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AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of August, 2006, by and between the City of Clovis, a municipal corporation, hereinafter called CLOVIS, and the City of Fresno, a municipal corporation, hereinafter called FRESNO.

RECITALS:

WHEREAS, CLOVIS and FRESNO recognize the need for the installation of a new traffic signal at the intersection of Willow Avenue and Shepherd Avenue through a street construction project consistent with Congestion Mitigation and Air Quality (CMAQ) grant funding (CMAQ 5060-116) incorporated herein, and

WHEREAS, the intersection of Willow Avenue and Shepherd Avenue is half within the jurisdiction of FRESNO and half within the jurisdiction of CLOVIS; and

WHEREAS, CLOVIS and FRESNO, while maintaining their respective jurisdictions, recognize it will be of mutual benefit to CLOVIS and FRESNO to efficiently perform the work as one joint construction project, upon the terms and conditions set forth below.

NOW, THEREFORE, it is mutually agreed as follows:

AGREEMENT:

1. FRESNO and CLOVIS agree that the installation of a new traffic signal at the intersection of Willow Avenue and Shepherd Avenue, shall be performed as a single construction project to be administered by FRESNO, with CLOVIS to make certain contributions toward the project, as set forth below and shown on the attached 'ROLES AND RESPONSIBILITIES' list.

2. FRESNO shall provide to CLOVIS, for CLOVIS' review and approval, appropriate plan information concerning that portion of work to be performed within CLOVIS' area of jurisdiction. Staff cost for such review and approval shall be included in the total project cost and subject to reimbursement from project funds.

3. Each of the parties hereto shall bear an agreed upon share of the cost of the construction project as shown on the attached 'INTERSECTION IMPROVEMENT

1 PROJECT, SHEPHERD AND WILLOW AVENUES, ESTIMATED PROJECT COST.' Such
2 costs include, but are not limited to, design, right-of-way acquisition, construction, and
3 construction inspection services. The parties agree that under the 2004 Federal
4 Transportation Improvement Program (FTIP), also attached, the estimated cost for this
5 project is Two Million, One hundred Seventy Nine Thousand, Nine Hundred Dollars and
6 No/100 cents (\$2,179,900.00). Federal participation is One Million, Seven Hundred
7 Seventy Nine Thousand, Nine hundred Dollars and No/100 cents (\$1,779,900.00), and
8 each City's (both CLOVIS and FRESNO) share shall be Two hundred Thousand Dollars
9 and No/100 cents (\$200,000.00). CLOVIS' share shall be payable to FRESNO, upon
10 invoice, following project completion. Construction cost overruns shall be shared based
11 on pro-rated construction cost ratio (cost of work done within an agency's jurisdiction to
12 total project cost).

13 4. FRESNO shall furnish all design engineering, field inspection and testing as
14 necessary for performance of the construction project work. CLOVIS will provide periodic
15 inspection/construction coordination of work within CLOVIS' jurisdiction being performed by
16 FRESNO. Staff cost to provide such periodic inspection/construction coordination shall be
17 included in the total project cost and subject to reimbursement from project funds.

18 5. FRESNO shall provide the environmental documents/studies required for the
19 project (National Environmental Policy Act (NEPA)). Both FRESNO and CLOVIS shall
20 provide the environmental documents/studies required within their jurisdictions (includes
21 but not limited to California Environmental Quality Act (CEQA)). Staff cost for such
22 environmental documents/studies shall be included in the total project cost and subject to
23 reimbursement from project funds.

24 6. The design engineer (FRESNO) shall furnish legal descriptions and drawings
25 for all right-of-way to be acquired for the project. These legal descriptions and drawings
26 shall be approved by both FRESNO and CLOVIS. CLOVIS shall acquire property
27 appraisal(s) based on these approved legal descriptions. FRESNO shall review and
28 approve these property appraisal(s). CLOVIS will conduct all right-of-way negotiations with

1 property owner(s), complete property acquisition(s), and open escrow with a title company.
2 Both FRESNO and CLOVIS shall deposit payment(s) with the title company in the amount
3 agreed upon in the purchase contract(s) for the right-of-way purchased within their
4 jurisdictions. Such payment(s) are subject to prorata reimbursement to FRESNO and
5 CLOVIS within the scope of the CMAQ funds provided for right-of-way acquisition.
6 Improvements (or work items) required by the purchase contract(s) shall be included on the
7 Plans and within the Specifications for the project.

8 7. It is understood that both the Director of Public Works of FRESNO and the
9 City Engineer of CLOVIS shall jointly approve necessary changes to the plans and
10 specifications during construction of the project ~~within CLOVIS' jurisdiction.~~ *MTL 9/8/06*
11 *[Signature]*

12 8. CLOVIS shall issue a "NO FEE" encroachment permit for that work done
13 within CLOVIS' area of jurisdiction. The contractor for the project shall apply for and obtain
14 the encroachment permit from CLOVIS. CLOVIS shall be reimbursed the cost of labor for
15 construction inspection/coordination from Federal funding allocated for construction. Staff
16 cost for such construction inspection/coordination shall be included in the total project cost
17 and subject to reimbursement from project funds.

18 9. FRESNO shall be the responsible agency for traffic signal timing and traffic
19 signal operations at this location. Both FRESNO and CLOVIS will share equally (50/50) in
20 any future maintenance cost (including, but not limited to, labor, materials, and utility cost).
21 This Section shall survive expiration or termination of this agreement.

22 10. FRESNO agrees to indemnify, save, hold harmless, and at CLOVIS' request,
23 defend CLOVIS, its officers, agents and employees from any and all costs and expenses,
24 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or
25 corporation who may be injured or damaged by the performance, or failure to perform, of
26 FRESNO, its officers, agents and employees, under this Agreement. This Section shall
27 survive expiration or termination of this Agreement.

28 11. CLOVIS agrees to indemnify, save, hold harmless, and at FRESNO's
request, defend, FRESNO, its officers, agents and employees from any and all costs and

1 expenses, damages, liabilities, claims, and losses occurring or resulting to any person,
2 firm, or corporation who may be injured or damaged by the performance, or failure to
3 perform, of CLOVIS, its officers, agents and employees, under this Agreement. This
4 Section shall survive expiration or termination of this Agreement.

