

RESOLUTION NO. 20-218**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO DECLARING ITS INTENTION TO LEVY AN ANNUAL ASSESSMENT UNDER CHAPTER 3 OF THE LANDSCAPING AND LIGHTING ACT OF 1972 IN THE TENAYA PARK ASSESSMENT DISTRICT FOR COUNTY SERVICE AREA NO. 2 AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENT.**

WHEREAS, the County provides park maintenance services, in County Service Area No. 2, also known as Tenaya Estates (CSA 2), for the park known as Tenaya Park;

WHEREAS, Government Code section 25215.3 authorizes the Board of Supervisors (Board), on behalf of CSA 2, to impose a benefit assessment in CSA 2 under the Landscaping and Lighting Act of 1972 (Streets and Highways Code, Division 15, Part 2, beginning with Section 22500) for park maintenance; and

WHEREAS, the Board, by Resolution 14-230 on June 17, 2014, after a proceeding compliant with California Constitution, Article XIII D, Section 4 (also known as Proposition 218), formed the Tenaya Park Assessment District (District), whose boundaries are coextensive with those of CSA 2, and levied an assessment for FY 2014–15; and

WHEREAS, the Board, by Resolution 14-230, also provided that beginning with FY 2014-15, and for each fiscal year after until FY 2023–24, the Board may levy an annual assessment in an amount that may be increased over the annual assessment in the previous year for inflation, by a rate that shall not exceed five percent over the annual assessment for the previous year; and

WHEREAS, the “improvements” for purposes of Streets and Highways Code section 22525 are generally described as the maintenance of Tenaya Park, which includes landscaping and irrigation systems, lighting and electrical systems, and recreational improvements including playground equipment; and

WHEREAS, there are no substantial changes proposed to be made in existing improvements; and

WHEREAS, the Board has received and approved an engineer’s report, dated June 9, 2020, and prepared by a registered professional engineer certified by the State of California, supporting an assessment in Tenaya Park Assessment District for operation and maintenance of Tenaya Park in CSA

1 2 in the 2020-21 fiscal year (Engineer's Report); and

2 WHEREAS, the Engineer's Report contains a full and detailed description of the improvements,
3 the boundaries of the assessment district, and the proposed assessments upon assessable lots and
4 parcels of land within the Tenaya Park Assessment District; and

5 WHEREAS, the Engineer's Report is on file with the Clerk of the Board; and

6 WHEREAS, before adopting this Resolution, the Board considered all testimony and
7 documentary evidence, and gave all persons a full and fair opportunity to be heard with respect to any
8 matter relating to the subject of this Resolution, both in favor and against it, and any matter relevant to
9 these proceedings, all of which was done in the interest of the public, and the Board is fully informed of
10 all matters referred to in this resolution.

11 NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO DOES
12 HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

13 **Section 1.** The above recitals are all true and correct.

14 **Section 2.** The Board hereby declares its intention to levy and collect an assessment in the
15 Tenaya Park Assessment District, under Chapter 3 of the Landscaping and Lighting Act of 1972, for
16 operation and maintenance of Tenaya Park for the 2020-21 fiscal year. The assessment is not
17 proposed to increase from the previous year, under the definition of "increase" provided by Streets and
18 highways Code section 22630.5, Government Code section 54954.6, subdivision (a)(1), and
19 Government Code section 53750, subdivision (h)(1), because it does not increase any applicable rate
20 used to calculate the assessment, revise the methodology by which the assessment is calculated, or
21 result in an assessment being levied on any person or parcel that exceeds what was approved in the
22 Proposition 218 proceeding in 2014, but applies the inflation increases approved by the Board in
23 Resolution 14-230.

24 **Section 3.** A public hearing of the Board is hereby set for **July 7, 2020, at 9:00 A.M.**, or as
25 soon after as practicable, in the Board Room of the Fresno County Board of Supervisors, Room 301,
26 Hall of Records, 2281 Tulare Street, Fresno, California, 93721, for hearing all objections and protests to
27 the annual assessment, the amount assessed against each parcel, and related matters as set forth in
28 the Engineer's Report (collectively, Public Hearing). The Public Hearing shall be held under Sections

1 22629 through 22631 of the California Streets and Highways Code. The Public Hearing may be
2 continued from time to time by the Board without further notice, except that it may not be continued to a
3 date after August 10, 2020, without prior consent of the County Auditor-Controller/Treasurer-Tax
4 Collector.

5 **Section 4.** The Governor of the State of California on March 4, 2020, proclaimed a state of
6 emergency to exist in California as a result of the threat of COVID-19. The Board, by Resolution 20-093
7 on March 17, 2020, proclaimed the existence of a local emergency. Under Executive Order N-29-20 on
8 March 17, 2020, the Governor of the State of California suspended certain meeting requirements under
9 the Ralph M. Brown Act (Gov. Code, §§ 54950–54963).

- 10 • Under those authorities, the Board has established a procedure that does not allow for
11 physical attendance by the public at Board meetings. The Board procedure provides for
12 remote public participation in Board meetings.
- 13 • Due to the nature of the emergency, the Board procedure for public meetings is subject to
14 change. The County cannot predict when that procedure might change.
- 15 • If any procedure limiting physical attendance and providing for remote public participation
16 remains in place for the July 9, 2020 Board meeting, the specific procedure for the Public
17 Hearing will be specified in the Board agenda for that meeting.

18 **Section 5.** The Board hereby authorizes and directs the Clerk of the Board to cause notice
19 of the filing of the Engineer's report, and of the time, date, and place of the Public Hearing to be
20 published under Government Code section 6061, one time, at least 10 days before the Public Hearing,
21 as required by Streets and Highways Code sections 22552 and 22553. The publication required by this
22 Section 5 of this resolution shall include the information in Section 4 of this resolution.

23 **Section 6.** Property owners wishing to preserve the opportunity to file a lawsuit challenging
24 the assessment, if levied, must file a written protest and state therein the specific grounds of protest.
25 Any grounds of protest not stated in a written protest filed prior to the close of the public hearing of
26 protests are deemed waived in any subsequent lawsuit and may not be raised in such lawsuit.

27 **Section 7.** The validity of the assessment announced by the Board of Supervisors shall not
28 be contested in any action or proceeding unless the action or proceeding is commenced within thirty

1 days after the assessment is announced and adopted (Fresno County Ordinance Code Section
2 4.28.040).

3 **Section 8.** The Board hereby finds and determines that it took all of the foregoing actions
4 and made all of the foregoing findings in full compliance with the law, including, without limitation,
5 Landscaping and Lighting Act of 1972, Article XIID of the California Constitution, and any other law
6 referred to in this resolution. All proceedings referred to in this resolution have been taken with respect
7 to the Tenaya Park Assessment District for CSA 2.

8 **Section 9.** This Resolution shall take effect immediately upon its adoption.

9 **Section 10.** The Clerk of the Board shall certify to the adoption of this Resolution and shall
10 cause a certified copy of this Resolution to be filed in the office of the Clerk.

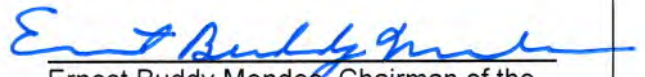
11 THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors
12 of the County of Fresno this 9th day of June, 2020, to-wit:

13 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

14 NOES: None

15 ABSENT: None

16 ABSTAINED: None

17 

18 Ernest Buddy Mendes, Chairman of the
19 Board of Supervisors of the County of
20 Fresno

20 **ATTEST:**
21 Bernice E. Seidel
22 Clerk of the Board of Supervisors
23 County of Fresno, State of California

24 By 
25 Deputy