# CITY OF EMERYVILLE



# **MEMORANDUM**

DATE: December 4, 2012

TO: Patrick O'Keeffe, City Manager

FROM: Administrative Services Department

**Finance Division** 

SUBJECT: Resolution of the City Council of the City of Emeryville Approving

the Traffic Facilities Impact Fee Program Report for the City of

**Emeryville through June 30, 2012** 

#### RECOMMENDATION

It is recommended that the City Council approve the attached resolution to accept the Traffic Facilities Impact Fee Program Report through June 30, 2012, as supplemented by the Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2012 attached as Exhibit "A" to the Resolution.

# **BACKGROUND**

As required by law, the City is required to review its traffic impact fee on an annual basis. California Government Code Section 66000 *et.seq.* (the "Mitigation Fee Act") requires each local agency to make public a report on developer fees within 180 days of the close of each year. The report is to include fee descriptions collected from developers, the amount of the fee, the beginning and ending balance of the account or fund and the amount of fees collected and the interest earned. The Mitigation Fee Act also requires each local agency to review the report at a public meeting not less than 15 days after the information is made available to the public.

The report relative to the Traffic Facilities Impact Fee Program ending June 30, 2012 (the "Report") was made available to the public as part of the agenda for the November 20, 2012 regular meeting of the City Council. A copy of the November 20, 2012 Report is Attachment 3 to this staff report. In accordance with the Mitigation Fee Act, the purpose of this item is to allow for public review and comment on the Report at a public meeting.

# TRAFFIC FACILITIES IMPACT FEE PROGRAM REPORT

Attached as Exhibit "A" to the enclosed Resolution (Attachment 1) is a Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2012. This spreadsheet shows that since the beginning of FY 1999 (i.e. July 1, 1998) through the end of FY 2012 (i.e. June 30, 2012) the City of Emeryville has collected revenues totaling \$6,327,550, and deposited them in the Traffic Impact Fee Fund. The \$6,327,550 is broken down as follows: \$5,709,270 of traffic impact fees, \$656,495 of interest earnings, less \$275,197 of "net" reimbursements paid out to private developers for their contribution to specific improvements required as mitigation for project specific impacts, plus \$236,982 from the General Fund to subsidize the preparation of an update to the Traffic Facilities Impact Fee Program<sup>1</sup>.

With these monies, the City has expended \$5,946,226 to complete improvements identified in the Traffic Facilities Impact Fee Program adopted by the City Council pursuant to Resolution No. 98-167. Accordingly, the Traffic Impact Fee Fund has a remaining fund balance of \$381,325 as of June 30, 2012.

Traffic Impact Fee Program Activities From 7/1/98 to 6/30/12	Amount
Traffic impact fees	\$5,709,270
Interest earnings	656,495
"Net" reimbursements to private developers	
for their contribution to specific improvements	(275,196)
General Fund subsidy for update to the	236,982
Traffic Facilities Impact Fee Program	
Sub-total	6,327,550
Completed improvements identified in the	
Traffic Facilities Impact Fee Program	<u>(5,946,226)</u>
Ending Balance at June 30, 2012	\$381,325

The improvements provided for in the Traffic Facilities Impact Fee Program are more particularly depicted and described in Figures A-K, Appendix B to the Traffic Facilities Impact Fee Program, copies of which are included in Attachment 3 to this staff report. Completed improvements include Figures A (65<sup>th</sup> Street Traffic Signal), C, D and E (Shellmound Loop and Shellmound Corridor Improvements/Intersection Modifications/Signal Timing/Striping), F (Horton Street Extension), G (Powell/Hollis Intersection Improvements), H (Hollis Street Signal Interconnect) and J (40<sup>th</sup> Street Signal Interconnect).

<sup>1</sup> Fehr & Peers is currently in the process of updating the Traffic Facilities Impact Fee Program. The update will identify the traffic facility impacts of contemplated future development, the need for new public facilities and improvements and the costs of implementing the recommended traffic improvements, with an emphasis to provide facilities for all modes of transportation (pedestrian, bicycle, transit and automobile), as called for in General Plan. It is anticipated that the study will be presented to the City Council at a study session in February 2013.

Traffic Facilities Impact Fee Program Report through June 30, 2012 December 4, 2012 Page 3 of 3

Improvements that have not been completed include Figures B (Powell Street & I-80 Eastbound off-ramp), K (40<sup>th</sup> Street and San Pablo Avenue Widening), and I (40<sup>th</sup> Street and Horton Street Intersection Modifications). Preliminary information from the study update being conducted by Fehr & Peers indicates that the improvement identified in Figure K (40<sup>th</sup> Street and San Pablo Avenue Widening) may be removed from the future Traffic Facilities Impact Fee Program. Improvements identified in Figures B (Powell Street & I-80 Eastbound off-ramp) and I (40<sup>th</sup> Street and Horton Street Intersection Modifications) will likely be retained and modified in the future program. Specifically, the off-ramp widening would be modified to accommodate a future bus stop as called for in the Powell Street Urban Design Plan and not for a second right turn lane, and the 40<sup>th</sup>/Horton intersection improvements would be modified to eliminate any roadway widening.