5 12. The provisions of this Agreement are severable. The invalidity or
6 unenforceability of any one provision in this Agreement shall not affect the other provisions.

7 13. Each party acknowledges that it has read and fully understands the content
8 of this Agreement. This Agreement represents the entire and integrated agreement
9 between the parties with respect to the subject matter hereof and supersedes all prior
10 negotiations, representations or agreements, either written or oral. This Agreement may
11 be modified only by written instrument duly authorized and executed by both FRESNO and
12 CLOVIS.

13 14. Within sixty (60) calendar days following the completion and acceptance of
14 the project, FRESNO shall furnish to CLOVIS a set of AS-BUILT plans.

15 15. TERMINATION: This agreement shall remain in full force and effect until
16 amended by mutual consent of the parties hereto or terminated by mutual consent of the
17 parties, subject to and consistent with CMAQ grant requirements, and necessary approval
18 from COG.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
2 and year first herein above written.

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4 CITY OF FRESNO:
5 (FRESNO)

CITY OF CLOVIS
(CLOVIS)

6 BY: Mike Kirn
7 MIKE KIRN, PE, ASSISTANT DIRECTOR,
8 DEPARTMENT OF PUBLIC WORKS

BY: Steven E. White
STEVEN E. WHITE
CITY ENGINEER

9 APPROVED AS TO LEGAL FORM

REVIEWED AND RECOMMENDED FOR
APPROVAL

10
11 BY: James C. Sanchez
12 JAMES C. SANCHEZ,
13 INTERIM CITY ATTORNEY

BY: John R. Wright
JOHN R. WRIGHT, PLANNING AND
DEVELOPMENT SERVICES DIRECTOR

14 APPROVED AS TO LEGAL FORM

15 ATTEST: REBECCA E. KLISCH
CITY CLERK

16 BY: Erika Jeyva 9/8/06
17 DEPUTY

BY: Thomas J. Riggs
THOMAS J. RIGGS
CITY ATTORNEY

SHEPHERD / WILLOW CMAQ PROJECT SIGNALIZATION AND WIDENING

ROLES AND RESPONSIBILITIES

General	Clovis	Fresno
Lead agency with COG and Caltrans Local Assistance (i.e. FTIP, E-76's, Award Pkg., Invoicing to Caltrans Local Programs Accounting, Obligation Plan, Close-out, etc)		X
All property owner contacts	X	
Prepare cooperative agreement (funding, construction, future maintenance, etc., plus Clovis being authorized to act on Fresno's behalf in R/W acquisition)		X
Review and execute cooperative agreement	X	X
Cooperative agreement approval by Council(s)	X	X
Submit invoices to Fresno for cost incurred	X	
Reimburse Clovis, based on invoice cost for allowable reimbursable work done, from project funds		X
Environmental		
CEQA documents for each jurisdiction	X	X
NEPA / PES		X
Engineering Design		
Topo Survey		X
Preliminary ultimate layout of improvements	X	
Prepare geometric approval drawing including transitions using actual topo		X
Prepare roadway & signal plans		X
Review plans at 30%, 60%, 90%, and 100%	X	X
Right-of-Way		
Obtain preliminary title reports	X	
Provide CAD drawing of existing and proposed R/W		X
Prepare deed drawings in each jurisdiction	X	X
Hire an appraiser	X	
Review appraisals	X	X
Prepare offer letter & handle all R/W negotiations	X	
Council item to acquire street easements	X	X
Advertise & Award Project		
Advertise Notice Inviting Bids		X
Accept and Open Bids		X
Award Bid		X
Inspection & Contract Administration		
Overall contract administration & hiring of testing lab		X
Overall project inspection		X
Construction staking		X
Jurisdictional inspection / coordination between agencies	X	X

INTERSECTION IMPROVEMENT PROJECT SHEPHERD AND WILLOW AVENUES ESTIMATED PROJECT COST

Listed below are the estimated project cost to provide:

- a. Right-of-Way Acquisition,
- b. Traffic Signal,
- c. Street Improvements,
- d. Construction Management, and
- e. Environmental reviews/approvals

From the 2004 Federal Transportation Improvement Program:
(Local Match is 11.47% shared between both Fresno and Clovis)

	TOTAL COST	FEDERAL PARTICIPATION	CLOVIS MATCH	FRESNO MATCH
*Preliminary Engineering Cost:	131,700.00	107,533.74	12,083.13	12,083.13
Right-of-Way Cost:	398,800.00	325,622.34	36,588.83	36,588.83
**Construction and Construction Management:	1,649,400.00	1,346,743.92	151,328.04	151,328.04
TOTALS	2,179,900.00	1,779,900.00	200,000.00	200,000.00

Notes:

- * Including environmental review / reports cost.
- ** Including construction related environmental mitigation measures.

TB: C: D Drive: Projects: Shepherd Willow: Agreement Estimate Rev3.xls

T. Barker Revised: February 14, 2006
 Revised: February 15, 2006
 Revised: March 28, 2006
 Revised: March 29, 2006

**Council of Fresno County Governments 2004 Federal Transportation Improvement Program
San Joaquin Format (Highest Official)**

