

Memorandum

To: Chairman and Commissioners

Date: April 13, 2001

From: Robert I. Remen

File No: D 11
BOOK ITEM 2.8b(1)
Action

Ref: **Request to Reconsider Denial of a Contract Award Deadline Extension for STIP CMAQ Match Allocations for Two Signal Synchronization Projects in the City of Clovis**

Local Streets and Roads Projects **Waiver-01-21**

Issue: At the Commission's March 28th meeting, two City of Clovis contract award deadline extension requests were denied as not meeting the statutory test for an extension of "unforeseen and extraordinary circumstances beyond the control of the responsible agency." The City of Clovis contends that significant information concerning these extension requests was not presented to the Commission. The Council of Fresno County Governments at its March 29th Policy Board meeting discussed and considered the "exceptional" circumstances justifying the City of Clovis' extension requests and voted to petition the Commission to reconsider the Clovis extension requests.

Recommendation: If the Commission chooses to reconsider the City of Clovis contract award deadline extension requests, staff recommends that the Commission again deny the extensions. The City of Clovis letter dated April 5, 2001, submitted in justification of the contract award deadline extension reconsideration, explains the history of "what" happened to the projects satisfactorily, but **does not address "why" the circumstances described in the letter were unforeseen, extraordinary and beyond the City's control.**

Discussion: Per Commission adopted STIP guidelines; the Commission considers allocation of funds for a project when it receives an allocation request and recommendation from Caltrans. When a local agency is ready to implement a project, the agency submits a funding request to Caltrans. Caltrans reviews the request, prepares appropriate agreements with the agency and recommends the request to the Commission for action. The Commission under various resolutions delegated to Caltrans the authority to allocate funds for many ministerial-type local STIP projects (repairs, rehab, support expenditures, categorical "lump sum" allocations).

The City of Clovis signal synchronization projects along Herndon and Shaw Avenues (Map I) were allocated for construction by Caltrans under Commission delegated authority on June 24, 1999 and June 27, 1999 with \$23,000 and \$15,000 respectively from Fresno County's programmed RSTP/CMAQ match reserves. Per STIP guidelines, funds allocated for construction must be

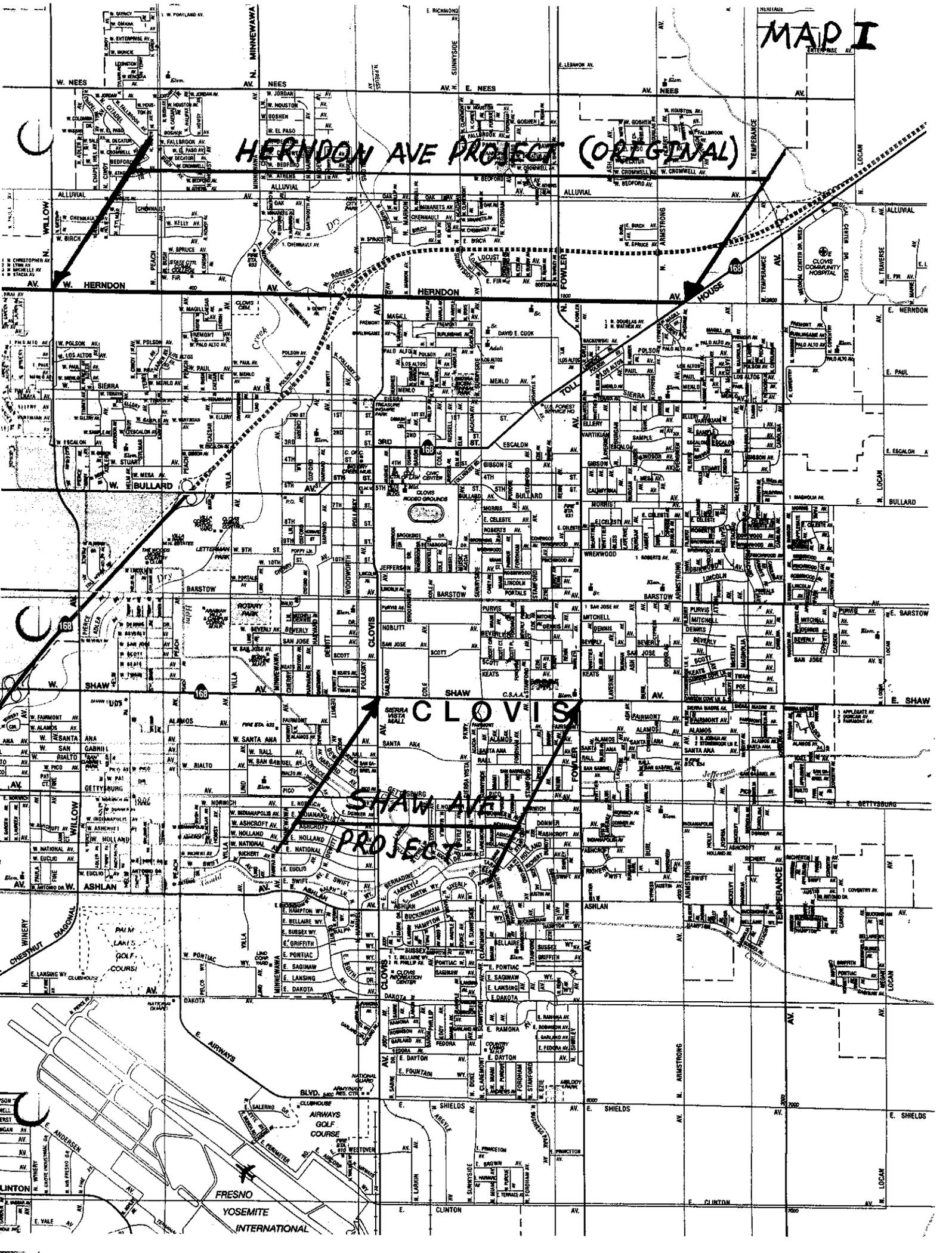
encumbered by the award of a construction contract within twelve months of the allocation date. **The Commission may extend the contract award deadline once and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and will in no event be for more than 20 months.**

