

AGENDA ITEM NO. \_\_\_\_\_

COUNCIL MEETING \_\_\_\_\_

APPROVED BY \_\_\_\_\_

DEPARTMENT DIRECTOR \_\_\_\_\_

CITY MANAGER \_\_\_\_\_

May 8, 2007

**FROM:** JON R. RUIZ, Interim Director  
Public Works Department

**BY:** EFREN BANUELOS, Assistant Director  
Public Works Department/Capital Management Division

**SUBJECT:** APPROVE SUBSTITUTION OF SUBCONTRACTOR FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT OFFICE REMODEL, AIRPORT PUBLIC SAFETY OFFICE RELOCATION; PROJECT ID NO. AC00178

**KEY RESULT AREA**

One Fresno

**RECOMMENDATION**

That the Council approve the request from Gostanian General Building Corporation to substitute Emerzian Woodworking Inc. with Ireland Manufacturing for the cabinetry portion of the Office Remodel and Relocation at the Airport Terminal and Administration Building; Project ID No. AC00178.

**EXECUTIVE SUMMARY**

Gostanian General Building Corp. the Prime Contractor who was awarded the referenced project, has requested to substitute Emerzian Woodworking Inc., who is listed in the bid documents as the cabinetry subcontractor. In accordance with the bid documents, Gostanian General Building Corp. listed Emerzian Woodworking Inc. for the cabinetry portion of the remodel project because the work exceeds one-half of one percent of the total contract. Subsequent to the contract award, Gostanian General Building Corp. notified the City that their listed cabinetry subcontractor is unable to complete the contract. Gostanian General Building Corp. has requested that they be allowed to substitute Emerzian Woodworking Inc. with Ireland Manufacturing. This action requires Council approval since it constitutes an amendment to the original contract.

**KEY OBJECTIVE BALANCE**

The project goal is to provide safer and more accessible rental car parking. Completion of this portion of the project is part of the critical path for safer access to the traveling public and improve the key objective of One Fresno.

## REPORT TO THE CITY COUNCIL

Substitution of Subcontractor for the FYI Airport Office Remodel  
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### **BACKGROUND**

On March 27, 2007, the Council awarded a contract in the amount of \$448,790.00 to Gostanian General Building Corp. for the Fresno Yosemite International Airport, Office Remodel and the Airport Public Safety Office Relocation.

In the original proposal Emerzian Woodworking Inc. of Fresno, CA was listed as the subcontractor for all cabinetry work associated with the contract. On April 3, 2007, Gostanian General Building Corp. provided the City a written request to substitute the listed cabinetry subcontractor, since the listed subcontractor is unable to complete the contract.

In accordance with Section 4107 of the Public Contract Code, a Prime Contractor may substitute a listed subcontractor, with the consent of the awarding authority, when the listed subcontractor fails or refuses to perform his or her subcontract with the Prime Contractor as set forth in Section 4107.

The Subletting and Subcontracting Fair Practices Act requires the Prime Contractor to secure the permission of the awarding agency before substituting a non-listed subcontractor for a listed subcontractor ( in order to protect the public and subcontractors from "bid shopping and bid peddling" -Southern California Acoustic (1969) 71 Cal.2d719, 726fn.7).

Gostanian General Building Corp. has requested the substitution of Ireland Manufacturing in place of Emerzian Woodworking Inc., by letter dated April 3, 2007. Section 4107 of the Public Contract Code allows the prime contractor to substitute listed subcontractors with prior consent from the awarding authority.

In accordance with provisions of the Public Contract Code, the City has notified Emerzian Woodworking Inc. of the proposed substitution by certified mail dated April 9, 2007. Emerzian Woodworking Inc. has not provided written objections to the substitution. Failure to file these written objections constitutes the listed subcontractor's consent to the substitution. To date we have received no formal objection to the proposed subcontractor substitution. The City Attorney's office finds the proposed substitution of subcontractor to be legal and proper if Council consents to the substitution.

The replacement of the subcontractor for the cabinetry portion of the contract will not increase the cost of the project. This project does not contain a Disadvantaged Business (DBE) requirement and therefore, the substitution will not affect the DBE status of the contract.

### **FISCAL IMPACT OF RECOMMENDATIONS**

There will be no impact to the General Fund or project budget by granting the substitution.