Project ID	Agency/Agency of	Description	PE	RW	Const	Total	47,900	72,000	515,600	100,800	45,200	51,700	478,100	45,000	478,100	205,700	106,100	456,500
FRE020128	AGENCY/CMAQ 5.01 Fresno, City of	In Fresno - At Intersection of Clinton and West Avenues - Install Traffic Flow Improvements Including Dual EB & WB Left Turn Lanes and Protected Left Phasing EB & WB. \$ 635,500 FIP Amend 2.00	PE	RW	Const	Total	47,900	72,000	515,600	100,800	45,200	51,700	478,100	45,000	478,100	205,700	106,100	456,500
FRE020129	CMAQ/AGENCY 3.02 Fresno, City of	In Fresno - Lump-Sum Bicycle Facilities Including Lanes, Racks, Traffic Control Devices to Assist Bicyclist - On Major Streets consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 745,500 FIP Amend 2.00	PE	RW	Const	Total	16,700		45,000									
FRE020130	CMAQ/AGENCY 5.07 Fresno, City of	In Fresno - Lump-Sum Traffic Signal Synchronization Facilities, Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 1,256,500 FIP Amend 5.00	PE	RW	Const	Total	500,000	256,500	500,000								660,000	
FRE020132	CMAQ/AGENCY 3.02 Fresno, City of	In Fresno - Lump-Sum Construction of Grade Crossings Along Bike and Pedestrian Trails \$ 892,300 FIP Amend 2.00	PE	RW	Const	Total	110,100		782,200								227,100	885,300
FRE020133	AGENCY/CMAQ 3.02 Fresno, City of	In Fresno - Lump-Sum Construction of New Trails to Serve Fresno/Clarks Metropolitan Area Trail System, Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 451,800 FIP Amend 7.00	PE	RW	Const	Total	75,800	1,000	375,000								790,000	
FRE020134	CMAQ/AGENCY 3.02 Fresno, City of	In Fresno - Lump-Sum Pedestrian Facilities to Include Sidewalks and Signal Upgrades for Pedestrians, Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 647,400 FIP Amend 2.00	PE	RW	Const	Total	20,000		100,000	26,000	32,400	214,000	203,300				400,000	
FRE040106	CMAQ/AGENCY 5.02 Fresno, City of	Improve traffic operations and relieve congestion at intersection of Willow and Shepherd Ave. Install traffic signal and modify approaches. Install median noses, curb returns with wheelchair ramps. \$ 2,179,900 FIP Amend 2.00	PE	RW	Const	Total	131,700		398,800			1,649,400					1,779,900	



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.	1 F
COUNCIL MEETING	7/25/06
APPROVED BY	
<i>[Signature]</i>	
DEPARTMENT DIRECTOR	
CITY MANAGER	<i>[Signature]</i>

July 25, 2006

FROM: SCOTT KRAUTER, PE, Interim Design Services Manager
Public Works Department *[Signature]*

BY: MICHAEL W. HOLLY, PE, Project Manager
Public Works Department *[Signature]*

SUBJECT: APPROVE A JOINT AGREEMENT BETWEEN THE CITIES OF FRESNO AND CLOVIS FOR CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT WILLOW AND SHEPHERD AVENUES (COUNCIL DISTRICT NO. 6)

KEY RESULT AREA

Customer Satisfaction/Financial Management/Public Safety, KRA Code 0101001000.

RECOMMENDATIONS

- Staff recommends approval of a Joint Agreement between the cities of Fresno and Clovis for construction of intersection improvements at Willow and Shepherd Avenues.
- Authorize the City Manager, or his designee, to sign the Joint Agreement on behalf of the City.

Funding for this project is included in the FY 2007 budget.

EXECUTIVE SUMMARY

Fresno and Clovis recognize the need to improve the intersection of Willow and Shepherd Avenues, and efficiently perform the work as a single construction project. The west half of the intersection is within Fresno's sphere of influence and the east half is within Clovis' sphere of influence. Fresno applied for, and was awarded, Federal funding under the Congestion Mitigation and Air Quality Program (CMAQ) to install traffic flow improvements at the intersection. Fresno invited Clovis to participate in the project, and as a result, the proposed Joint Agreement outlining each agency's duties and responsibilities was drafted. The Joint Agreement also contains language regarding participation costs of each agency. The drafted Joint Agreement has been approved as to form by both Fresno's and Clovis' legal staffs. On May 1, 2006, the Clovis City Council approved the Joint Agreement and authorized its City Engineer to execute an agreement on behalf of Clovis.

***SUBJECT TO MAYOR'S VETO**

Presented to City Council
Date 7/25/06
Disposition rec. approved

KEY OBJECTIVE BALANCE

The approval of the Joint Agreement best balances the Key Objectives of Customer Satisfaction, Financial Management and Employee Satisfaction. The project will contribute mostly to customer satisfaction by improving traffic flow upon completion of the project. Financial Management objectives are achieved from mutual benefit of efficiently performing the work as a single project. Employee Satisfaction will be derived by the improved operation and added safety associated with the intersection improvements.

The project is located within the boundary of City Council District 6.

BACKGROUND

Shepherd Avenue between Clovis and Fresno is a two lane roadway for east and westbound traffic. Willow Avenue is a two lane roadway for north and southbound traffic. During peak hours, intersection congestion creates high levels of delays. The City of Fresno applied for and was awarded Federal funding under the Congestion Mitigation and Air Quality Program (CMAQ) to install improvements at the intersection of Shepherd and Willow Avenues. These improvements include, but not limited to, the installations of a traffic signal, median islands, curb returns with wheelchair ramps, and transition pavement. Fresno has requested the City of Clovis to participate in the project since portions of the intersection are within the City Limits and in our sphere of influence.

To allow the project to proceed, a joint agreement was developed to outline agency roles and responsibilities, and insure fair disbursement of the CMAQ funds. Generally, the agreement indicates the City of Fresno is the lead agency to award and administer the contract. The City of Clovis will review the plans, perform environment studies, conduct right-of-way acquisition(s), issue permits, and perform inspections within the City of Clovis jurisdiction.

Traffic flow at the intersection is regulated by four-way stop signs. Orchards exist at the northeast and northwest corners, and an agri-business (P-R Farms) is located on the southwest corner. The southeast corner of the intersection has a rental house on the property. The house and water storage building are within the ultimate right-of-way configuration of the intersection. The property owner has indicated a desire to maintain the rental property. Tentative layout designs have been developed which allow the rental property to remain until the corner property is developed.

Fresno has Federal approval to begin design. Part of the design work is environmental documentation, which is currently underway. Staff is also in the process of hiring an engineering consultant to prepare construction documents for the project. Fresno has also applied for authorization to begin right-of-way acquisition. Right-of-way acquisition is expected to be completed within this fiscal year and construction in the 2007-2008 fiscal year.

The City of Fresno is the lead agency on the project. The Federal reimbursable funding for the project is provided to the City of Fresno. The joint agreement outlines the duties, responsibilities, and reimbursable cost for the project.

FISCAL IMPACT

The 2004 Federal Transportation Improvement Program (FTIP) shows the City of Fresno as the contracting agency to improve traffic operations and relieve congestion at the intersection of Shepherd and Willow Avenues. To accomplish these goals, Fresno proposes to install a traffic signal, median islands, curb returns with wheelchair ramps, and transition pavement. CMAQ funds in the amount of one million seven hundred seventy-nine thousand nine hundred dollars (\$1,779,900) has been set as the Federal participation amount. Clovis and Fresno will provide the local matching funds (totaling \$400,000) and any cost of the project that exceed the project estimated cost of two million one hundred seventy-nine thousand nine hundred (\$2,179,900).

Funding for this project is included in the FY 2007 budget.

DH/MTK/MWH/eam
Apprv Jt Agrmt btw Fresno-Clovis Re Willow-Shaw Imprv 072506

Attachments: Copy of Joint Agreement
Copy of Clovis Report to the City Council

1 **AGREEMENT**

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3 THIS AGREEMENT, made and entered into this ____ day of _____,
4 2006, by and between the City of Clovis, a municipal corporation, hereinafter called
5 CLOVIS, and the City of Fresno, a municipal corporation, hereinafter called FRESNO.

6 **RECITALS:**

7 WHEREAS, CLOVIS and FRESNO recognize the need for the installation of a new
8 traffic signal at the intersection of Willow Avenue and Shepherd Avenue through a street
9 construction project consistent with Congestion Mitigation and Air Quality (CMAQ) grant
10 funding (CMAQ 5060-116) incorporated herein, and

11 WHEREAS, the intersection of Willow Avenue and Shepherd Avenue is half within
12 the jurisdiction of FRESNO and half within the jurisdiction of CLOVIS; and

13 WHEREAS, CLOVIS and FRESNO, while maintaining their respective jurisdictions,
14 recognize it will be of mutual benefit to CLOVIS and FRESNO to efficiently perform the
15 work as one joint construction project, upon the terms and conditions set forth below.

16 NOW, THEREFORE, it is mutually agreed as follows:

17 **AGREEMENT:**

18 1. FRESNO and CLOVIS agree that the installation of a new traffic signal at the
19 intersection of Willow Avenue and Shepherd Avenue, shall be performed as a single
20 construction project to be administered by FRESNO, with CLOVIS to make certain
21 contributions toward the project, as set forth below and shown on the attached 'ROLES
22 AND RESPONSIBILITIES' list.

23 2. FRESNO shall provide to CLOVIS, for CLOVIS' review and approval,
24 appropriate plan information concerning that portion of work to be performed within
25 CLOVIS' area of jurisdiction. Staff cost for such review and approval shall be included in
26 the total project cost and subject to reimbursement from project funds.

27 3. Each of the parties hereto shall bear an agreed upon share of the cost of the
28 construction project as shown on the attached 'INTERSECTION IMPROVEMENT

1 PROJECT, SHEPHERD AND WILLOW AVENUES, ESTIMATED PROJECT COST.' Such
2 costs include, but are not limited to, design, right-of-way acquisition, construction, and
3 construction inspection services. The parties agree that under the 2004 Federal
4 Transportation Improvement Program (FTIP), also attached, the estimated cost for this
5 project is Two Million, One hundred Seventy Nine Thousand, Nine Hundred Dollars and
6 No/100 cents (\$2,179,900.00). Federal participation is One Million, Seven Hundred
7 Seventy Nine Thousand, Nine hundred Dollars and No/100 cents (\$1,779,900.00), and
8 each City's (both CLOVIS and FRESNO) share shall be Two hundred Thousand Dollars
9 and No/100 cents (\$200,000.00). CLOVIS' share shall be payable to FRESNO, upon
10 invoice, following project completion. Construction cost overruns shall be shared based
11 on pro-rated construction cost ratio (cost of work done within an agency's jurisdiction to
12 total project cost).

13 4. FRESNO shall furnish all design engineering, field inspection and testing as
14 necessary for performance of the construction project work. CLOVIS will provide periodic
15 inspection/construction coordination of work within CLOVIS' jurisdiction being performed by
16 FRESNO. Staff cost to provide such periodic inspection/construction coordination shall be
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19 project (National Environmental Policy Act (NEPA)). Both FRESNO and CLOVIS shall
20 provide the environmental documents/studies required within their jurisdictions (includes
21 but not limited to California Environmental Quality Act (CEQA)). Staff cost for such
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25 for all right-of-way to be acquired for the project. These legal descriptions and drawings
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27 appraisal(s) based on these approved legal descriptions. FRESNO shall review and
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5 CLOVIS within the scope of the CMAQ funds provided for right-of-way acquisition.
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7 Plans and within the Specifications for the project.

8 7. It is understood that both the Director of Public Works of FRESNO and the
9 City Engineer of CLOVIS shall jointly approve necessary changes to the plans and
10 specifications during construction of the project within CLOVIS' jurisdiction.

11 8. CLOVIS shall issue a "NO FEE" encroachment permit for that work done
12 within CLOVIS' area of jurisdiction. The contractor for the project shall apply for and obtain
13 the encroachment permit from CLOVIS. CLOVIS shall be reimbursed the cost of labor for
14 construction inspection/coordination from Federal funding allocated for construction. Staff
15 cost for such construction inspection/coordination shall be included in the total project cost
16 and subject to reimbursement from project funds.

17 9. FRESNO shall be the responsible agency for traffic signal timing and traffic
18 signal operations at this location. Both FRESNO and CLOVIS will share equally (50/50) in
19 any future maintenance cost (including, but not limited to, labor, materials, and utility cost).
20 This Section shall survive expiration or termination of this agreement.

21 10. FRESNO agrees to indemnify, save, hold harmless, and at CLOVIS' request,
22 defend CLOVIS, its officers, agents and employees from any and all costs and expenses,
23 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or
24 corporation who may be injured or damaged by the performance, or failure to perform, of
25 FRESNO, its officers, agents and employees, under this Agreement. This Section shall
26 survive expiration or termination of this Agreement.

27 11. CLOVIS agrees to indemnify, save, hold harmless, and at FRESNO's
28 request, defend, FRESNO, its officers, agents and employees from any and all costs and

1 expenses, damages, liabilities, claims, and losses occurring or resulting to any person,
2 firm, or corporation who may be injured or damaged by the performance, or failure to
3 perform, of CLOVIS, its officers, agents and employees, under this Agreement. This
4 Section shall survive expiration or termination of this Agreement.

5 12. The provisions of this Agreement are severable. The invalidity or
6 unenforceability of any one provision in this Agreement shall not affect the other provisions.