#### RECOMMENDATION

It is recommended that the City Council approve the attached resolution to accept the Traffic Facilities Impact Fee Program Report through June 30, 2012, as supplemented by the Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2012 attached as Exhibit "A" to the Resolution.

# Submitted by:

Michelle Strawson O'Hara Accounting Supervisor

Debra Auker
Director of Administrative Services

APPROVED AND FORWARDED TO THE CITY COUNCIL BY:

Patrick O'F Step Manager

#### Attachments:

- 1. Resolution Approving Traffic Facilities Impact Fee Program Report Through June 30, 2012
- 2. Exhibit A: City of Emeryville Traffic Impact Fee Fund Revenues & Expenditures through June 30, 2012
- 3. Attachment 3: November 20, 2012 Report Re: Traffic Facilities Impact Fee Program ending June 30, 2012 including Table 7 and Appendix B of City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, adopted October 6, 1998 by Resolution No. 98-167.

#### **RESOLUTION NO. 12-213**

# RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE APPROVING THE TRAFFIC FACILITIES IMPACT FEE PROGRAM REPORT FOR THE CITY OF EMERYVILLE THROUGH JUNE 30, 2012

**WHEREAS**, the City Council of the City of Emeryville adopted Ordinance No. 90-8, thereby creating and establishing the authority for imposing and collecting a Traffic Facilities Impact Fee ("Impact Fee") to be deposited in the Traffic Facilities Impact Fee Fund ("Impact Fee Fund"); and

WHEREAS, pursuant to that authority, the City Council adopted Resolution No. 98-167 on October 6, 1998, imposing an Impact Fee on all new development within the City of Emeryville in order to help fund approximately \$11,552,400 worth of traffic facility improvements for eleven (11) different traffic facility improvement projects, as more particularly described in the City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, attached as Exhibit A to Resolution No. 98-167 (the "Fee Study"); and

WHEREAS, attached hereto as Exhibit A is a Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2012, which provides the necessary information required by California Government Code Section 66000, et.seq. (the "Traffic Facilities Impact Fee Program Report"); and

**WHEREAS**, the Traffic Facilities Impact Fee Report was made available to the public at the regular meeting of the City Council of the City of Emeryville held on Tuesday November 20, 2012, and available for public comment at a properly noticed public meeting held on Tuesday, December 4, 2012; and

WHEREAS, the improvements provided for in the Traffic Facilities Impact Fee Program are more particularly depicted and described in Figures A-K, Appendix B to the Traffic Facilities Impact Fee Program; completed improvements include Figures A (65<sup>th</sup> Street Traffic Signal), C, D and E (Shellmound Loop and Shellmound Corridor Improvements/Intersection Modifications/Signal Timing/Striping), F (Horton Street Extension), G (Powell/Hollis Intersection Improvements), H (Hollis Street Signal Interconnect); and

**WHEREAS,** the improvements that have not been completed include Figures B (Powell Street & I-80 Eastbound off-ramp), K (40<sup>th</sup> Street and San Pablo Avenue Widening), and I (40<sup>th</sup> Street and Horton Street Intersection Modifications); and be it

Resolution # **12–213**Traffic Facilities Impact Fee Report Page 2 of 2

**RESOLVED,** that the City Council of the City of Emeryville, after considering the public comment, the Traffic Facilities Impact Fee Program Report dated November 20, 2012, as well as the staff report dated December 4, 2012, does hereby approve the Traffic Facilities Impact Fee Program Report dated November 20, 2012, as supplemented by the Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2012, attached hereto as Exhibit A.

**ADOPTED,** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, December 4, 2012:

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

**CITY ATTORNEY** 

# **CITY OF EMERYVILLE**



# **MEMORANDUM**

**DATE:** November 20, 2012

TO: Patrick O'Keeffe, City Manager

FROM: Administrative Services Department

**Finance Division** 

**SUBJECT: Traffic Mitigation Fee Report – Fiscal Year 2011-2012** 

Section 66000 *et. seq.* of the California Government Code (the "Mitigation Fee Act") requires each local agency to make public a report on developer fees within 180 days of the close of each year. The Mitigation Fee Act also requires each local agency to review the report at a public meeting not less than 15 days after the information is made available to the public. The purpose of this item is to comply with this reporting requirement relative to the City of Emeryville Traffic Impact Fee for fiscal year 2011-2012.

# **Requested Action**

No action is requested at this time as this report is required to be available to the public at least 15 days prior to City Council action. The report is provided as an informational item, it has been available to the public since November 16, 2012, and will be brought back for City Council approval at the December 4, 2012 meeting.

# **Background**

In 1989 the Legislature passed the Mitigation Fee Act which added Section 66000 *et.seq.* to the California Government Code. This legislation added a new chapter on fees imposed on development projects and sets forth a number of requirements that local agencies must follow if they are to exact fees from developers to defray the cost of the construction of public facilities related to development projects.