The City of Clovis in its April 5th letter indicated the Herndon and Shaw Avenue projects were combined into a single construction project to take advantage of economics of scale and were ready to go to bid in April 2000, two months in advance of the June 2000 award deadline. At that point, the City of Fresno proposed to construct a sizeable share of the Herndon Avenue project (Map II). Clovis accepted Fresno's proposal and for unexplained reasons put the remainder portion of the Herndon Avenue project and the Shaw Avenue project on hold. Clovis did not resume work on its projects until Fresno finalized its Herndon plans. Clovis removed the section of Herndon that was to be constructed by Fresno from its plans and went to bid in February 2001. Clovis indicated that around this time it "discovered" it missed the June 2000 award deadline and requested an after the fact extension from the Commission, which was heard and denied by the Commission on March 28, 2001. At some point in February 2001, the City of Fresno, for unexplained reasons, rescinded its proposal to do the Herndon project. Clovis put out an addendum to its bid package on March 1, 2001 to include that section of Herndon that Fresno canceled. Not wanting to lose the bid, Clovis awarded the Shaw Avenue work on April 2, 2001, ten months after the award deadline. The Herndon Avenue work came in \$190,000 over the available funding and Clovis is reducing the scope of the project (Map III) and believes it will be ready to award the construction contract by May 18, 2001.

Clovis in its April 5th letter fails to explain what unforeseen and extraordinary circumstance beyond its control prevented the City from redesigning, advertising and awarding the remainder portion of the Herndon Avenue project that did not involve Fresno or advertising and awarding the Shaw Avenue project. Also the City fails to explain what unforeseen and extraordinary circumstance beyond its control prevented the City from seeking a timely extension, back in June 2000, when the construction award deadline arrived and the City chose to change the scope of the Herndon project and knew it would not award the projects as originally scheduled.

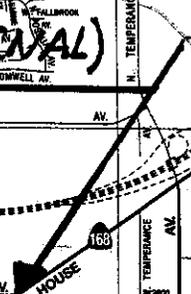
The Caltrans book item from the March 28th Commission meeting indicated that the City of Clovis identified "changes in staff and changes in technical direction" as the reasons for the contract award delay. Nothing in the City's April 5th letter indicates that these reasons have changed. As Commission staff pointed out at the March 28th meeting, changes in staff and changes in technical direction are not unforeseen and extraordinary circumstance beyond the City's control.