7 13. Each party acknowledges that it has read and fully understands the content
8 of this Agreement. This Agreement represents the entire and integrated agreement
9 between the parties with respect to the subject matter hereof and supersedes all prior
10 negotiations, representations or agreements, either written or oral. This Agreement may
11 be modified only by written instrument duly authorized and executed by both FRESNO and
12 CLOVIS.

13 14. Within sixty (60) calendar days following the completion and acceptance of
14 the project, FRESNO shall furnish to CLOVIS a set of AS-BUILT plans.

15 15. TERMINATION: This agreement shall remain in full force and effect until
16 amended by mutual consent of the parties hereto or terminated by mutual consent of the
17 parties, subject to and consistent with CMAQ grant requirements, and necessary approval
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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
2 and year first herein above written.

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CITY OF FRESNO:
(FRESNO)

CITY OF CLOVIS
(CLOVIS)

BY: _____
MIKE KIRN, PE, ASSISTANT DIRECTOR,
DEPARTMENT OF PUBLIC WORKS

BY: _____
STEVEN E. WHITE
CITY ENGINEER

APPROVED AS TO LEGAL FORM

REVIEWED AND RECOMMENDED FOR
APPROVAL

BY: _____
JAMES C. SANCHEZ,
INTERM CITY ATTORNEY

BY: _____
JOHN R. WRIGHT, PLANNING AND
DEVELOPMENT SERVICES DIRECTOR

APPROVED AS TO LEGAL FORM

ATTEST: REBECCA E. KLISCH
CITY CLERK

BY: _____
THOMAS J. RIGGS
CITY ATTORNEY

BY: _____



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AGENDA ITEM NO: CC-F2
City Manager: JW

- CITY OF CLOVIS - REPORT TO THE CITY COUNCIL

TO: Mayor and City Council
FROM: Planning and Development Services
DATE: May 1, 2006
SUBJECT: Approval – For the City Council to authorize the City Engineer to enter into an agreement with the City of Fresno for the improvement of the intersection of Shepherd Avenue and Willow Avenue

ATTACHMENTS: (A) Vicinity Map
(B) Copy of the Agreement

CONFLICT OF INTEREST

None.

RECOMMENDATION

For the City Council to authorize the City Engineer to execute an agreement on behalf of the City of Clovis, between the City of Fresno and the City of Clovis, for the installation of roadway improvements at the intersection of Shepherd Avenue and Willow Avenue.

EXECUTIVE SUMMARY

The City of Fresno applied for, and was awarded, federal funding under the Congestion Mitigation and Air Quality Program (CMAQ) to install traffic flow improvements at the intersection of Shepherd and Willow Avenues. The subject intersection is 50% within the City of Clovis Sphere of Influence (currently 25% within the Clovis city limits). The City of Fresno has requested the City of Clovis to participate in the project. The "Agreement" outlines duties and responsibilities of both agencies. The "Agreement" also contains language that Clovis' participation cost is subject to Federal reimbursement through the City of Fresno.

The City Engineer will execute the agreement between the cities on behalf of the City of Clovis and approve any changes to the plans and/or specifications for the project.

BACKGROUND

Shepherd Avenue between Clovis and Fresno is a two lane roadway for east and westbound traffic. Willow Avenue is a two lane roadway for north and southbound traffic. During peak hours, intersection congestion creates high levels of delays. The City of Fresno applied for, and was awarded, federal funding under the Congestion Mitigation and Air Quality Program (CMAQ) to install improvements at the intersection of Shepherd and Willow Avenues. These improvements include, but are not limited to, the installations of a traffic signal, median islands, curb returns with wheelchair ramps, and transition pavement. Fresno has requested the City of Clovis to participate in the project since portions of the intersection are within the city limits and in our sphere of influence.

To allow the project to proceed more smoothly, a joint agreement was developed to outline agency roles and responsibilities, and insure fair disbursement of the CMAQ funds. Generally, the agreement indicates the City of Fresno is the lead agency to award and administer the contract. The City of Clovis will review the plans, perform environmental studies, conduct right-of-way acquisition(s), issue permits, and perform inspections within the City of Clovis jurisdiction.

The southeast corner of the intersection has a rental house on the property. The house and water storage building are within the ultimate right-of-way configuration of the intersection. The property owner has indicated a desire to maintain the rental property. Tentative layout designs have been developed which allow the rental property to remain until the corner property is developed.

The City of Fresno has federal approval to begin design. Part of the design work is environmental documentation, which is currently ongoing. Staff has scheduled right-of-way acquisition to begin next fiscal year (2006-2007) and construction to occur the year after (2007-2008).

FISCAL IMPACT

The 2004 Federal Transportation Improvement Program (FTIP) shows the City of Fresno as the contracting agency to improve traffic operations and relieve congestion at the intersection of Shepherd and Willow Avenues. To accomplish these goals, Fresno proposes to install a traffic signal, median islands, curb returns with wheelchair ramps, and transition pavement. CMAQ funds in the amount of One million Seven hundred Seventy-Nine thousand Nine hundred dollars (\$1,779,900) have been set as the federal participation amount. Clovis and Fresno will provide the local matching funds, (\$200,000 from each agency), and fund any additional costs that exceed the project

estimated cost of Two million One hundred Seventy Nine thousand Nine hundred dollars (\$2,179,900).

Staff has included in the 2006-2007 Streets Community Improvement Program budget an item to cover the cost of this program. The work will be financed by CMAQ reimbursements from City of Fresno and Developer Trust Fees.

REASON FOR RECOMMENDATION

The City of Fresno is the lead agency on the project. The federal reimbursable funding for the project is provided to the City of Fresno. The joint agreement outlines the duties, responsibilities, and reimbursable cost for the project.

ACTIONS FOLLOWING APPROVAL

The joint agreement will be executed by the City Engineer. A copy of the fully executed agreement will be filed with the City Clerk.