In 1990 the City of Emeryville adopted Ordinance No. 90-8 to create and establish the authority for imposing and charging a Traffic Facilities Impact Fee (the "Traffic Impact Fee") to be deposited in the Traffic Facilities Impact Fee Fund (the "TIF Fund"). Thereafter, the City adopted a Traffic Mitigation Fee Study (the "Fee Study"), last amended by Resolution No. 98-167 adopted October 6, 1998, which established the existence of a reasonable relationship between the need for the public facilities and the impacts of the types of development described in the Fee Study for which the Impact Fee is charged and that there is a reasonable relationship between the Traffic Impact Fee's use and the type of development for which the Traffic Impact Fees are charged.

# **Discussion**

As noted above, the City of Emeryville collects Traffic Impact Fees that are subject to the reporting requirements of the Mitigation Fee Act. Reporting requirements relative to mitigation fees that the local agency must adhere to are as follows:

1. Create separate capital facilities funds or accounts for each improvement funded with impact fees (Government code Section 66006(a)).

As noted, with Ordinance No. 90-8, the City established the TIF Fund into which Traffic Impact Fees are deposited and accounted for. A spreadsheet detailing TIF Fund revenues and expenditures for the period of July 1, 2007 through June 30, 2012 is attached hereto. It should be further noted that capital improvements identified in the Fee Study are also identified in the City's Five Year Capital Improvement Program and separate project accounts are established by the Finance Division for each such improvement in order to properly account for project costs and funding sources.

2. Remit all interest income earned by the fees to the same fund; interest income must be spent solely on the purpose for which the fee was originally collected (Section 66006(a)).

Please refer to the attached spreadsheet detailing TIF Fund activities.

- 3. Within 180 days after the close of the year, prepare a public report concerning each impact fee fund. The City of Emeryville only maintains one impact fee for traffic facilities. Such report must include (i) a brief description of the type of fee in the account, (ii) the amount of the fee, (iii) the fund's beginning and ending balance for the fiscal year, (iv) amount of fees collected and interest earned and deposited into the fund for the fiscal year, (v) a description of each expenditure from the fund for that year, including identification of the improvement being funded and the percentage of the cost of the public improvement that was funded with the fee, (vi) an identification of the date by which construction of a public improvement will commence if the City determines that sufficient funds have been collected to complete financing on any incomplete project, (vii) a description of any interfund transfers or loans, and (viii) identification of any fees to be refunded (Section 66001(2.a)).
  - (i) As discussed above, the type of fee in the TIF Fund account is for financing traffic facilities that are needed to mitigate the impacts of residential, commercial and industrial development, which fees are established upon issuance of a building permit and collected from such development projects upon issuance of a certificate of occupancy.
  - (ii) The amount of the Traffic Impact Fee is set forth in greater detail as to particular types of uses in Table 7 of the Fee Study, a copy of which is attached to this report and incorporated herein as if set forth in full. Present exemplars of the Traffic Impact Fee are \$972 per live-work unit; \$819 per single family dwelling unit; \$438 per unit for multi-family dwelling developments; \$3,523 per 1000 square feet of general retail developments that are less than 100,000 square feet; \$1,968 per 1000 square feet of office development that are less than 100,000 square feet; and \$730 per 1000 square feet of light industrial

- development.
- (iii) Again, please refer to the attached spreadsheet detailing TIF Fund activities. The beginning balance on July 1, 2011 was \$351,864 and the ending balance on June 30, 2012 was \$381,325.
- (iv) Again, please refer to the attached spreadsheet detailing TIF Fund activities under the heading of "REVENUE". The amount of Traffic Impact Fees collected from July 1, 2011 through June 30, 2012 and deposited into the TIF Fund was \$99,062 and the amount of interest earned and deposited into the TIF Fund was \$3,917. There were no reimbursements to private developers for their contribution to specific improvements required as mitigation for project specific impacts between July 1, 2011 and June 30, 2012.
- (v) Again, please refer to the attached spreadsheet detailing TIF Fund activities under the heading of "EXPENDITURES".
- (vi) While the TIF Fund shows a balance of \$381,325, future development is still under review pending the results of the Traffic Impact Fee Program Study in spring 2013.
- 4. The report is required to be reviewed by the City at a regularly scheduled public meeting not less than 15 days after the report is released to the public (Section 66006(b)(2)).

This report is being released to the public with the agenda for the November 20, 2012 regular meeting of the City Council on November 16, 2012 and is scheduled for approval by the City Council at its regularly scheduled meeting on December 4, 2012.

5. For the 5<sup>th</sup> fiscal year following the first deposit of Traffic Impact Fees into the TIF Fund, and every five years thereafter, if fees remain unexpended, the local agency must make findings identifying the purpose to which the fee is to be put, demonstrate that there remains a reasonable relationship between the current need for the fees and the purpose for which it is charged, identify all sources and amounts of funding contemplated to complete financing of incomplete improvements, and designate the approximate dates on which the contemplated funding is expected to be deposited into the TIF Fund (Section 66001(d)).

