

**RESOLUTION NO. 23-234****A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO APPROVING AND LEVYING AN ANNUAL ASSESSMENT ON REAL PROPERTY UNDER CHAPTER 3 OF THE LANDSCAPING AND LIGHTING ACT OF 1972 IN THE TENAYA PARK ASSESSMENT DISTRICT FOR COUNTY SERVICE AREA NO. 2**

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; and

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) (1972 Act) for park maintenance, subject to the requirements of California Constitution, Article XIII D, section 4 (also known as Proposition 218); 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 the Proposition 218 proceeding in 2014), formed the Tenaya Park Assessment District (Assessment 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 for the Assessment District 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 fiscal 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, the Board, by Resolution 23-177, on May 23, 2023, initiated the annual proceeding under Chapter 3 of the 1972 Act, and appointed Steven E. White, P.E., Director, Department of Public Works and Planning, County of Fresno, as the assessment engineer (Assessment Engineer) to prepare and file an engineer’s report regarding an assessment of the total cost of maintenance for Tenaya Park for FY 2023-24; and

1 WHEREAS, the Board, on May 23, 2023, received and approved an engineer's report prepared  
2 by the Assessment Engineer, which report, under Article XIII D, Section 4, of the California Constitution,  
3 and the 1972 Act, supports an annual benefit assessment on property within the Assessment District of  
4 the total cost of maintenance of Tenaya Park for FY 2023-24; and

5 WHEREAS, the Board, by Resolution 23-178 on May 23, 2023, declared its intention to levy and  
6 collect an assessment in the Assessment District, under Chapter 3 of the Landscaping and Lighting Act  
7 of 1972, for operation and maintenance of Tenaya Park for FY 2023-24; and

8 WHEREAS, the Engineer's Report has remained on file with the Clerk of the Board since May 23,  
9 2023 and until the Board's adoption of this resolution; and

10 WHEREAS, the Engineer's Report contains all of the following under Article XIII D, Section 4, of  
11 the California Constitution, and the Landscaping and Lighting Act of 1972:

- 12 A. A diagram identifying all parcels that have a special benefit conferred on them and on which the  
13 proposed annual Assessment will be imposed (Exhibit A to the Engineer's Report);
- 14 B. An estimation of the entirety of the cost of maintenance for Tenaya Park to be assessed on  
15 properties within the Assessment District (Exhibit B to the Engineer's Report);
- 16 C. A specification of the improvements, which are, generally, the operation and maintenance of  
17 Tenaya Park (Exhibit C to the Engineer's Report);
- 18 D. A determination that the proportionate special benefit derived by each identified parcel in  
19 relationship to the entirety of the cost of park maintenance service to be provided is as set forth  
20 in Exhibit D to the Engineer's Report;
- 21 E. An assessment on each of the properties in the Assessment District of the estimated entire cost  
22 of the improvements, proportional to the special benefit conferred on each property;
- 23 F. A determination that no assessment on any parcel exceeds the reasonable cost of the  
24 proportional special benefit conferred on that parcel;
- 25 G. A determination that the only benefits assessed are special benefits, that general benefits have  
26 been separated from the special benefits conferred on each parcel, and that there is no general  
27 benefit derived from the park maintenance service to be provided; and
- 28 H. A determination that no parcel owned by any public agency, the State of California or the United

1 States but not identified and described in the Engineer's Report receives any special benefit from  
2 the maintenance of Tenaya Park; and

3 WHEREAS, the proposed assessment on each of the properties in the Assessment District for  
4 FY 2023-24 is not an "increased" assessment under Government Code section 53750, subdivision (h)(1),  
5 Government Code section 54954.6, subdivision (a)(1)(D), or Streets and Highways Code section  
6 22630.5, because it does not increase any applicable rate used to calculate the assessment, revise the  
7 methodology by which the assessment is calculated, or result in an assessment being levied on any  
8 person or parcel that exceeds what was approved in the Proposition 218 proceeding in 2014, but applies  
9 the inflation increases approved by the Board in Resolution 14-230, and for those reasons is not subject  
10 to the special notice, protest, hearing, and assessment balloting procedures under Government Code,  
11 section 53753; and

12 WHEREAS, the Board gave notice of a public hearing by causing the May 23, 2023, Resolution  
13 of Intention to be published one time, at least 10 days before the public hearing, as required by  
14 Government Code section 6061 and Streets and Highways Code sections 22552 and 22553; and

15 WHEREAS, before adopting this resolution, the Board considered all testimony and documentary  
16 evidence, and gave all persons a full and fair opportunity to be heard with respect to any matter relating  
17 to the subject of this resolution, both in favor and against it, including objections if any, and any matter  
18 relevant to these proceedings, all of which was done in the interest of the public, and the Board is fully  
19 informed of all matters referred to in this resolution.

20 **NOW, FOR THOSE REASONS, THE FRESNO COUNTY BOARD OF SUPERVISORS HEREBY**  
21 **FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:**

- 22 1. The above recitals are all true and correct.
- 23 2. The Board, under Streets and Highways Code section 22631, confirms the diagram and  
24 assessment in the Engineer's Report, and levies an annual assessment on the benefitted parcels within  
25 the Assessment District as shown and described in Attachment A to this resolution. The annual  
26 assessment is hereby levied for FY 2023-24. The total annual assessment chargeable to each of the  
27 142 parcels in the Assessment District for FY 2023-24 is \$476.00 per parcel, as provided in Attachment  
28 B to this Resolution.

1           3.       The lien date shall be that prescribed by law and the assessment shall be collected at the  
2 same time, and in the same manner, and subject to the same penalties, as the FY 2023-24 general  
3 property taxes of the County.

4           4.       The Director of the Department of Public Works and Planning is authorized and directed  
5 to timely deliver, or cause their designee to timely deliver, to the Auditor-Controller/Treasurer-Tax  
6 Collector, no later than August 10, 2023, a copy of this resolution, which shall include the true and  
7 complete roll of the assessment as provided in Attachment A to this resolution.

8           5.       The assessment shall be published in the Master Schedule of Fees, Charges and  
9 Recovered Costs for administrative purposes only.

10          6.       The Board hereby finds and determines that it took all the foregoing actions and made all  
11 of the foregoing findings in full compliance with the law, including, without limitation, Landscaping and  
12 Lighting Act of 1972, Article XIII D of the California Constitution, and any other law referred to in this  
13 Resolution. All proceedings referred to in this Resolution have been taken with respect to the Assessment  
14 District for CSA 2.

15          7.       This Resolution shall take effect immediately upon its adoption.

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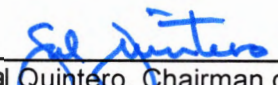
1 THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors  
2 of the County of Fresno this 20th day of June, 2023, to-wit:

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

4 NOES: None

5 ABSENT: None

6 ABSTAINED: None

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8   
Sal Quintero, Chairman of the Board  
of Supervisors of the County of Fresno

9 **ATTEST:**  
10 Bernice E. Seidel  
11 Clerk of the Board of Supervisors  
County of Fresno, State of California

12 By   
13 Deputy

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