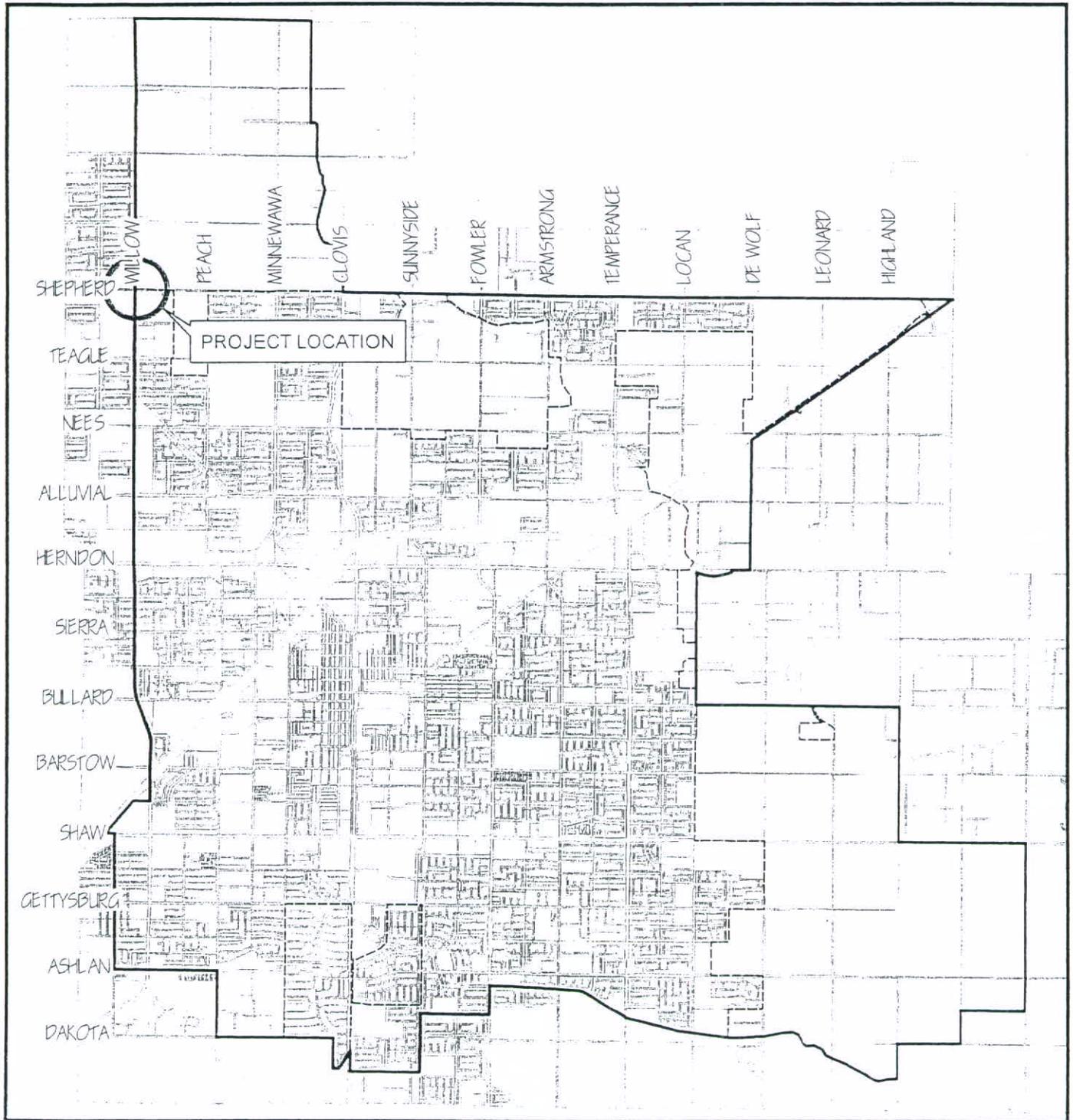
Prepared by:  Tim Barker, Assistant Engineer

Submitted by: _____
Steven E. White
City Engineer

Recommended by:  _____
John R. Wright, AICP
Director of Planning and
Development Services

VICINITY MAP

SHEPHERD / WILLOW INTERSECTION IMPROVEMENTS



APRIL 19, 2006

ATTACHMENT A

 CITY LIMITS

 SPHERE OF INFLUENCE



1" = 5500'

ATTACHMENT B

AGREEMENT

1
2
3 THIS AGREEMENT, made and entered into this ____ day of _____,
4 2006, by and between the City of Clovis, a municipal corporation, hereinafter called
5 CLOVIS, and the City of Fresno, a municipal corporation, hereinafter called FRESNO.

RECITALS:

6
7 WHEREAS, CLOVIS and FRESNO recognize the need for the installation of a new
8 traffic signal at the intersection of Willow Avenue and Shepherd Avenue through a street
9 construction project consistent with Congestion Mitigation and Air Quality (CMAQ) grant
10 funding (CMAQ 5060-116) incorporated herein, and

11 WHEREAS, the intersection of Willow Avenue and Shepherd Avenue is half within
12 the jurisdiction of FRESNO and half within the jurisdiction of CLOVIS; and

13 WHEREAS, CLOVIS and FRESNO, while maintaining their respective jurisdictions,
14 recognize it will be of mutual benefit to CLOVIS and FRESNO to efficiently perform the
15 work as one joint construction project, upon the terms and conditions set forth below.

16 NOW, THEREFORE, it is mutually agreed as follows:

AGREEMENT:

17
18 1. FRESNO and CLOVIS agree that the installation of a new traffic signal at the
19 intersection of Willow Avenue and Shepherd Avenue, shall be performed as a single
20 construction project to be administered by FRESNO, with CLOVIS to make certain
21 contributions toward the project, as set forth below and shown on the attached 'ROLES
22 AND RESPONSIBILITIES' list.

23 2. FRESNO shall provide to CLOVIS, for CLOVIS' review and approval,
24 appropriate plan information concerning that portion of work to be performed within
25 CLOVIS' area of jurisdiction. Staff cost for such review and approval shall be included in
26 the total project cost and subject to reimbursement from project funds.

