



Board Agenda Item 45

DATE: May 23, 2023

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Resolutions Initiating Annual Assessment Proceedings and Intent to Levy an Annual Assessment for Park Maintenance for County Service Area No. 2 - Tenaya Estates for Park Maintenance

RECOMMENDED ACTION(S):

1. **Approve and adopt Resolution initiating annual assessment proceedings under Chapter 3 of the Landscaping and Lighting Act of 1972 for the operation and maintenance of Tenaya Park in County Service Area No. 2, Tenaya Estates, and appointing an Assessment Engineer to prepare and file an Engineer's Report; and**
2. **Receive and approve the "Engineer's Report Tenaya Park Assessment District, County Service Area No. 2 Annual Benefit Assessment for Tenaya Park Operations & Maintenance," prepared by Steven E. White, P.E.; and**
3. **Approve and adopt Resolution of Intention to levy an annual assessment under Chapter 3 of the Landscaping and Lighting Act of 1972 in the Tenaya Park Assessment District in County Service Area No. 2 and set a public hearing on June 20, 2023, at 9:30 a.m., or as soon as practicable, to consider an assessment for operation and maintenance of Tenaya Park, benefitting properties within County Service Area 2, Tenaya Estates, which includes 142 residential parcels.**

Approval of the first recommended action adopts a resolution initiating annual assessment proceedings, appointing Steven E. White, P.E., Director of the Department of Public Works and Planning, as the Assessment Engineer, and ordering the filing of an Engineer's Report. Approval of the second recommended action receives and approves the Engineer's Report. Approval of the third recommended action adopts a resolution of intention to levy an annual assessment and setting a public hearing on June 20, 2023, at 9:30 a.m., to hear protests. The proposed assessment is necessary to fund the operation and maintenance of Tenaya Park and administrative costs associated with the management of County Service Area No. 2 (CSA 2), also known as Tenaya Estates (Assessment District). This item pertains to a location in District 2

ALTERNATIVE ACTION(S):

There is no alternative action. If the recommended actions are not approved, CSA 2 would be substantially unfunded for FY 2023-24 and unable to pay the contract for maintenance of Tenaya Park.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Operations, maintenance, and

administration costs are paid by the benefitted properties within CSA 2 from property assessments, interest income, and property tax revenues.

DISCUSSION:

CSA 2 was formed on December 26, 1962, to provide services for the subdivision known as Tenaya Estates located West of North Palm Avenue, East of North Fruit Avenue, North of West Escalon Avenue and South of West Sierra Avenue in Fresno, California. The services consist of maintaining a two-and-a-half-acre community park, known as Tenaya Park, which is located in the center of the Tenaya Estates Subdivision. The subdivision consists of 142 residential parcels as shown on Exhibit A.

On June 17, 2014, after a Proposition 218 proceeding in which CSA 2 property owners received an opportunity to protest and there was no majority protest, the Board approved assessment amounts (that is, per parcel) for ten years (detailed on Attachment A). The maximum annual assessment per parcel approved by CSA 2 property owners for FY 2023-24 is \$67,592, or \$476 for each of the 142 developed single-family residence parcels.

After the Proposition 218 proceeding in 2014 and finding no majority protest, the Board approved a formula providing that the assessment may be adjusted for any or all nine budget years after FY 2014-15 to provide for building reserves and addressing inflation at the rate of no more than 5% over the previous year. After the end of the tenth year (FY 2023-24), the yearly assessment per parcel, adopted by your Board and approved by CSA 2 property owners, will remain at the same amount unless there is a subsequent Proposition 218 ballot process for any increased assessments. The 142 parcels receiving park maintenance will pay 100% of the costs associated with the service.

The work of park maintenance in CSA 2 is provided by Tenaya Estates, Inc. The current agreement with Tenaya Estates, Inc., most recently amended on May 26, 2020 (Amendment III to Agreement No. 10-432), and effective through June 30, 2024, provides for a maximum payment to Tenaya Estates, Inc. of \$66,500 for FY 2023-24.

The Process

The park maintenance budget is funded by annual assessments, interest on cash reserves, and a portion of property taxes on developed lots. The Board approved the park maintenance annual assessments, including a formula for inflation adjustments, on June 17, 2014, in a Proposition 218 process.

The process of levying an annual assessment on real property within CSA 2 must conform to the requirements of Chapter 3 of the Landscaping and Lighting Act of 1972 (Streets and Highway Code, Division 15, Part 2).

This is not a Proposition 218 process. A Proposition 218 process is not required this fiscal year. There was no majority protest to the formula providing that the assessment may be adjusted for any or all nine budget years after FY 2014-15 in the Proposition 218 proceeding in FY 2013-14. The proposed assessment for FY 2023-24 does not exceed the maximum assessment under that formula.

The Landscaping and Lighting Act of 1972, which is the enabling legislation for this assessment, requires an annual proceeding in which your Board levies the adjusted assessment. CSA 2 property owners and other interested persons may voice objections during the hearing or submit protest letters for your Board's consideration, but pre-printed ballots are not part of this process unlike in a Proposition 218 proceeding. Furthermore, unlike in a Proposition 218 proceeding, your Board may approve or disapprove the annual assessment based on your independent discretion.

Pursuant to Streets and Highway Code sections 22552 and 22553, in the Landscaping and Lighting Act of 1972, the Clerk of the Board shall give notice by causing the resolution of intention to be published one-time,

at least 10 days before the public hearing scheduled for June 20, 2023, in accordance with Government Code section 6061.

Purpose of the Assessment

The work of park maintenance in CSA 2 is provided by Tenaya Estates, Inc., under an agreement with the County that was most recently amended on May 26, 2020 (Amendment III to Agreement No. 10-432). The assessment is required to pay for the park maintenance services provided under the Agreement with Tenaya Estates, Inc., including aging park infrastructure and playground equipment needing replacement. In addition, the electrical and irrigation systems are antiquated and need to be replaced for safety and water conservation. Reserves are built into the proposed CSA 2 assessments to budget for required infrastructure replacement, operations and maintenance, as well as unanticipated expenses.

Engineer's Report

If your Board approves the recommended actions, the Engineer's Report will be prepared and filed with the Clerk of the Board and made available for public inspection in its entirety no later than May 23, 2023.

The Engineer's Report will be prepared pursuant to the provisions of the California Constitution, Article XIID, Section 4; the County Service Area Law, particularly Government Code section 25215.3; and the Landscaping and Lighting Act of 1972, particularly Streets and Highway Code sections 22585 through 22631. The Engineer's Report will include the projected cost to fund the continued operations and maintenance of Tenaya Park and build reserves for the replacement of the park infrastructure.

Proposed Initiating Resolution

Approval of the first recommended action initiates the process necessary to fund the continued maintenance and operation of CSA 2's park maintenance services and to build reserves for the replacement of aging equipment. In general, by approving the proposed resolution, your Board makes the following key findings, determinations, and authorizations:

- a) Initiate proceedings to levy the annual assessment in CSA 2, and appoints, Steven E. White P.E., Director, County of Fresno Public Works and Planning, as the Assessment Engineer in connection with CSA 2 proceedings that are the subject of the recommended resolution.
- b) Authorize and direct Steven E. White P.E., Director, to prepare an Engineer's Report (as discussed in the section above), to be filed with the Board under Article XIID Section 4 of the California Constitution and the Streets and Highway Code Landscape and Lighting Act of 1972 found in Division 15, Part 2, Chapter 3.
- c) Provide that the proposed resolution shall take effect immediately upon its adoption.

Proposed Resolution of Intention

Approval of the third recommended action continues the process necessary to fund the continued maintenance and operation of CSA 2 park maintenance services. In general, by approving the proposed resolution, your Board makes the following key findings, determinations and authorizations:

- a) Receive and approve the Engineer's Report, to be filed with your Board under Article XIID Section 4 of the California Constitution and the Landscape and Lighting Act of 1972.
- b) Declare the intention to levy and collect assessments in CSA 2 for operation and maintenance of Tenaya Park, and declare that the assessment is not "increased" as that word is defined by Streets and Highway Code section 22630.5, Government Code section 54954.6, subdivision (a)(1) and

Government Code section 53750, subdivision (h)(1) (because it conforms to the formula previously approved by Tenaya Park Assessment District property owners in the 2014 Proposition 218 proceeding).

- c) Set a public hearing of your Board (Public Hearing) for June 20, 2023, at 9:30 A.M., or as soon after as practicable, in the Board Room of the Fresno County Board of Supervisors, Room 301, Hall of Records, 2281 Tulare Street, Fresno, California, 93721, to hear all objections and protests to levy the annual assessment. The Public Hearing shall be held pursuant to sections 22629 through 22631 of the Streets and Highway Code and may be continued from time to time by your Board without further notice. However, it may not be continued to a date after July 11, 2023, without prior consent of the County Auditor-Controller/Treasurer-Tax Collector, so there is time to put the assessment onto the tax roll for the 2023-24 tax year.
- d) Authorize and direct the Clerk of the Board to prepare and cause the proposed resolution of intention to be published, one-time no later than 10 days before the public hearing on June 20, 2023, pursuant to sections 22552 and 22553 of the Streets and Highway Code.
- e) Provide that property owners wishing to preserve the opportunity to file a lawsuit challenging the assessment, if levied, must file a written protest and state therein the specific grounds of protest. Any grounds of protest not stated in a written protest filed prior to the close of the public hearing of protests are deemed waived in any subsequent lawsuit and may not be raised in such lawsuit.
- f) Provide that the validity of the assessment imposed by the Board shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is announced and adopted.
- g) Provide that the proposed resolution shall take effect immediately upon its adoption.

REFERENCE MATERIAL:

BAI # 75, June 21, 2022
BAI # 10, August 10, 2021
BAI # 3, July 7, 2020
BAI # 12, June 4, 2019
BAI # 11, June 12, 2018
BAI # 14, June 20, 2017
BAI # 7, June 21, 2016
BAI # 43, April 26, 2016
BAI # 13, June 2, 2015
BAI # 11, June 17, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Attachment A - Assessment Table
On file with Clerk - Resolution to Initiate (9142)
On file with Clerk - Engineer's Report
On file with Clerk - Resolution of Intent

CAO ANALYST:

Salvador Espino