The first deposit of Traffic Impact Fees into the TIF Fund occurred in January 1995. The fifth fiscal year following that first deposit was the fiscal year of 2000/2001; the next five year cycle was the fiscal year of 2005/2006, and then the next five year cycle was the fiscal year of 2010/2011. An update to the Traffic Mitigation Fee Study (last amended by Resolution 98-167, adopted October 6, 1998) is underway and expected to be completed in the spring of 2013.

6. Refund to current owner of the development project or projects any fees, with accrued interest, for which continued need cannot be demonstrated (Section 66001(e)).

There are no funds in the TIF Fund to be refunded for projects which are no longer needed.

7. A local agency must not co-mingle fees with any other revenue, except for temporary investment purposes (Section 66006(a)).

Traffic Mitigation Fee Report November 20, 2012 Page 4

No Traffic Impact Fees are co-mingled with any other revenues of the City and are deposited and maintained in a separate fund, designated as the Traffic Facilities Impact Fee Fund.

# **Fiscal Impact**

This report is for information purposes. There is no fiscal impact.

# Submitted by:

Michelle Strawson O'Hara Accounting Supervisor

Debra Auker
Director of Administrative Services

# APPROVED AND FORWARDED TO THE CITY COUNCIL BY:

Patrick O'Keeffe City Manager

# Attachments:

- 1. Exhibit A: Traffic Impact Fee Fund Revenues & Expenditure Report FY07 to FY12
- 2. Table 7 of Traffic Mitigation Fee Study adopted October 6, 1998 by Resolution No. 98-167
- 3. Appendix B of Traffic Mitigation Fee Study adopted October 6, 1998 by Resolution No. 98-167

# **EXHIBIT A**

### City of Emeryville Traffic Impact Fee Fund Revenues & Expenditures Through June 30, 2012

REVENUE:	FY07	FY08	FY09	FY10	FY11	FY12	Total FY92-FY12
Traffic Impact Fees	578,191	216,298	149,311	356,440	8,366	99,062	5,709,270
Interest	74,990	108,459	82,459	27,025	4,012	3,917	656,495
Reimbursements	689,138	-	(439,673)	(2,583,363)	-		(275,197)
General Fund Subsidy for New Study					236,982		236,982
	<u> </u>						<u> </u>
Total	1,342,319	324,757	(207,903)	(2,199,898)	249,359	102,978	6,327,550

#### **EXPENDITURES:**

			•				
Powell St & I-80 E Off Ramp (Figure B)							34,959
Update Traffic Impact Fee Study					29,113	70,459	154,560
Shellmound Loop Improvements (Figure C, D)							1,967,995
Powell/Hollis Intersection Improvements (Figure G)							185,559
Hollis St Interconnect (Figure H)							73,049
Shellmound Signal Timing (Figure C, D)							142,984
40th Street Signal Design (Figure J)							17,403
40th & SPA Widening (Figure K)							7,965
Shellmound Street Striping (Figure C, D)							8,512
Horton Street Extension (Figure F)							2,047,791
65th Street Traffic Signal (Figure A)	679,043						1,225,898
Powell Streetscape Design			17,420	37,567	21,507	3,058	79,552
		•	•	*	•	•	•
Total	679,043	-	17,420	37,567	50,620	73,517	5,946,226
Revenues Over/(Under) Expenditures	663,276	324,757	(225,323)	(2,237,464)	198,739	29,461	381,325
Beginning Fund Balance, July 1	1,627,878	2,291,154	2,615,912	2,390,589	153,124	351,864	-
Ending Fund Balance, June 30	2,291,154	2,615,912	2,390,589	153,124	351,864	381,325	381,325

(References to Figures A, C, D, F, G, H, J and K above are those figures which are attached as Appendix B to the City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, adopted by the City Council pursuant to Resolution No. 98-167)

Table 7
Traffic Impact Fee Allocation

Land Use	ITE Land Use	ITE PM Peak Hour Rate	% Primary Trips <sup>7</sup>	% Diverted & Pass-by Trips <sup>7</sup>		Proposed Traffic Fee <sup>8</sup>	
Residential (per dwelling unit)							
Single-Family	210	1.01	86%	14%	\$	819	
Multi-Family	230	0.54	86%	14%	\$	438	
Apartment	220	0.62	86%	14%	\$	503	
Office (per 1,000 sq. feet) Standard Office							
Less Than 100,000 sq. feet	710	2.71	77%	23%	\$	1,968	
100,000 to 500,000 sq. feet <sup>2</sup>	710	1.39	77%	23%	\$	1,010	
Greater Than 500,000 sq. feet <sup>3</sup>	710	1.23	77%	23%	\$	895	
Corporate Headquarters Building	714	1.39	77%	23%	\$	1,010	
Medical Office	720	3.66	60%	40%	\$	2,071	
Hospital	610	0.92	73%	27%	\$	633	
Research & Development Center	760	1.08	77%	23%	\$	784	
Retail/Commercial (per 1,000 sq. feet) General Retail		·		i			
Less Than 100,000 sq. feet <sup>4</sup>	820	7.95	47%	53%	\$	3,523	
100,000 to 300,000 sq. feet <sup>5</sup>	820	4.96	47%	53%	\$	2,199	
Greater Than 300,000 sq. feet <sup>6</sup>	820	3.63	54%	46%	S	1,850	
Restaurant (per 1,000 sq. feet)						1,000	
Quality	831	7.49	51%	49%	\$	3,603	
High Turnover	832	10.86	51%	49%	\$	5,224	
Fast Food	833	26.15	51%	49%	\$	12,579	
Fast Food with Drive-Thru	834	33.48	51%	49%	\$	16,105	
Service Station (per pump)	844	14.56	21%	79%	\$	2,884	
Self-Service Car Wash (per stall)	847	5.79	46%	54%	\$	2,512	
Supermarket	850	11.51	46%	54%	\$	4,994	
Convenience Market	851	53.73	46%	54%	\$	23,312	
Hotel (per room)	310	0.61	58%	42%	\$	334	
Bank	911	42.02	35%	65%	\$	13,872	