27 3. Each of the parties hereto shall bear an agreed upon share of the cost of the
28 construction project as shown on the attached 'INTERSECTION IMPROVEMENT

1 PROJECT, SHEPHERD AND WILLOW AVENUES, ESTIMATED PROJECT COST.' Such
2 costs include, but are not limited to, design, right-of-way acquisition, construction, and
3 construction inspection services. The parties agree that under the 2004 Federal
4 Transportation Improvement Program (FTIP), also attached, the estimated cost for this
5 project is Two Million, One hundred Seventy Nine Thousand, Nine Hundred Dollars and
6 No/100 cents (\$2,179,900.00). Federal participation is One Million, Seven Hundred
7 Seventy Nine Thousand, Nine hundred Dollars and No/100 cents (\$1,779,900.00), and
8 each City's (both CLOVIS and FRESNO) share shall be Two hundred Thousand Dollars
9 and No/100 cents (\$200,000.00). CLOVIS' share shall be payable to FRESNO, upon
10 invoice, following project completion. Construction cost overruns shall be shared based
11 on pro-rated construction cost ratio (cost of work done within an agency's jurisdiction to
12 total project cost).

13 4. FRESNO shall furnish all design engineering, field inspection and testing as
14 necessary for performance of the construction project work. CLOVIS will provide periodic
15 inspection/construction coordination of work within CLOVIS' jurisdiction being performed by
16 FRESNO. Staff cost to provide such periodic inspection/construction coordination shall be
17 included in the total project cost and subject to reimbursement from project funds.

18 5. FRESNO shall provide the environmental documents/studies required for the
19 project (National Environmental Policy Act (NEPA)). Both FRESNO and CLOVIS shall
20 provide the environmental documents/studies required within their jurisdictions (includes
21 but not limited to California Environmental Quality Act (CEQA)). Staff cost for such
22 environmental documents/studies shall be included in the total project cost and subject to
23 reimbursement from project funds.

24 6. The design engineer (FRESNO) shall furnish legal descriptions and drawings
25 for all right-of-way to be acquired for the project. These legal descriptions and drawings
26 shall be approved by both FRESNO and CLOVIS. CLOVIS shall acquire property
27 appraisal(s) based on these approved legal descriptions. FRESNO shall review and
28 approve these property appraisal(s). CLOVIS will conduct all right-of-way negotiations with

1 property owner(s), complete property acquisition(s), and open escrow with a title company.
2 Both FRESNO and CLOVIS shall deposit payment(s) with the title company in the amount
3 agreed upon in the purchase contract(s) for the right-of-way purchased within their
4 jurisdictions. Such payment(s) are subject to prorata reimbursement to FRESNO and
5 CLOVIS within the scope of the CMAQ funds provided for right-of-way acquisition.
6 Improvements (or work items) required by the purchase contract(s) shall be included on the
7 Plans and within the Specifications for the project.

8 7. It is understood that both the Director of Public Works of FRESNO and the
9 City Engineer of CLOVIS shall jointly approve necessary changes to the plans and
10 specifications during construction of the project within CLOVIS' jurisdiction.

11 8. CLOVIS shall issue a "NO FEE" encroachment permit for that work done
12 within CLOVIS' area of jurisdiction. The contractor for the project shall apply for and obtain
13 the encroachment permit from CLOVIS. CLOVIS shall be reimbursed the cost of labor for
14 construction inspection/coordination from Federal funding allocated for construction. Staff
15 cost for such construction inspection/coordination shall be included in the total project cost
16 and subject to reimbursement from project funds.

17 9. FRESNO shall be the responsible agency for traffic signal timing and traffic
18 signal operations at this location. Both FRESNO and CLOVIS will share equally (50/50) in
19 any future maintenance cost (including, but not limited to, labor, materials, and utility cost).
20 This Section shall survive expiration or termination of this agreement.

21 10. FRESNO agrees to indemnify, save, hold harmless, and at CLOVIS' request,
22 defend CLOVIS, its officers, agents and employees from any and all costs and expenses,
23 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or
24 corporation who may be injured or damaged by the performance, or failure to perform, of
25 FRESNO, its officers, agents and employees, under this Agreement. This Section shall
26 survive expiration or termination of this Agreement.

27 11. CLOVIS agrees to indemnify, save, hold harmless, and at FRESNO's
28 request, defend, FRESNO, its officers, agents and employees from any and all costs and

1 expenses, damages, liabilities, claims, and losses occurring or resulting to any person,
2 firm, or corporation who may be injured or damaged by the performance, or failure to
3 perform, of CLOVIS, its officers, agents and employees, under this Agreement. This
4 Section shall survive expiration or termination of this Agreement.

5 12. The provisions of this Agreement are severable. The invalidity or
6 unenforceability of any one provision in this Agreement shall not affect the other provisions.

7 13. Each party acknowledges that it has read and fully understands the content
8 of this Agreement. This Agreement represents the entire and integrated agreement
9 between the parties with respect to the subject matter hereof and supersedes all prior
10 negotiations, representations or agreements, either written or oral. This Agreement may
11 be modified only by written instrument duly authorized and executed by both FRESNO and
12 CLOVIS.

13 14. Within sixty (60) calendar days following the completion and acceptance of
14 the project, FRESNO shall furnish to CLOVIS a set of AS-BUILT plans.

15 15. TERMINATION: This agreement shall remain in full force and effect until
16 amended by mutual consent of the parties hereto or terminated by mutual consent of the
17 parties, subject to and consistent with CMAQ grant requirements, and necessary approval
18 from COG.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
2 and year first herein above written.

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CITY OF FRESNO:
(FRESNO)

CITY OF CLOVIS
(CLOVIS)

BY: _____
MIKE KIRN, PE, ASSISTANT DIRECTOR,
DEPARTMENT OF PUBLIC WORKS

BY: _____
STEVEN E. WHITE
CITY ENGINEER

APPROVED AS TO LEGAL FORM

REVIEWED AND RECOMMENDED FOR
APPROVAL

BY: _____
JAMES C. SANCHEZ,
INTERM CITY ATTORNEY

BY: _____
JOHN R. WRIGHT, PLANNING AND
DEVELOPMENT SERVICES DIRECTOR

APPROVED AS TO LEGAL FORM

ATTEST: REBECCA E. KLISCH
CITY CLERK

BY: _____

BY: _____
THOMAS J. RIGGS
CITY ATTORNEY

SHEPHERD / WILLOW CMAQ PROJECT SIGNALIZATION AND WIDENING

ROLES AND RESPONSIBILITIES

General	Clovis	Fresno
Lead agency with COG and Caltrans Local Assistance (i.e. FTIP, E-76's, Award Pkg., Invoicing to Caltrans Local Programs Accounting, Obligation Plan, Close-out, etc)		X
All property owner contacts	X	
Prepare cooperative agreement (funding, construction, future maintenance, etc., plus Clovis being authorized to act on Fresno's behalf in R/W acquisition)		X
Review and execute cooperative agreement	X	X
Cooperative agreement approval by Council(s)	X	X
Submit invoices to Fresno for cost incurred	X	
Reimburse Clovis, based on invoice cost for allowable reimbursable work done, from project funds		X
Environmental		
CEQA documents for each jurisdiction	X	X
NEPA / PES		X
Engineering Design		
Topo Survey		X
Preliminary ultimate layout of improvements	X	
Prepare geometric approval drawing including transitions using actual topo		X
Prepare roadway & signal plans		X
Review plans at 30%, 60%, 90%, and 100%	X	X
Right-of-Way		
Obtain preliminary title reports	X	
Provide CAD drawing of existing and proposed R/W		X
Prepare deed drawings in each jurisdiction	X	X
Hire an appraiser	X	
Review appraisals	X	X
Prepare offer letter & handle all R/W negotiations	X	
Council item to acquire street easements	X	X
Advertise & Award Project		
Advertise Notice Inviting Bids		X
Accept and Open Bids		X
Award Bid		X
Inspection & Contract Administration		
Overall contract administration & hiring of testing lab		X
Overall project inspection		X
Construction staking		X
Jurisdictional inspection / coordination between agencies	X	X

**INTERSECTION IMPROVEMENT PROJECT
SHEPHERD AND WILLOW AVENUES
ESTIMATED PROJECT COST**

Listed below are the estimated project cost to provide:

- a. Right-of-Way Acquisition,
- b. Traffic Signal,
- c. Street Improvements,
- d. Construction Management, and
- e. Environmental reviews/approvals

From the 2004 Federal Transportation Improvement Program:
(Local Match is 11.47% shared between both Fresno and Clovis)

	TOTAL COST	FEDERAL PARTICIPATION	CLOVIS MATCH	FRESNO MATCH
*Preliminary Engineering Cost:	131,700.00	107,533.74	12,083.13	12,083.13
Right-of-Way Cost:	398,800.00	325,622.34	36,588.83	36,588.83
**Construction and Construction Management:	1,649,400.00	1,346,743.92	151,328.04	151,328.04
TOTALS	2,179,900.00	1,779,900.00	200,000.00	200,000.00

Notes:

- * Including environmental review / reports cost.
- ** Including construction related environmental mitigation measures.

Council of Fresno County Governments 2004 Federal Transportation Improvement Program
 San Joaquin Format (Highest Official)

Agency	Project Description	PE	RW	Const	Total	515,600	478,100	108,800	45,200	51,700	Cost/Scope/Sch. Change
FRE020128 AGENCY/CMAQ 5 01 Fresno, City of	In Fresno - AI Intersection of Clinton and West Avenues - Install Traffic Flow Improvements Including Dual EB & WB Left-Turn Lanes and Protected Left Phasing EB & WB. ITS number \$ 635,500 FTIP Amend 2 00 20300000188	47,900	72,000		119,900	515,600	478,100	108,800	45,200	51,700	Version 5 - 03/24/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Version 2 - 06/11/2002 Prior 13,800 Current 59,100 456,500
FRE020129 CMAQ/AGENCY 3 02 Fresno, City of	In Fresno - Lump-Sum Bicycle Facilities Including Lanes, Racks, Traffic Control Devices to Assist Bicyclist - On Major streets Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 745,500 FTIP Amend 2 00 20300000223	16,700			16,700	45,000	478,100	108,800	45,200	51,700	Version 5 - 03/24/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Version 2 - 06/11/2002 Prior Current 65,500 600,000
FRE020130 CMAQ/AGENCY 5 07 Fresno, City of	In Fresno - Lump-Sum Traffic Signal Synchronization Facilities. Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 1,256,500 FTIP Amend 5 00 20300000224	500,000		256,500	756,500	500,000					Version 5 - 05/26/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Version 2 - 06/11/2002 Prior 29,400 Current 114,700 865,300
FRE020132 CMAQ/AGENCY 3 02 Fresno, City of	In Fresno - Lump-Sum Construction of Grade Crossings Along Bike and Pedestrian Trails \$ 882,300 FTIP Amend 2 00 20300000226	110,100			110,100	782,200					Version 5 - 03/24/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Version 2 - 06/11/2002 Prior Current 102,300 790,000
FRE020133 AGENCY/CMAQ 3 02 Fresno, City of	In Fresno - Lump-Sum Construction of New Trails to Serve Fresno/Clovis Metropolitan Area Trail System. Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 451,000 FTIP Amend 1 00 20300000227	75,800	1,000		76,800	375,000					Version 6 - 06/13/2005 Version 5 - 03/24/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Prior Current 51,800 400,000
FRE020134 CMAQ/AGENCY 3 02 Fresno, City of	In Fresno - Lump-Sum Pedestrian Facilities to Include Sidewalks and Signal Upgrades for Pedestrians Consistent with 40 CFR part 93.126, 127, 128, exempt tables 2&3. \$ 647,400 FTIP Amend 2 00 20300000228	20,000			20,000	100,000	203,300	51,100	32,400	214,600	Version 5 - 03/24/2005 Version 4 - 06/15/2004 Version 3 - 07/03/2003 Version 2 - 06/11/2002 Prior Current 74,300 573,100
FRE040105 CMAQ/AGENCY 5 02 Fresno, City of	Improve traffic operations and relieve congestion at intersection of Willow and Shepherd Ave. Install traffic signal and modify approaches. Install median noses, curb returns with wheelchair ramps. \$ 2,176,900 FTIP Amend 2 00 20300000312	131,700			131,700	398,800		1,849,400			New Project Version 1 - 03/22/2005 Prior Current 400,000 1,779,900

July 26, 2006

Council Adoption: 07/25/06
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ALAN AUTRY
FROM: REBECCA E. KLISCH, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 07/25/06, Council took legislative action entitled **Appve jt agrmnt w/Clovis, construction of intersection impvmnts at Willow/Shepherd**, Item No. **1F** , by the following vote:

Ayes : Boyajian, Calhoun, Dages, Sterling, Duncan
Noes : None
Absent : Perea, Westerlund
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before August 7, 2006. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Alan Autry, Mayor

Date: _____

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :