

## "EXHIBIT B"

### City of Ontario

#### *New Model Colony Development Impact Fee Policies*

#### **Infrastructure Requirements not Included in the Development Impact Fee Program**

The Fee Study and the resulting Development Impact Fee amounts do not include the costs of construction for standard public infrastructure that are considered to be project specific. This would include residential (in-tract) streets, curbs and sidewalks, sewer and water mains, telecommunications systems and most other utility-related infrastructure. This also includes the curb-adjacent lane, and the curbs and sidewalks on major streets. Developers will be conditioned to construct these improvements and dedicate these improvements to the City and/or other appropriate utility upon completion. These dedications will include the necessary rights-of-way and easements. No DIF Credit will be available for the costs associated with the construction of these improvements or property dedications.

In addition, the Fee Study and the resulting Development Impact Fee amounts do not include the costs for acquisition or construction of parks that are project specific or for landscaping or other improvements that may be required on any utility easements, including Southern California Edison property and/or those adjacent to flood control facilities. This includes: all parkway and perimeter landscaping; trails improvements; and parks of less than five (5) acres in size and all related improvements.

#### **Construction of Major Regional Infrastructure Improvements and Construction of Local Adjacent Infrastructure Improvements**

Projects in the Master Facilities Plan in certain infrastructure categories have been separated into two types: 1) Infrastructure Projects that serve a local area, and 2) Infrastructure Projects that serve a larger regional area. Projects of the first type are designated as "Local Adjacent" Projects and Projects of the second type are designated as "Regional Projects." The following infrastructure categories have designated local adjacent projects and regional projects:

Circulation Facilities (Streets, Bridges and Signals)  
Storm Drainage Facilities  
Water Distribution Facilities  
Sewer Collection Facilities  
Fiber Communications Facilities

Separate and distinct Regional and Local Adjacent DIF amounts have been established based on the estimated project costs for the Regional infrastructure projects and the Local Adjacent infrastructure projects in these infrastructure categories. The amounts have been determined using the following allocation percentages:

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DIF Infrastructure Category	Regional Percentage	Local Adjacent Percentage
Circulation Facilities (Streets, Bridges and Signals)	55%	45%
Storm Drainage Facilities	35%	65%
Water Distribution Facilities	70%	30%
Sewer Collection Facilities	40%	60%
Fiber Communications Facilities	30%	70%

DIF Credit or DIF Reimbursement issued to Developers in these DIF infrastructure categories will be designated as either Regional DIF Credit or Local Adjacent DIF Credit, or Regional Reimbursement or Local Adjacent DIF Reimbursement. In these infrastructure categories, it is likely that individual Developers will be required to construct DIF infrastructure projects that are designated as Local Adjacent.

The Master Facilities Plan for Circulation Facilities (Streets, Bridges and Signals) includes several major infrastructure projects that are required based upon the impacts of new development on the regional transportation system. Such regional transportation infrastructure improvements include freeway interchange improvements and other projects included in the SanBAG regional transportation plan.

**Construction In-Lieu of Payment of Development Impact Fees**

Developers are encouraged to construct the infrastructure projects identified in the various Master Plans and the Master Facilities Plan that will serve their projects. In accordance with the provisions of Ordinance No. 2807, agreements between the City and the Developer will be required for the financing of, and the construction of public infrastructure prior to obtaining an allocation of the water made available by the construction of water infrastructure for the New Model Colony area. Such agreements will provide for the timely construction of the public infrastructure through either direct payments to the City for the design and construction of identified improvements or by the design and construction of public infrastructure by the Developer for acceptance by the City. In recognition of payments made to the City for the design and construction of public infrastructure and/or the design and construction of public infrastructure by the Developer, the City will issue DIF credit or DIF reimbursement (Reimbursements are provided from DIF paid in the future by other developers) to the Developer for the eligible costs to construct Master-planned public infrastructure.

The construction of DIF Projects by Developers will be subject to prevailing wage requirements. Additional requirements of the Public Contracts Code regarding bidding and contracting procedures are also applicable to the construction of DIF Projects.

A Developer will only be eligible to receive DIF Credit or DIF Reimbursement after the completion of construction and acceptance of all or a portion of a DIF Project. The amount of the DIF Credit and/or DIF Reimbursement will be based upon the verified eligible costs of the DIF Project or portion of the DIF Project. Issued DIF Credits and/or DIF Reimbursements shall specify the DIF Credit infrastructure category and whether the DIF Credit and/or DIF Reimbursement is for construction of a Regional or Local Adjacent DIF Project.

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The maximum amount of DIF Credit to be issued by City will be limited to the amount of the DIF Program Costs for the improvement (for the completed portion of the DIF Project). The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for an improvement (or completed portion of the improvement) shall be those in effect at the time the improvement is completed and accepted by the City.

The total amount of DIF Credit to be issued to a Developer for completion of construction of all DIF Projects within the Regional or Local Adjacent portion of a DIF Infrastructure Category shall be limited to the Developer's total respective Regional or Local Adjacent DIF obligation within that DIF Infrastructure Category. A Developer shall only be eligible to receive DIF Reimbursement when the total DIF Program costs for all DIF Projects completed by the Developer within the Regional or Local Adjacent DIF category exceed the Developer's total DIF Obligation for the Regional or Local Adjacent portion of the respective DIF category. If any amount of DIF Reimbursement is issued, the amount and nature of the DIF Reimbursement shall be subject to a DIF Reimbursement agreement between the City and the Developer. Any DIF Reimbursement amount paid to a Developer will be paid solely from the DIF Fees collected by the City and designated for the cost of construction of Master-planned DIF Projects, and the City shall not be obligated to pay the reimbursement amount except from DIF amounts collected and held by the City.

The eligible costs identified in the DIF Program generally do not include the acquisition costs for street rights-of-way or adjacent utility easements. DIF Credit or DIF Reimbursement will not be provided for the costs of dedicating property or obtaining property for rights-of-way or adjacent utility easements. Additionally, the costs for Projects in the Streets, Signals and Bridges category do not include the costs for construction for the "first" traffic lane (considered adjacent to the development). DIF Credit or DIF Reimbursement will not be available for the costs of this construction.

Eligible costs typically include: the costs for the construction (including grading); costs directly related to the construction, such as costs of payment, performance and/or maintenance bonds; the professional costs of material testing; the costs incurred in preparing bid documents; related costs of geotechnical and environmental evaluations; fees paid to governmental agencies to obtain permits or other governmental approvals; project management, administration and supervision; and professional costs, such as engineering, accounting, inspection, construction staking, and similar professional services. Eligible costs for professional services and/ or construction management services will generally be limited to 15% of the construction amount in the DIF Program.

### **DIF Credit and/or Reimbursement for Parkland Dedication and Park Development**

Developers will be required to dedicate land for parks and recreation facilities and to construct park improvements. DIF Credit for the dedication for, and/or construction of Park facilities will not be available for parkland dedications and park construction for local parks that are less than five (5) net acres. During the development application process, the Developer will submit plans for the park locations and type of park

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improvements to be constructed. The City will review the submitted plans and the results of this review will determine if the Developer will be eligible for DIF credit for the parkland dedications and park construction.

The location of a large Great Park has been designated in The Ontario Plan (General Plan) for the New Model Colony. It is a priority of the City to pursue the acquisition of land and the development of the Great Park in the New Model Colony. The specific locations for other park facility needs identified in the General Plan, such as, neighborhood parks, community parks, and sports parks have not been determined. DIF Credit for the dedication of land and/or construction in-lieu of Park Development Impact Fees may be provided when a Developer dedicates and/or constructs a portion of the Great Park or other larger regional park facilities.

Pursuant to the GPA Goal 12.0, Objective 12.1, Policy 12.1.3 (requiring each specific plan to define a park acquisition and improvement financing plan to ensure the achievement of a park standard of 5 acres of parkland per 1,000 residents) developers in the New Model Colony will be required to provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without DIF credit, DIF reimbursement, or other consideration from the City. A portion of this requirement (up to 50%) may be satisfied through the development of non-public recreation facilities such as private recreational clubhouses or pool facilities. If a Developer does not provide dedicated and developed park acreage equal to two (2) acres per 1,000 projected population then the Developer will pay a fee in-lieu equal to the per acre estimated costs of acquisition and development of parkland in the City's DIF Program. Such in-lieu fee will be calculated based upon the amount of shortfall in acreage and will be due at the time that the first building permit issued for the development.

Parkland dedications and construction that exceeds the two (2) acres per thousand, and developed in accordance with the City's park standards and open to the public generally, will be credited toward the Developer's DIF obligations under the DIF Program.

If the Developer's project includes the dedication of land and/or construction of Park facilities, the specific acreage eligible for DIF credit will be determined based upon the provisions of a Development Agreement between the City and the Developer.

### **Development Impact Fee Construction In-Lieu Agreements**

Ordinance No. 2807 specifies that Agreements between the Developer and the City will be required for the timely design and construction of public infrastructure prior to the issuance of building permits within the New Model Colony. The terms of such Agreements will be in a separate agreement using a standardized form prepared by the City and/or will be incorporated into a Development Agreement between the City and the Developer. The terms will specify the Project(s), or defined portions of the Project(s) to be constructed by the Developer in each Fee category and an estimate of the maximum DIF Credit and/or DIF Reimbursement that may be applied to Local Adjacent or Regional Development Impact Fee for each DIF category.

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Subject to the provisions and limitations of such Agreements, when a Developer completes, and the City accepts, the construction of all or a defined portion of a Local Adjacent or Regional project identified in the Master Facilities Plan, the City will provide either Local Adjacent or Regional DIF Credit, respectively, that the Developer may utilize to satisfy the payment of the Developer's Local Adjacent or Regional DIF obligations.

### **Reimbursements for Construction of Improvements that Exceed Developer's DIF Infrastructure Obligations**

When the terms of a Development Agreement or other agreement between the City and a Developer require the Developer to construct a Local Adjacent or Regional Project or a defined portion of a Local or Regional DIF Project, and the eligible construction costs exceed the Developer's Local Adjacent or Regional DIF obligation in the respective DIF Category, a Reimbursement Agreement will be executed between the City and the Developer.

The terms of a Reimbursement Agreement will include reimbursements from DIF for the eligible costs of the DIF Project(s) that exceeded the Developer's DIF obligation for a specific category of Local Adjacent or Regional DIF Projects. The eligible costs to be included in a Reimbursement Agreement will be limited to the total DIF Program costs of the DIF Project(s) or defined portions of DIF Project(s) constructed by the Developer.

Reimbursements will be from the payment of DIF by other developers in the New Model Colony area that benefit from the Developer's constructed Local Adjacent or Regional DIF Projects and only from the DIF collected within the Regional or Local Adjacent portion of the category for which the DIF Reimbursement was issued. No DIF Reimbursement shall be available from DIF payments from development that does not benefit from the Developer's constructed Local Adjacent or Regional DIF Program Projects, or from DIF payments received for other DIF Program categories.

To determine if DIF payments have been received that may be used to reimburse a Developer, the City will conduct an annual review. The City will perform a review of the amount of DIF that has been received for the applicable Regional or Local Adjacent portion of the DIF category. The City's review will determine if DIF has been received from other developments that are also served by the DIF Projects for which the DIF Reimbursement was issued. No interest will be credited on any outstanding DIF Reimbursement amounts. A Developer will be entitled to receive DIF reimbursement for a period not to exceed ten (10) years from the date of completion of all of the Projects covered by the terms of a Reimbursement Agreement. No further reimbursement amounts will be paid after the end of the term of the Reimbursement Agreement.

When it is determined by the City that funds are available for reimbursement, the priority for reimbursement shall be based upon the date of completion of the DIF Project(s) for which Developer was issued DIF Reimbursement. The DIF Project(s) for which DIF Reimbursement was issued first will be reimbursed first.

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A Reimbursement Agreement will specify the amount that is subject to reimbursement from the City to the Developer for each Local Adjacent or Regional Project, group of projects, or defined portions of projects, constructed by the Developer.

### Alternative Method for the Determination of Storm Drain Facilities Fee Amount

The Development Impact Fee amounts in the Storm Drain Facilities category are initially calculated based on the size of the development site in acres. The per acre fee amount in each land use category is also converted to another measure of the quantity of development. For the residential development categories and the Commercial Lodging category, the per acre fee amount is converted to a fee amount for each residential (or lodging) unit. For the Retail/Service, Office, Business Park, Industrial and Institutional land use categories, the per acre fee amount is converted to a fee for each square foot. These conversions are based upon the average number of units (for residential and Commercial Lodging) or the average number of square feet per acre (for Retail/Service, Office, Business Park, Industrial and Institutional).

The average number of units, or square feet, used in the conversion is consistent with The Ontario Plan. In the Retail/Service, Office, Business Park, Industrial and Institutional land use development categories, there is a potential that some developments will have building square footages that are significantly lower than the average number of square feet used to calculate the conversion. There is much less potential for such variances in the residential use categories. For the Retail/Service, Office, Business Park, Industrial and Institutional land uses, with building footprints significantly above or below the average, the per acre fee amount must be used to calculate the fee amount to more accurately reflect the actual impact of the development on the Storm Drain infrastructure.

For example, the Retail/Service Uses category uses an average of 17,474 square feet per acre. A gas station use, however, would generally have a small building footprint (likely less than 4,000 square feet per acre), and yet would generate significant storm drain run-off impacts.

The averages used in the conversion by use Category for the New Model Colony are as follows:

Retail/Service Uses	17,474 Square Feet per Acre
Office Uses	33,287 Square Feet per Acre
Business Park Uses	20,094 Square Feet per Acre
Industrial Uses	27,608 Square Feet per Acre
Institutional Uses	21,780 Square Feet per Acre

In these land use development categories, the Storm Drainage Facilities fee amount will be based upon the per acre fee amounts if the square feet per acre of the proposed development is less than the above averages.

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### Timing of Payment of Development Impact Fees

All Development Impact Fees will be due at the time that building permits are issued. The exception is the fee for the New Model Colony – Species, Habitat Conservation, and Open Space Mitigation. This fee will be paid at the time a grading permit is issued. Development Impact Fees may not be paid in advance.

### Development Agreements

New Model Colony developers are strongly encouraged to obtain a Development Agreement, which will include provisions to address specific issues related to the payment of fees and the construction of public facility infrastructure needed for their specific projects. The City has adopted procedures for the consideration of Development Agreements. The application for a Development Agreement will be accompanied by a document setting forth the business terms proposed by the applicant.

Development Agreements will address specific conditions relating to: the phasing and timing of construction; payment of Development Impact fees; payment of other fees or the construction of other public improvements to increase the public benefit of the development; formation of one or more Homeowner's Associations to provide continuing maintenance of development amenities, and requirements for the provision of, or payment of fees for, affordable housing.

Development Agreements may include a wide variety of other negotiated provisions. Development Agreements are subject to Planning Commission review and City Council approval. Development within the New Model Colony that is not covered by a Development Agreement will be conditioned to provide affordable housing.

### Funding of City Services for New Model Colony Development

Due to the comparatively high level of residential development in the New Model Colony area, and the lower general tax revenues that are associated with residential development, the City will experience an operational shortfall of funding for ongoing City services. To address this, the City will form a Community Services District (CFD) to levy a CFD tax rate sufficient for the support of the City's Operations and Maintenance (O&M) responsibilities in the New Model Colony area.

Since there is an expected timing gap between the receipt of sufficient revenue from the formation of the Operation and Maintenance CFD and the City's projected expenditures for essential City services, a "Public Services Funding Fee" will be required from developers in the New Model Colony. Such fee will be calculated based upon the estimated revenue/expenditure gap and applied per residential dwelling unit. The Public Services Funding Fee may be paid in installments during the period of time from entitlement approvals until issuance of building permits.

It is also expected that development in the New Model Colony area will require the formation of Homeowners' Associations (HOA's). Such HOA's will be responsible for the ongoing maintenance of certain improvements that primarily benefit the local area, but

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may be available and used by the public. Such maintenance responsibilities may include: 1) graffiti removal; 2) sidewalk maintenance; 3) landscaping maintenance of parkways, paseos; maintenance of street trees; 4) lake maintenance; 5) maintenance of small park areas; and 6) maintenance of utility easements.

### **Financing of Infrastructure through Community Facilities Districts (CFD's)**

The City may cooperate with developers in the New Model Colony in the formation of a CFD, or CFDs, to provide a financing mechanism for the costs of public infrastructure pursuant to a Construction Agreement or Development Agreement. The City will be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the New Model Colony. The formation of any CFD, assessment district or other public financing mechanism within the New Model Colony shall be subject to the City's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, the City's "Local Goals and Policies" for Community Facilities Districts as amended on June 6, 2006, and as may be amended in the future. Nothing contained in these policies should be construed as requiring the City to form any such district or to issue and sell bonds.

### **Schools Obligations**

Developers in the New Model Colony will be required to satisfy their new school obligations by a combination of the following, as agreed upon by Developer and the applicable school district: (1) designating and dedicating school sites; (2) paying school impact fees; and/or (3) entering into a mitigation agreement with the applicable school district. If a Developer fails or refuses to satisfy its new school obligations, the City may use any and all remedies available to it, including, without limitation, the right of the City to withhold building permits, certificates of occupancy, or discretionary approvals.

### **Separation of Development Impact Fee Revenues**

Development Impact Fees that are received will be separated from other City revenues. Separate accounts will be established for each Fee Category. Interest earnings, if any, will be allocated to each account. On an annual basis, in conjunction with the preparation of the City's Comprehensive Annual Financial Report (CAFR), a review will be conducted of the Fee amounts that have been received for each Fee Category.

All construction related costs incurred by the City for the construction of the Projects identified in the Master Facilities Plan will be expended from the appropriate Fee Category account. To facilitate the construction of Projects identified in the Master Facilities Plan, fees may be borrowed between fee accounts. Any borrowed funds shall be repaid to the appropriate account as fees are received.



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### *Review of Fee Study Assumptions and Fee Amounts*

On a periodic basis, no longer than every two years, a review will be conducted of the estimated costs of the Projects identified in the Master Facilities Plan. If necessary, Development Impact Fees will be modified to reflect changes due to changes to the projected costs of the Projects in the Master Facilities Plan, or changes due to the addition or deletion of projects from the Master Facilities Plan. Changes in Project costs will be based on: 1) actual construction costs; or 2) changes in projected costs based on recent experience; or 3) changes in projected costs based on changes in the relevant Cost Indexes for the Southern California area.

### *Optional Temporary Deferral of Other Development Impact Fees*

For an interim time period, as defined by resolution of the City Council, and to respond to economic conditions that have negatively impacted the availability and cost of capital for the residential building industry, the City's Development Impact Fee program will provide an option for the deferral of certain DIF fees for qualifying residential and non-residential projects. During the time period that the DIF fee deferral policy is applicable, a Developer may elect to defer the payment of DIF fees (except the Species, Habitat Conservation, and Open Space Mitigation fee) on a phase of construction until final inspection is requested or a maximum period of 12 months has elapsed. In order to qualify for this DIF fee deferral program, a Developer must pay a non-refundable processing fee of \$5,500, and enter into a standardized agreement with the City acknowledging that the fees are being deferred until the Developer requests a final inspection or a maximum of 12 calendar months has passed. If a Developer requests to defer Development Impact fees for a phase of development that exceeds 35 units, the City may require that the developer provide an acceptable form of security for the deferred fees amount.