# Table 7 (Continued) Traffic Impact Fee Allocation

Land Use  Manufacturing (per 1,000 sq. feet)	ITE Land Use	ITE PM Peak Hour Rate	% Primary Trips <sup>7</sup>	% Diverted & Pass-by Trips <sup>7</sup>	Proposed Traffic Fee
Light Industry  Manufacturing  Warehousing  Industrial Park	110	0.98	79%	21%	\$ 736
	140	0.74	79%	21%	\$ 55
	150	0.51	79%	21%	\$ 386
	130	0.92	79%	21%	\$ 686
Other (per 1,000 sq. feet) Movie Theatre Tennis Court (per court) Health Club Day Care Center Nursing Home	444	3.8	66%	34%	\$ 2,366
	491	3.88	46%	54%	\$ 1,683
	493	4.3	46%	54%	\$ 1,866
	565	13.2	46%	54%	\$ 5,727
	620	0.36	46%	54%	\$ 156
<b>Live Work</b> (per unit) Live Work <sup>9</sup>		1.03	100%		\$ 972

Note: Retail and commercial developments less than 4,999 square feet shall be evaluated on a case-by-case basis in a manner approved by the Planning Director for the City of Emeryville.

- 1. Based on Average Rate of 50,000 sq. feet
- 2. Based on Average Rate of 300,000 sq. feet
- 3. Based on Average Rate of 700,000 sq. feet
- 4. Based on Average Rate of 50,000 sq. feet
- 5. Based on Average Rate of 200,000 sq. feet
- 6. Based on Average Rate of 500,000 sq. feet
- 7. Source: San Diego Association of Governments, 1996.
- 8. Based on a unit cost of \$ 943.24 per peak hour trip
- 9. Based on Emeryville Traffic Impact Fee Analysis Final Report, 1996 prepared by Korve Engineering, Inc.

APPENDIX B
ROADWAY IMPROVEMENT PROJECTS

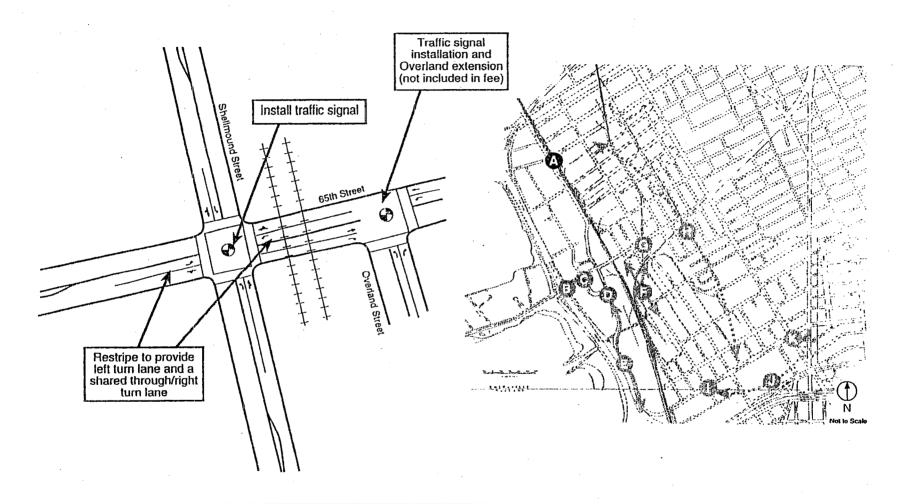
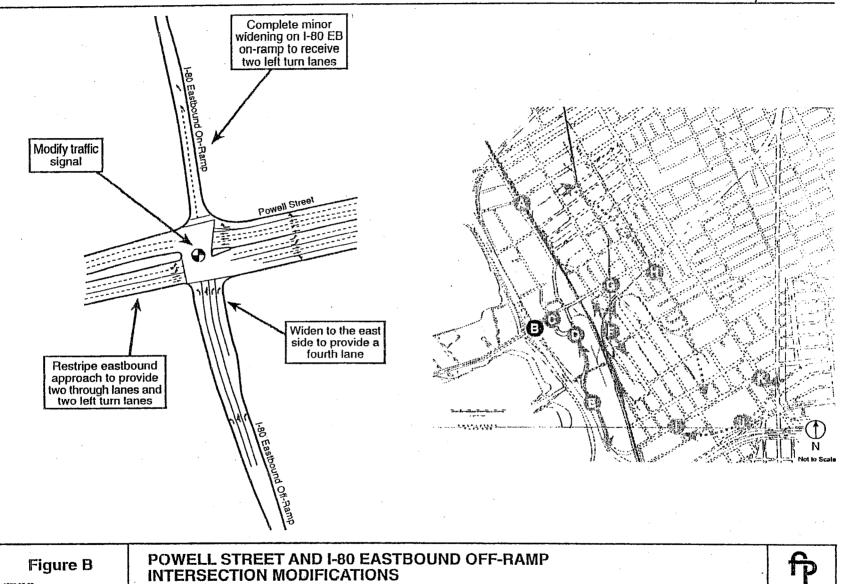


Figure A

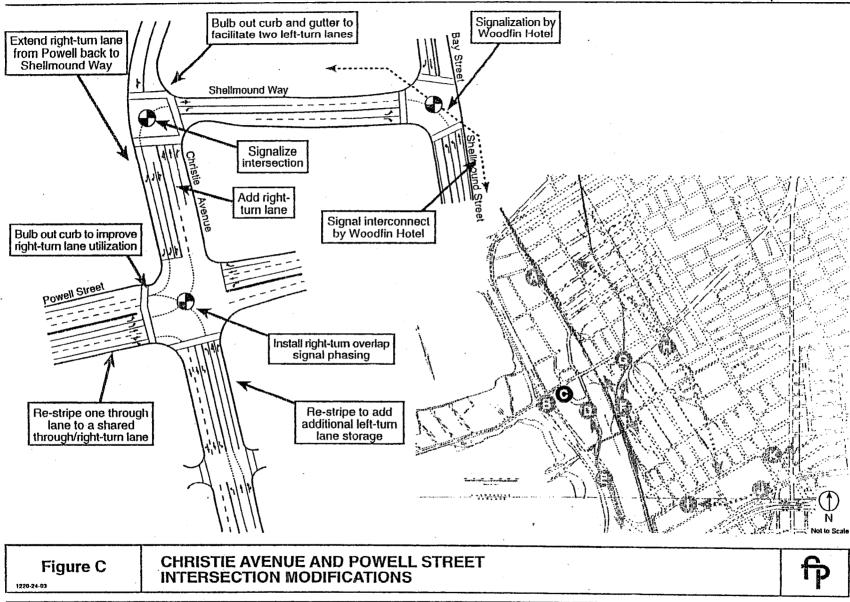
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65TH STREET AND SHELLMOUND STREET INTERSECTION MODIFICATIONS