HERNDON AVE PROJECT (ORIGINAL)



CLOVIS

SHAW AVENUE PROJECT



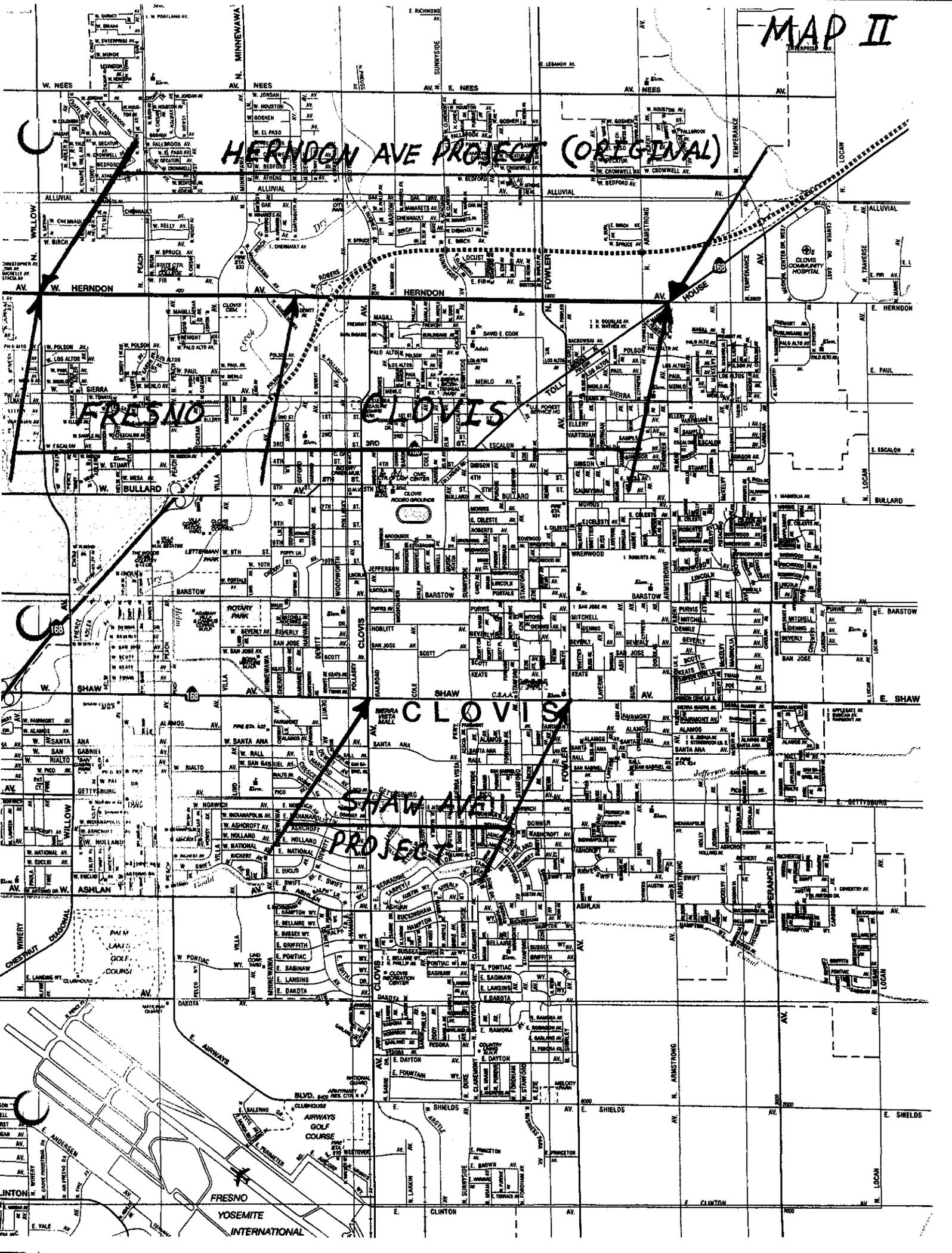
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HERNDON AVE PROJECT (ORIGINAL)



