, order tracking, and reporting system
- State-of-the-art 3200 SF facility
- Laser scanners and code labeling

**RECENT CUSTOMERS INCLUDE:**

- EADS Bridge, \$36M Project, St. Louis
- Brooks Striping, Inc., Indianapolis IN
- City of Detroit Police Department
- Axtell's Inc., Jermyn, PA
- Central Striping Service, Inc.
- Detroit Building Authority - Design Build

**NAICS:**

Special Provision -  
Traffic paint, Airport Paint

444120  
424950

**CAGE Code:** 4LNT0  
**D&B:** 784219821

**DBE Certifications:**

Arizona DOT #20120665  
Atlanta DOT #2AN372  
California DOT #11-2-02N  
District of Columbia DOT  
Florida DOT  
Hawaii DOT #10-3160  
Illinois DOT  
Kansas DOT  
Metro Airport DOT  
Michigan DOT #TP3R  
Missouri DOT  
Nevada DOT #NV01284UCPN  
New Mexico DOT  
Ohio DOT  
State of Washington DOT  
Tennessee DOT  
Texas DOT #VN23523  
Washington DOT  
WMATA

**Other Certifications:**

Import/Export  
Canada

**Member:**

African American Caribbean  
Chamber of Commerce

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FACSIMILE TRANSMITTAL

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Time: 2:06 p.m.

File No: \_\_\_\_\_

File Name: Liberty Maintenance/Caltrans

Sent To:

Telecopy Number:

**Mr. John McMillan**  
**Liberty Maintenance**

**916-227-6282**  
**330-755-1847**

From: Kevin M. Hannifan

Total Pages (Including this Cover Page): 4

DESCRIPTION OF DOCUMENT(S) TRANSMITTED:

Response to Protest Letter re: Caltrans Contract No. 07-1W2404

MESSAGE:

ORIGINAL WILL BE SENT VIA:

MAIL  FEDERAL EXPRESS  MESSENGER  WILL NOT BE SENT

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