

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
ESTABLISHING THE TULLY ROAD EASTRIDGE
BUSINESS IMPROVEMENT DISTRICT PURSUANT TO
THE PARKING AND BUSINESS IMPROVEMENT AREA
LAW OF 1989**

WHEREAS, under and pursuant to the provisions of the Parking and Business Improvement Area Law of 1989, Section 36500 et seq. of the California Streets and Highways Code (“’89 Law”), the City Council of the City of San José (“City”) on September 10, 2024 adopted Resolution No. RES2024-316, titled “A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING ITS INTENTION TO ESTABLISH THE TULLY ROAD EASTRIDGE BUSINESS IMPROVEMENT DISTRICT PURSUANT TO THE PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989; FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND PUBLIC HEARING AND GIVING NOTICE THEREOF; AND APPOINTING AN ADVISORY BOARD TO ADVISE THE CITY COUNCIL ON ALL ISSUES RELATED TO THE TULLY ROAD EASTRIDGE BUSINESS IMPROVEMENT DISTRICT”; and

WHEREAS, Resolution No. RES2024-316 was duly published, and copies of Resolution No. RES2024-316 were mailed to the affected businesses, as required by the ‘89 Law; and

WHEREAS, as specified in Resolution No. RES2024-316, a public meeting concerning the formation of the Tully Road Eastridge Business Improvement District (“TREBID”) was held before the City Council on October 1, 2024 at the hour of 1:30 p.m. in the Council Chambers of the City of San José, located at 200 East Santa Clara Street, San José, California; and

WHEREAS, as specified in Resolution No. RES2024-316, a public hearing concerning the formation of the TREBID was held before the City Council on November 5, 2024 at the hour of 1:30 p.m. in the Council Chambers of the City of San José, located at 200 East Santa Clara Street, San José, California; and

WHEREAS, written protests from the affected businesses in the proposed TREBID paying fifty percent (50%) or more of the proposed assessment have not been received; and

WHEREAS, at said public hearing, ____ written protests were filed, ____ oral protests were made, such protests were considered and duly overruled and denied, and the City Council determined that there was no majority protest within the meaning of Section 36525 of the '89 Law; and

WHEREAS, on November 5, 2024, the City Council authorized the City Manager or her designee to negotiate and execute an agreement with Tully Rd.-Eastridge Business Association ("TREBA") for the administration of the TREBID; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-004 (Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. Pursuant to the '89 Law, a parking and business improvement area is hereby established, to be known as the Tully Road Eastridge Business Improvement District ("TREBID").
2. The boundaries of the TREBID are described below, and are shown on the map attached hereto as Exhibit A and incorporated herein:

Street	Odd Side of the Street	Even Side of the Street
Tully Road (101 to E Capitol Expressway)	1575 Tully Road - 2255 Tully Road	1610 Tully Road - 2198 Tully Road
E Capitol Expressway (Swift Lane to Quimby Road)	None	2950 E Capitol Expressway - 3000 E Capitol Expressway
Eastridge Loop	2185 Eastridge Loop	2210 Eastridge Loop - 2230 Eastridge Loop
Quimby Road (Tully Road to E Capitol Expressway)	2217 Quimby Road - 2375 Quimby Road	2212 Quimby Road - 2380 Quimby Road
King Road (Tully Road to Flanigan Drive)	2415 S King Road - 2577 S King Road	None
Flanigan Drive (S King Road to Alvin Avenue)	1669 Flanigan Drive - 1693 Flanigan Drive	None
Burdette Drive (S King Road to Alvin Avenue)	1661 Burdette Drive - 1675 Burdette Drive	1654 Burdette Drive
Alvin Avenue (Flanigan Drive to Tully Road)	2415 Alvin Avenue - 2493 Alvin Avenue	2444 Alvin Avenue - 2580 Alvin Avenue
Lanai Avenue	2401 Lanai Avenue	None
Fontaine Road	2445 Fontaine Road	None

3. The purpose for forming the TREBID is to provide revenues for physical maintenance, marketing, and promotion efforts to increase commercial activity in the Tully Road – Eastridge business corridor. The improvements and activities to be provided in the TREBID will be funded by the levy of assessments. The revenue from the levy of assessments shall not be used to provide improvements or activities outside the TREBID or for any purpose other than the purposes specified in the TREBID's annual budget as approved by the City Council.
4. All businesses operating within the TREBID will be charged an assessment rate based on business type. The chart below provides the annual assessment rate for each assessed business and a breakdown by classification of businesses. The business categories are as follows: financial institutions (including banks, mortgage brokers, and securities brokers); professional services (including contractors, insurance agents, medical offices, travel agents and real estate agents); retail / hospitality (including food and drink services, restaurants, gasoline stations, drug stores, and clothing stores); and non-retail (including industrial services, automotive, landscaping, personal care services and religious organizations, and clothing manufacturers).

Business Category	Annual Assessment Rate
Financial Institutions	\$450
Retail / Hospitality	\$385
Non-retail / Professional Services	\$300

5. Initially, assessments will be billed and collected through the City's general invoicing system, separate from the annual business tax. Once the City's new business tax system is implemented, assessments will be collected from the TREBID businesses at the same time and in the same manner as the City's transient occupancy tax.

6. Any TREBID business who fails to remit the assessments within the time required shall pay a first penalty of ten percent (10%) of the amount of the delinquent assessment in addition to the amount of the delinquent assessment. Any TREBID business who fails to remit any assessment on or before thirty (30) days after its due date shall pay a second penalty of ten percent (10%) of the amount of the delinquent assessment in addition to the amount of the delinquent assessment and the first penalty. If the City's Director of Finance or TREBA determines that the failure to remit the assessment is because of an intentional, material misrepresentation or omission, or fraud by the TREBID business, an additional penalty will be imposed on the TREBID business in the amount of twenty-five percent (25%) of the delinquent assessment. Any business who fails to remit on or before the due date any assessment shall pay interest on the delinquent assessment and on any assessed penalty or penalties as set forth in Chapter 1.17 of Title 1 of the San José Municipal Code. Any penalty or interest collected by the City from delinquent assessments shall be forwarded to TREBA. If a business does not pay the total amount of the outstanding combined business tax and assessments, the City shall send up to two delinquent notices to collect any past due assessments. If the City takes any action on business tax delinquencies against a business with delinquent assessments, the City shall also attempt to collect the delinquent assessments. After one hundred twenty (120) days of delinquency, the City shall have the option to refer accounts to a collection agency.
7. The City shall disburse to TREBA all collected TREBID assessments and all penalties and interest collected on delinquent TREBID assessments. Disbursements shall be made in such manner as the parties mutually agree upon in writing. TREBA may expend any funds received only for the purposes authorized by this Ordinance and only in accordance with the budget as approved by the City Council.

8. The City will charge an administrative fee for its costs to collect the TREBID assessment. The City's monthly administrative charge will be one percent (1.0%) of the assessment collected by the City, and the amount will be reviewed annually as part of the annual report submitted by the Board of Directors of TREBA ("Advisory Board") to the City. The administrative charge will be made to the City as a deduction from the assessments the City will forward to TREBA.
9. The TREBID's fiscal year shall be from July 1 through June 30. Funds remaining at the end of any fiscal year may be used in the subsequent fiscal year if the levy of an assessment is approved by the City Council for that fiscal year and the funds are used in accordance with the '89 Law.
10. New businesses within the TREBID will not be exempt from the levy of assessments as authorized by Section 36531 of the '89 Law.
11. The City Council finds that the businesses within the TREBID will be benefited by the improvements and activities funded by the assessment to be levied.
12. All protests, both written and oral, are overruled and denied, and the City Council finds that there is no majority protest within the meaning of Section 36525 of the '89 Law.
13. All of the businesses in the TREBID established by this Ordinance shall be subject to any amendments to the provisions of the '89 Law.

PASSED FOR PUBLICATION of title this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

EXHIBIT A DISTRICT BOUNDARIES