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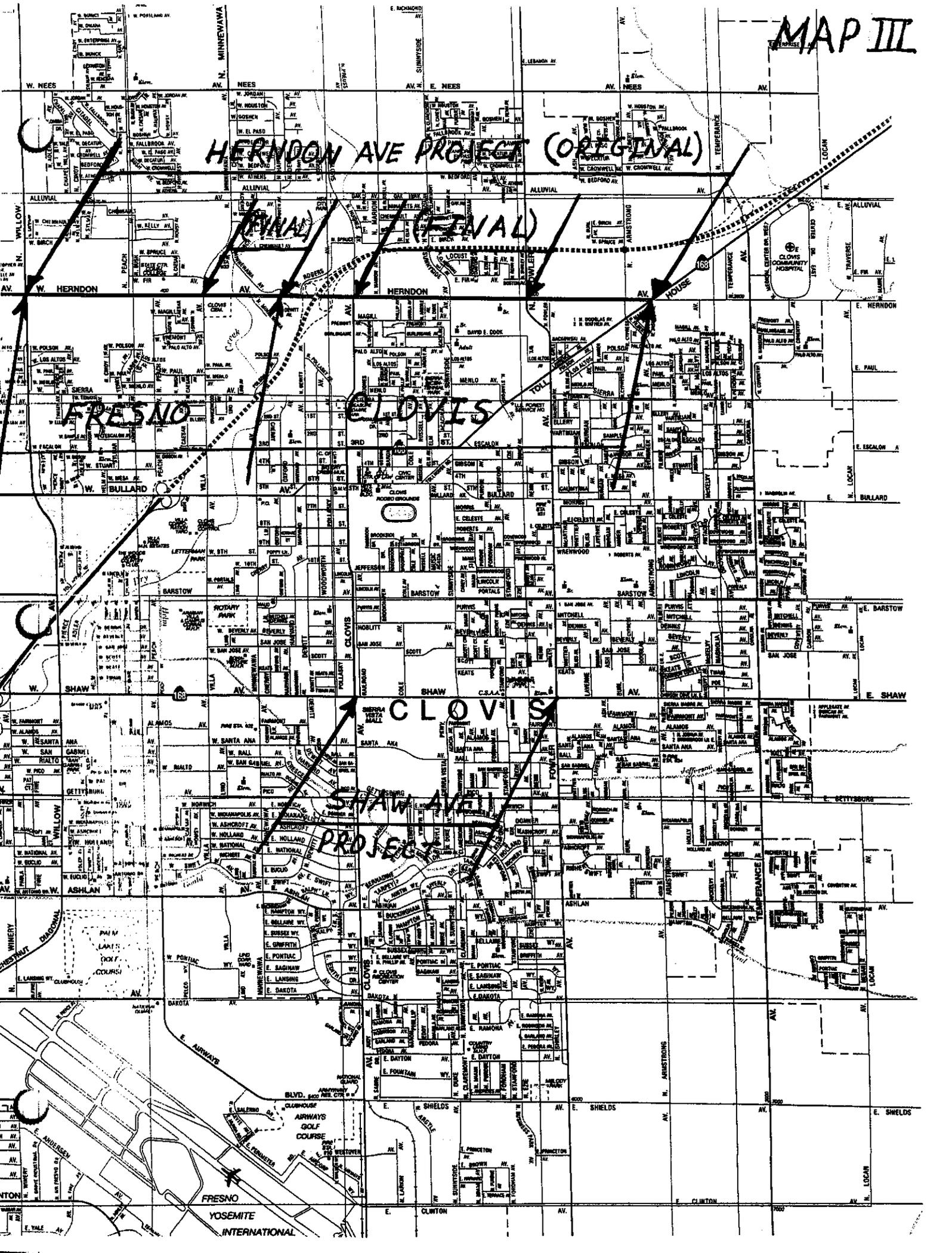
CLOVIS

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SHAW AVENUE PROJECT

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HERNDON AVE PROJECT (ORIGINAL)



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CLOVIS COMMUNITY HOSPITAL

Council of
Fresno
County Governments

REC'D BY CTC

APR 12 2001

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April 5, 2001

Robert I. Remen, Executive Director
California Transportation Commission
1120 N Street, Room 2221 (MS-52)
Sacramento, CA 95814

Attention: Peter L. Hathaway, Chief Deputy Director

Dear Mr. Remen **Subject: Request to Reconsider Contract Award Deadline for City of Clovis Projects**

At its March 28, 2001 meeting, the California Transportation Commission considered requests from the City of Clovis to extend the *Contract Award* deadline for two of its signal synchronization projects (Items 2.8b- Local Street and Road Projects). Based upon the information that was presented at the meeting, the Commission denied the extension requests.

