

Local Benefit District for Solage Off-Site Improvements Frequently Asked Questions (FAQ's)

February 1, 2012

Q: What is a Local Benefit District?

A: A Local Benefit District is an area or group of properties that receive a potential benefit from the development of additional or oversized off-site public improvements constructed as part of the development of a nearby private property. As part of the requirement that a developer provide such additional or oversized public improvements, it is a common practice for a public agency to enter into a Reimbursement Agreement or Latecomer Agreement with such developer to provide a mechanism for the developer to recover from the properties in the Local Benefit District some of the costs for the built infrastructure capacity that is beyond the requirements of the developer's project.

Q: Doesn't the City Municipal Code require off-site improvements when a property develops?

A: Yes, but generally only a proportional amount. However, the City Municipal Code does allow the City to require developers to make improvements above what would normally be required and then seek reimbursement for the amount exceeding what they typically would have been required to construct. This allows public infrastructure to be constructed all at once, rather than piecemealed over time.

Q: Who can be required to be in the Local Benefit District and pay reimbursement to the developers of the Solage resort?

A: Only property owners that could develop their property in the future and utilize the excess capacity improvements will be included in the Local Benefit Districts. And of those property owners in the proposed Local Benefit District, only those who seek and obtain City approval for additional development and then actually develop their property within the applicable time period of the Reimbursement Agreement will be required to pay reimbursement.

Q: Does the City Council need to approve the Local Benefit District and the Reimbursement Agreement?

A: Yes. Under Chapters 13.04, 13.08, and 16.14 of the City Municipal Code, the City Council will need to review and approve the Reimbursement Agreement and the related Local Benefit Districts.

Q: Is the Local Benefit District reimbursement obligation an Impact Fee?

A: No. The Local Benefit District reimbursement obligation is not a fee for future system improvements, but a property's proportional share of improvements that have been constructed and funded by the Solage property owners.

Q: When will the reimbursement obligation for a Local Benefit District expire?

A: There is no legislative mandate for the sunset term of a Local Benefit District. In Calistoga, a fair and reasonable precedent has been set at 20-years. However, Solage ownership would like to extend the term to 30-years.

Q: If I do not develop my property during the term of the Local Benefit District, will I owe any reimbursements to Solage ownership?

A: No.

Q: If I develop my property, but do not use the Solage off-site sewer, drainage, or water improvements, then will I still have a reimbursement obligation?

A: No. However, the City will review any new development's proposed sewer, drainage and water services, and insist on the use of Solage improvements if they are the most reasonable means to service the new project.

Q: What actions "trigger" reimbursement payments?

A: The following land use actions will "trigger" reimbursement payments under the Reimbursement Agreement:

- (a) A subdivision map (but not a parcel map, or lot split).
- (b) A use permit (other than an administrative use permit).
- (c) A building permit for any addition or alteration to a commercial building that exceeds 10% of the existing square footage.
- (d) A building permit for a new or additional dwelling unit.
- (e) A building permit for any addition or alteration to a residential building that exceeds 1000 square feet or 50% of the existing square footage.

Q: If the Solage project improved drainage infrastructure in this Local Benefit District, why haven't I seen any improvement of drainage on my property?

A: The Solage off-site drainage improvements constructed increased drainage capacity downstream of their project for a 100-year storm event. Drainage from your property may be channeled through many unimproved drainage channels to these drainage improvements. The Solage drainage improvements may not have solved local drainage issues near your property, but they have solved downstream drainage problems that could have impeded development of your property.

Q: May the Local Benefit District include interest reimbursement during the term of the agreement?

A: Yes, in fairness to the Developer's cost of money invested, a fair interest rate of return will be incorporated into reimbursements. Interest is calculated at a rate equal to the average of the published annual rate of the Five-Year U.S. Treasury Constant Maturity Rate from the effective date of the Reimbursement Agreement to the date reimbursement is due.