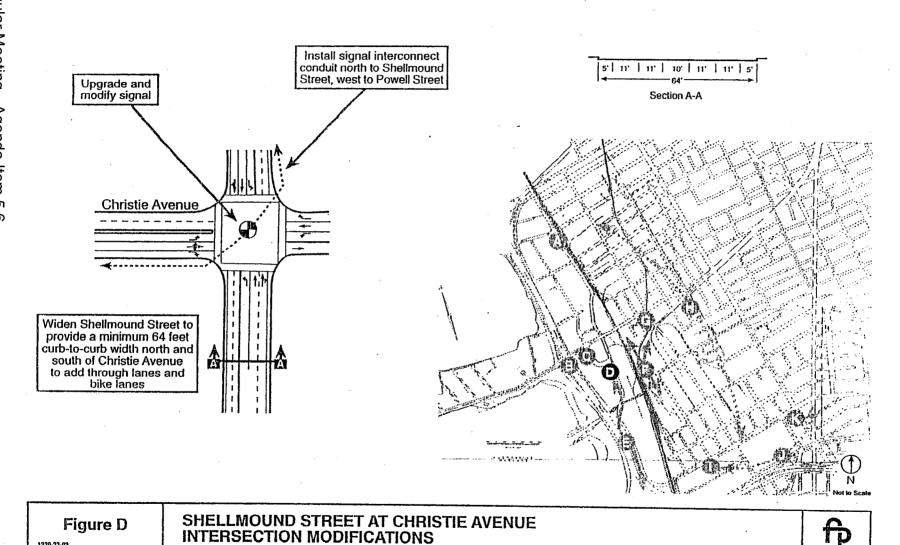


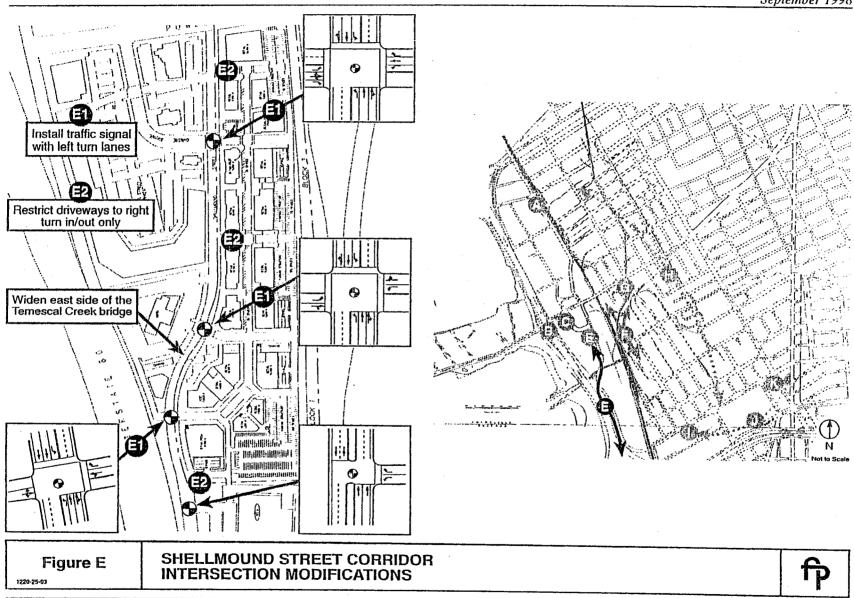


Fehr & Peers Associates

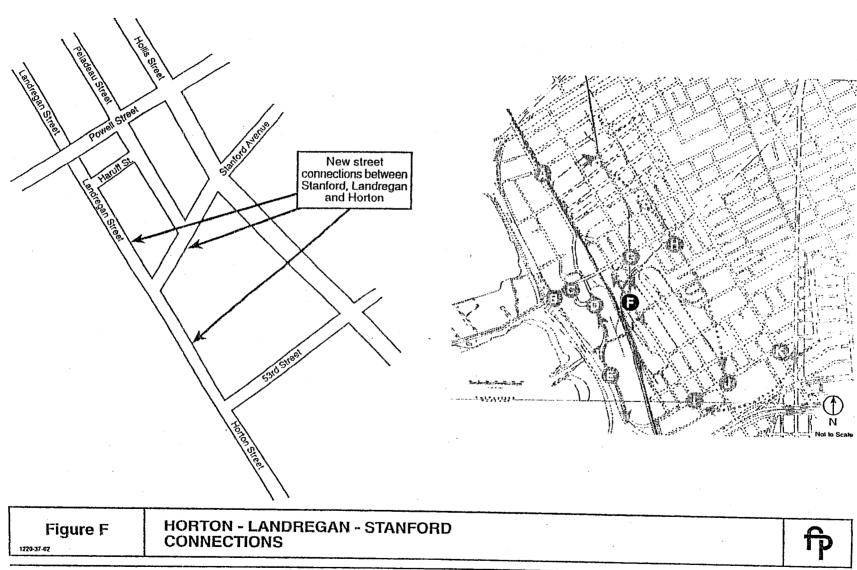


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Fehr & Peers Associates

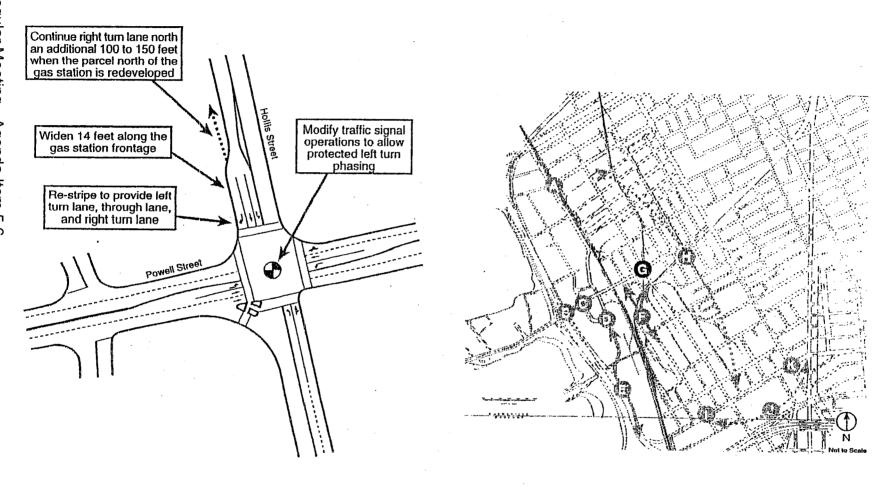
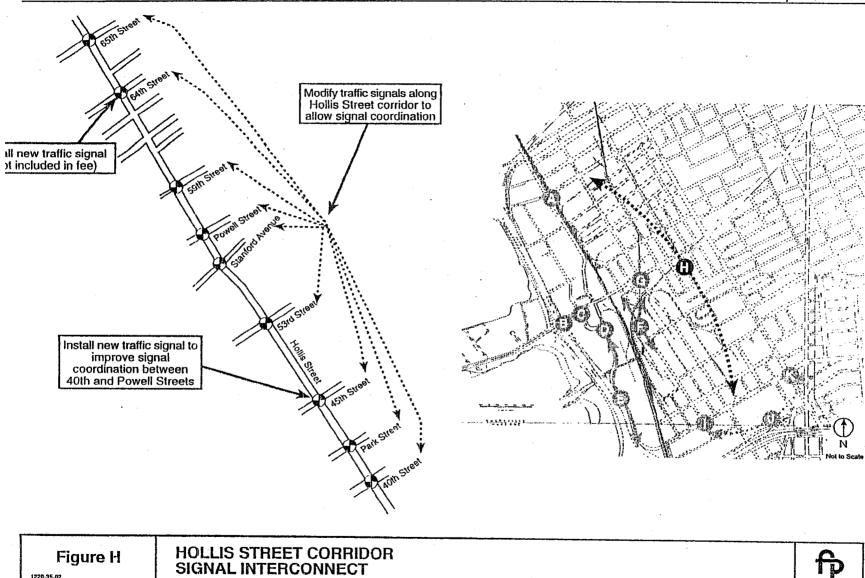
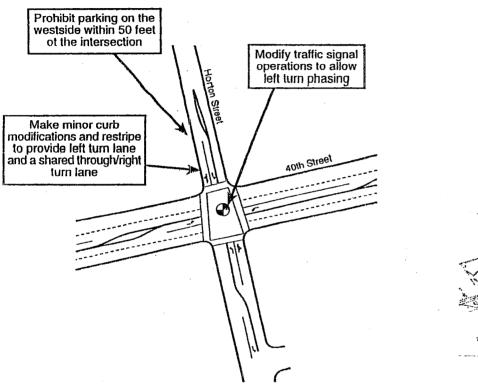


Figure G

POWELL STREET AND HOLLIS STREET INTERSECTION MODIFICATIONS

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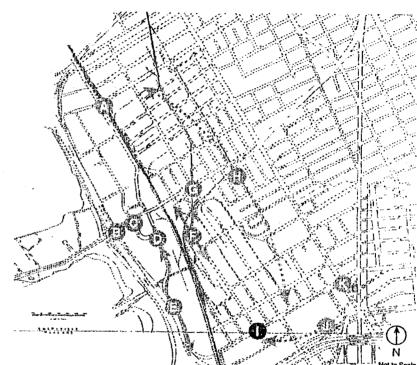


Figure I

40TH STREET AND HORTON STREET INTERSECTION MODIFICATIONS

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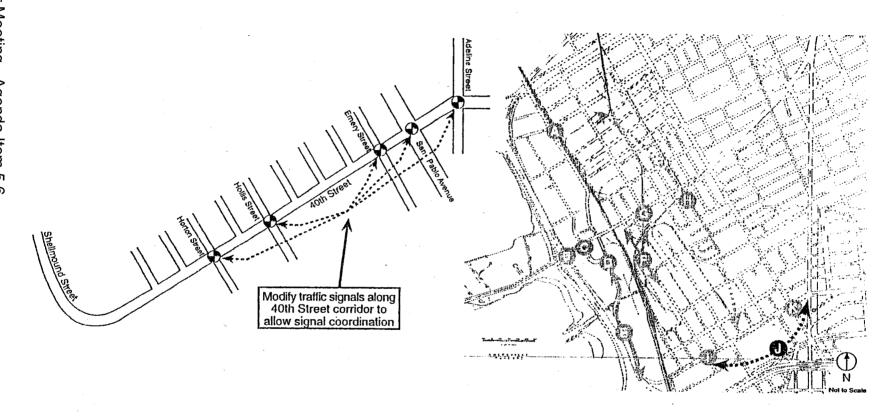
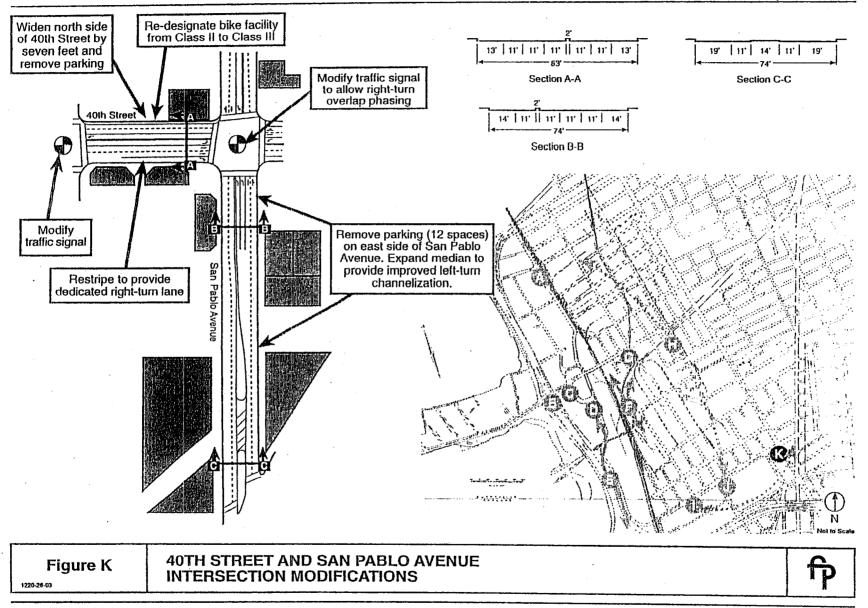


Figure J

220-33-02

40TH STREET SIGNAL COORDINATION





Fehr & Peers Associates