

EXHIBITS A

CSJ, AJI AND SCIARINI STEEL CORRESPONDENCE

APPLEGATE JOHNSTON

1016 12th Street, Modesto CA 95354
(209) 538-4449 Fax (209) 538-4447
CSLB# 773307 TIN# 77-0528516

\$
2-11-11
RECEIVED



Transmittal No: 00169
Date: 2/9/2011
Job No: 140203
Job Name: Fire Station NO. 36
Re: Project Letter

TO: City of San Jose
Bijan Abouzia
200 E. Santa Clara St., 6th Fl
San Jose, CA 95113

FROM: Applegate Johnston, Inc
Danielle Boyd
1016 12th Street
Modesto, CA 95354

SENDING:		SUBMITTED:	ACTIONS TAKEN:
<input checked="" type="checkbox"/> Attached	Sent Via:	<input type="checkbox"/> For Approval	<input type="checkbox"/> Approved as Submitted
<input type="checkbox"/> Drawings	CC:	<input checked="" type="checkbox"/> For Your Use	<input type="checkbox"/> Approved as Noted
<input type="checkbox"/> Submittal		<input type="checkbox"/> As Requested	<input checked="" type="checkbox"/> See Attached
<input type="checkbox"/> Specifications		<input type="checkbox"/> For Review and Comment	<input type="checkbox"/> Returned for Corrections
<input type="checkbox"/> Plans			<input type="checkbox"/> Rejected
<input checked="" type="checkbox"/> Letter			<input type="checkbox"/> None

Item No:	Date:	Item Desc:
00001	02/09/11	Project Letter


SIGNATURE

02-09-2011
DATE

APPLEGATE JOHNSTON

1016 12th Street, Modesto CA 95354
(209) 538-4449 Fax (209) 538-4447
CSLB# 773307 TIN# 77-0528516



PROJECT LETTER

Project Letter No: 00049
Date: 02/09/11
Job No: 140203
Job Name: Fire Station NO. 36
Re: Sub. Substitution Request

To:
Bijan Abouzia
City of San Jose
200 E. Santa Clara St., 6th Fl
San Jose, CA 95113

From:
Applegate Johnston, Inc
1016 12th Street
Modesto, CA 95354

Subject: San Jose Fire Station # 36
1924 Yerba Buena Road
San Jose, CA 95121
SUBCONTRACTOR SUBSTITUTION REQUEST

We are here requesting a substitution of subcontractors for the Structural Steel and Miscellaneous Metals portion of Work on the subject Project. This will contain all work under Sections: 02820, 05120, 05125, 05310 and 05500.

Please consider this letter Applegate Johnston, Inc's formal request for substitution of Sciarini Steel Company due to the listed subcontractor's refusal to respond any correspondence, submittals and scheduled work to complete on the project.

Applegate Johnston Inc. is working vehemently to find a subcontractor to continue and complete these scopes of work. We have scheduled appointments this week to start the replacement process and should have someone onboard by Tuesday February 15th ready to go when the substitution process is complete.

LISTED SUBCONTRACTOR:

Sciarini Steel Company
P.O. Box 1384
Ceres, CA 95307

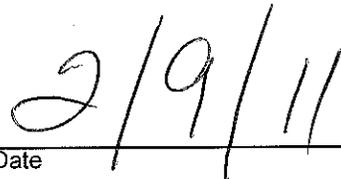
Best Regards,



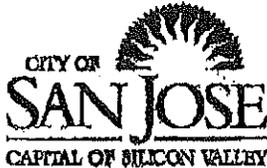
Anthony De Julio
Project Manager
Applegate Johnston, Inc.

Sender Signed

Date



CC:



Department of Public Works
CITY FACILITIES ARCHITECTURAL SERVICES

Via Certified Mail and Fax
Fax No. (209) 538-4716

February 9, 2011

Mr. Bill Sciarini
Sciarini Steel Company
P.O. Box 1384
Ceres, CA 95307

Dear Mr. Sciarini:

SUBJECT: FIRE STATION NO. 36

This is to inform you that on February 9, 2011 we received a request from the general contractor, Applegate Johnston, for the subject project requesting to substitute Sciarini Steel Company. The basis for the substitution is Section 2-1.15B Substitution of Subcontractors, item 1.(c) of the City of San José Standard Specifications, which allows the substitution, when the subcontractor listed in the bid after having had a reasonable opportunity to do so fail or refuses to perform its subcontract.

If you object to the substitution, please submit your written objection to the City within 5 working days from the date of this letter. Failure to file this written objection will constitute your consent to the substitution. Please call me at (408) 535-8350 if you have any questions.

Sincerely,


Marybeth Harasz
Division Manager

MH:RR:ba
Attachment

C: City Attorney's Office - Ken Johnson
Equality Assurance Office - Stephanie Menzies
Applegate Johnston - Anthony De Julio



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SCIARINI STEEL CO.
PO BOX 1384
CERES, CA 95307
(209) 595-7513
(209) 538-4716~FAX
CSL#870679

SCIARINI
RESPONSE
LETTER

FAX

COMPANY: CITY OF SAN JOSE
ATTENTION: BILAN ABOLZING
FAX NUMBER: (408) 292-6288
FROM: Bill Sciarini
TOTAL PAGES, INCLUDING COVER: 3
DATE/TIME: 2-14-11
SUBJECT: Re: FIRE STATION No. 36

URGENT REPLY ASAP PLEASE COMMENT PLEASE REVIEW FOR YOUR INFORMATION

COMMENTS: BILAN ~ PLEASE REVIEW OBJECTION TO
SUBSTITUTION REQUEST.
PLEASE CALL TO DISCUSS
THANKS,
B

SSC SCIARINI STEEL CO.

P.O. Box 1384 • Ceres, CA.95307 • Phone: (209) 595-7513 • Fax: (209) 538-4716

CITY OF SAN JOSE
DEPARTMENT OF PUBLIC WORKS
ATTN: BIJAN ABOUZIA

SUBJECT: FIRE STATION No. 36 SUBSTITUTION REQUEST

DEAR BIJAN - THIS IS TO INFORM YOU THAT SCIARINI STEEL CO. OBJECTS TO SUBSTITUTION REQUEST BY APPLGATE JOHNSTON. APPLGATE JOHNSTON HAS NOT HONORED OURS CONTRACT WITH SCIARINI STEEL CO. AS YOU KNOW I HAVE HAD SEVERAL CONVERSATIONS WITH YOU REGARDING NON PAYMENT BY APPLGATE JOHNSTON INC. TO DATE SCIARINI STEEL HAS INVOKED 69% COMPLETION TO TOTAL \$215,615.00. TOTAL PAID TO DATE BY APPLGATE JOHNSTON IS \$26,648.99 WHICH IS ONLY 8.5%. THIS HAS GREATLY AFFECTED OUR PERFORMANCE ON THIS PROJECT. WE CANNOT BE EXPECTED TO WORK FOR FREE, NEITHER CAN OUR SUPPLIERS. SCIARINI STEEL WISHES TO CONTINUE WITH THIS PROJECT, BUT NEEDS TO RECEIVE PAYMENT FOR WORK IN PLACE BEFORE MOVING FORWARD. PLEASE CALL TO DISCUSS

SINCERELY Bill Sciarini
BILL SCIARINI

Via Certified Mail and Fax
Fax No. (209) 538-4447

February 16, 2011

Mr. Anthony De Julio
Applegate Johnston, Inc.
1016 12th Street
Modesto, CA 95354

Dear Mr. De Julio

SUBJECT: FIRE STATION NO. 36

This letter is in response to your letter dated February 9, 2011 requesting approval to substitute Sciarini Steel Company with another subcontractor. The City sent Sciarini Steel Company a letter dated February 9, 2011 informing them of your request and instruction that, should they object to the substitution, to send their objection in writing to the City within 5 working days.

The City received an objection from Sciarini Steel Company within the specified timeframe. The City therefore cannot consent to your substitution of the listed subcontractor Sciarini Steel Company.

The City will schedule a hearing and give notice of at least 5 working days to Sciarini Steel Company of the date of the hearing by the City on Applegate Johnston's request for substitution based on Section 2-1.15B Substitution of Subcontractors 1(c).

Sincerely,

Marybeth Harasz
Division Manager

MH:ba
Attachments

C: City Attorney's Office – Ken Johnson
Equality Assurance Office – Stephanie Menzies
Applegate Johnston Inc. – Anthony De Julio

Project Letter No: 00054
Date: 03/02/11
Job No: 140203
Job Name: Fire Station NO. 36
Re: Substitution**To:**
Bijan Abouzia
City of San Jose
200 E. Santa Clara St., 6th Fl
San Jose, CA 95113**From:**
Applegate Johnston, Inc
1016 12th Street
Modesto, CA 95354AJI RESPONSE
LETTER

Mr. Abouzia,

The following information in this response is why Applegate Johnston, Inc. is requesting a substitution of Sciarini Steel for the second time. The first substitution request was issued on October 8th, 2010. AJI pulled the request with the intent that Sciarini Steel would perform per the conversation and guarantees Bill Sciarini gave John Bergman, VP of construction, Applegate Johnston, Inc. AJI has tried to work with Sciarini steel, giving him multiple 48 hour Notices for non response, schedule deliveries, and scheduled work missed since the guarantees he gave John Bergman. Trying to work with Sciarini Steel has put us in jeopardy of extending out the schedule and causing liquidated damages. I have attached all of the correspondence with Mr. Sciarini, including all 48 hour Notices, schedules and a letter of response from Sciarini Steel accepting responsibility of the delays of the project. This letter is dated October 10th, 2010, it is the response letter from the first substitution request. Mr. Sciarini states that he is responsible for the delays of the project and getting his submittals back from the City of San Jose were slow. Per contract provisions, the submittals that are supposed to be submitted within 10 days of signing his contract (per his contract) still have not been complete. As a matter of fact, the BRB and Steel Decking submittals were put together by AJI, Star Seismic and Cal West Detailing, with no help from Sciarini Steel. Per the emails from Cal West detailing and Star Seismic they hadn't spoke with Bill Sciarini for a month. Both suppliers have tried to contact Bill Sciarini with no response. It came down to AJI writing a contract with Star Seismic to receive the submittals and BRB's. Sciarini Steel never signed a contract with Star Seismic to receive submittals or order BRB's. Again, this is only one of so many items that Sciarini Steel has put AJI in and the City of San Jose due to his unprofessionalism.

We have no trust in Sciarini Steel that he has any intent to continue or complete this project. Items like this keep pushing the completion date out. Now, the question of being Sciarini Steel Paid. Mr. Sciarini billed to 69% of his contract complete on September 30th, 2010. Mr. Sciarini contract is \$314,650.00. With invoice #706 and #707 dated September 30th, 2010 totaling over \$172,000.00 and no structural steel on site installed. On October 8th, 2010 I sent over Jason Barkus (site Superintendent) to Bill Sciarini's yard/shop to see if there was any steel for our project in his yard. We took pictures of the steel that was there. It looked like he was in the progress of detailing it. So you can see why we have not approved most of the billing for Sciarini Steel. Steel never arrived on site until October 15th, 2010. And again, this is just another item that we have been up against. Along this same line, when Sciarini did finally get steel to the site he had so many issues with his welding certifications he couldn't start. Bill Sciarini at the beginning of the project stated he had all the correct and qualified welding certifications to install the structural steel. But according to Krazan and Assoc. (City of San Jose) third party inspector and R&C Structural Engineer disagree. On September 20th, 2010 Rory Hamaoka stated in a transmittal that Sciarini needed to Revise and Resubmit their welding qualifications and mill certifications which weren't approved until November 5th, 2010. Krazan has had numerous issues with Sciarini's inspection coordination and welding.

Attached is a list of items and concerns Krazan had with those items dated November 5th, 2010. As you can see, Sciarini has pushed the building schedule out with their issues. Again, invoice issues were on the back burner as we tried to fight through Sciarini Steel's contractual issues. I'm just noting some highlighted issues that Bijan Abouzia, Mark Damey, R&C know about and there are just a few issues. Other issues of Sciarini are his insurance, license and performance bonding. Before we broke ground we found out after he signed his contract that his license was suspended and that had a huge effect on him starting. We received this notice from Nina Grayson on August 20th, 2010, this pushed back a start date 3 week. Remember, he billed 69% on September 30th, 2010. Then we received notice from Tami White from Alliance Insurance on December, 22nd, 2010 that Sciarini Steel's insurance was not in compliance with AJI contract. Then from September 26th to December 15th Sciarini Steel general liability, auto and excess coverage was lapse and he didn't take care of it. So Sciarini steel couldn't perform on site due to his bad business management.

Applegate Johnston, Inc. has given Sciarini Steel many chances to perform their contract. The broken promises, non

APPLEGATE  JOHNSTON

1016 12th Street, Modesto CA 95354
(209) 538-4449 Fax (209) 538-4447
CSLB# 773307 TIN# 77-0528516

PROJECT LETTER

Project Letter No: 00054
Date: 03/02/11
Job No: 140203
Job Name: Fire Station NO. 36
Re: Substitution

compliance of contractual issues, scope of work and submittal failures, non inspected material, installation mistakes, suspended licenses, cancellation of insurance (general liability, auto, etc) has put too much strain on this project. We are ready to proceed forward without Sciarini Steel and now make up for the lost time on the project he has caused.

Any other correspondence or contractual information you may need is available to the City of San Jose Public Works Department at any time. So we ask you again to approve the substitution of Sciarini Steel.

Thank you,

Anthony de Julio
Project Manager
209-480-7238



Sender Signed

CC:

3-2-11

Date



Department of Public Works

CITY FACILITIES ARCHITECTURAL SERVICES DIVISION

VIA FAX & CERTIFIED MAIL

March 17, 2011

Sciarini Steel Co.
6743 Crows Landing Road
Ceres, CA 95307
Fx: 209-538-4716

Dear Mr. Sciarini:

SUBJECT: FIRE STATION NO. 36

The purpose of this letter is to inform you that a Placeholder Memorandum to the City Council has been prepared requesting an administrative hearing (see attached Placeholder Memorandum) on the contractor's request for the substitution to be scheduled for April 12., 2011.

Applegate Johnston has submitted a detailed case supporting their request to substitute Sciarini Steel per Section 2-1.15B **Substitution of Subcontractors**, of the City of San Jose Standard Specifications. The supporting documentation is attached for your review and consideration.

Staff recommends that you prepare any rebuttal in writing and deliver it to Mr. Bijan Abouzia, project manager, to the address stated below by 5:00 p.m. on Friday, March 25, 2011.

Please direct all correspondence to:

City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street, 6th Floor
San Jose, CA 95113
ATTENTION: Bijan Abouzia

Once the hearing date and time has been set, the City will give notice of at least 5 working days to Sciarini Steel Company and Applegate Johnston of the date of the hearing by the City.

Sincerely,

Marybeth Harasz
Division Manager
City Facilities Architectural Services Division

MH:rr
CertMail Sciarini Steel

c: City Attorney
John Bergman, Applegate Johnston, Inc.