That evening, Councilmember Harry Armstrong of Clovis had an opportunity to discuss the extension requests with several Commissioners and Robert Remen. It was obvious that significant information concerning these requests was not presented to the Commission and it was agreed upon that the Commission could reconsider the Clovis request at its May meeting if the extension requests were supported by and initiated by the Council of Fresno County Governments.

At the Council of Fresno County Governments March 29th Policy Board meeting, the City of Clovis, as an emergency item, requested the Fresno COG to initiate their request to the CTC for extending the award contracts for their two projects. After a full discussion of the request and consideration of the "exceptional" circumstances justifying the request, the Fresno COG Policy Board voted to support the Clovis request and directed its staff to petition the CTC to reconsider the Clovis extension request. Based upon their directive, we are requesting that the CTC reconsider the two Clovis extension requests.

We have attached additional support documentation that has been provided to us by the City of Clovis. We hope that based upon this new information that the CTC will be able to act favorably upon this request. We have been assured by the City of Clovis that representatives will be present at the May CTC meeting to offer comments. If you have any questions concerning this matter please feel free to contact me at (559) 233-4148.

Sincerely,

Barbara Goodwin

BARBARA GOODWIN, Executive Director
Council of Fresno County Governments

BG/RB

Encl.

Cc: Councilmember Harry Armstrong, City of Clovis
John Wright, City of Clovis
Bill Burmeister, City of Clovis
Marvin Johnson, Caltrans District 6

Member Agencies: The cities of Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, Selma & Fresno County



CITY OF CLOVIS

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April 5, 2001

Robert I. Remen, Executive Director CTC
1120 N. Street, Room 2221 (M5-52)
Sacramento, CA 95814

Attention: Peter Hathaway, Chief Deputy Director

Dear Mr. Hathaway:

Subject: Justification for Approval of Time Extension for Herndon and Shaw Avenues,
Fiber Optics Projects 5602 (010) & (012)

In the original design, these two projects were designated to be bid and constructed as a single project to take advantage of economics of scale. The Herndon Avenue design included Herndon Avenue from Willow Avenue to Tollhouse Avenue. The design was ready to go to bid in April 2000, when Clovis was approached by the City of Fresno proposing to fund and install the fiber optic cable and equipment between Willow and DeWitt Avenues and into Clovis's Traffic Management Center (TMC), which bids April 17, 2001. Fresno's proposal included high tech equipment that Clovis had not included in its bid package and the cost of the equipment and installation of the portion between Willow and DeWitt Avenues. Fresno's proposal was accepted by Clovis, but it took almost six months for Fresno to finalize the design changes.

With Fresno's design changes finalized, Clovis revised its Herndon plans to remove the Willow to DeWitt section that Fresno was to construct. During the above-described revision period, it was discovered that we had missed the award date of June 2000. Subsequently, the City requested an extension of time to award, which was heard on March 28 and 29th at the CTC meeting in Fresno.

In February 2001, the City went out to bid for the Herndon and Shaw Avenue projects hoping to have them ready for award right after receiving the requested extension. During the bid phase, Fresno rescinded their proposal to construct the Willow to DeWitt portion. The City of Clovis immediately put out an addendum on March 1, 2001 to include that section in the Clovis bid. Not wanting to lose the bid, the Clovis City Council awarded the Shaw Avenue work on April 2, 2001. The Herndon Avenue bid, however, came in \$190,000 over the available funding and is being reduced in scope to include only the Villa to DeWitt and Clovis to Fowler segments. This project, which is fully designed, can be ready for construction award by May 18, 2001.

City Manager (559) 297-2320 • Community Services 297-2480 • Finance 297-2304 • Fire 297-2460
General Services 297-2320 • Planning & Development Services 297-2340 • Police 297-2400 • Public Utilities 297-2376

Clovis has a good history of delivering projects on time. The unfortunate circumstances which caused us to miss the award date arose from our efforts to coordinate the project with the larger system of signal interconnect projects being constructed.

Clovis hereby requests your reconsideration of our request for extension of the award date to June 29, 2001.

Sincerely,



JRW
John R. Wright, AICP
Director of P & DS

JRW:WEB:gc

Ltrsl:ExtensionHerndonShaw