

ORDINANCE NO. 27736

**AN ORDINANCE OF THE CITY OF SAN JOSE GRANTING A
COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION
FRANCHISE TO LMH ENTERPRISES INC. DBA NUMBER “1”
DISPOSAL**

WHEREAS, LMH Enterprises Inc. dba Number “1” Disposal has submitted an application to the City of San José for a Commercial Solid Waste and Recyclables Collection Franchise; and

WHEREAS, on May 9, 2006, the City Council held a public hearing to consider said application and to hear all persons desiring to be heard in favor of or in opposition to the granting of a Commercial Solid Waste and Recyclables Collection Franchise to LMH Enterprises Inc. dba Number “1” Disposal; and

WHEREAS, having considered all oral and documentary evidence presented on the matter of granting such franchise, the City Council has determined that the grant of such franchise to LMH Enterprises Inc. dba Number “1” Disposal is in the public interest;

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

SECTION 1. The City Council hereby grants a Commercial Solid Waste and Recyclables Collection Franchise to LMH Enterprises Inc. dba Number “1” Disposal, pursuant to which LMH Enterprises Inc. dba Number “1” Disposal is authorized to engage in the business of collecting, transporting and disposing of Commercial Solid

Waste and Recyclables kept, accumulated or produced in the City of San José and to use the public streets and rights of way for such purpose.

SECTION 2. The grant of said Commercial Solid Waste and Recyclables Collection Franchise is expressly subject to the terms and conditions of the City Charter, Chapter 9.10 of the San José Municipal Code, this Ordinance, and the Commercial Solid Waste and Recyclables Collection Franchise Agreement Between the City of San José and LMH Enterprises Inc. dba Number “1” Disposal ("Franchise Agreement"), as such now exist or as they may hereafter be amended.

SECTION 3. The Commercial Solid Waste and Recyclables Collection Franchise hereby granted to LMH Enterprises Inc. dba Number “1” Disposal shall be for a term commencing July 1, 2006, and ending on June 30, 2007. The Council hereby authorizes the Director of Environmental Services, in the Director’s discretion, to extend the term of this Franchise for up to two one-year increments by providing written notice to LMH Enterprises Inc. dba Number “1” Disposal; provided, however, that no such extension of the term of this Franchise shall become effective unless and until accepted in writing by LMH Enterprises Inc. dba Number “1” Disposal.

SECTION 4. Notwithstanding Section 3 of this Ordinance and notwithstanding any provision of the Franchise Agreement, the Commercial Solid Waste and Recyclables Collection Franchise may be terminated or suspended at any time in accordance with Section 9.10.1690 of Chapter 9.10 of the San José Municipal Code.

SECTION 5. Neither the Commercial Solid Waste and Recyclables Collection Franchise Agreement granted to LMH Enterprises Inc. dba Number “1” Disposal nor this ordinance authorizes LMH Enterprises Inc. dba Number “1” Disposal to operate any landfill, recycling facility or other solid waste disposal facility.

PASSED FOR PUBLICATION OF TITLE this 9th day of May, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk