

ORDINANCE NO. 28434

AN ORDINANCE OF THE CITY OF SAN JOSÉ GRANTING A COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE TO BERNARDINI ENTERPRISES INC. DBA JD SERVICES

WHEREAS, BERNARDINI ENTERPRISES INC. DBA JD SERVICES has submitted an application to the City of San José for a Commercial Solid Waste and Recyclables Collection Franchise; and

WHEREAS, on October 28, 2008, 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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES; 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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES 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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES, pursuant to which BERNARDINI ENTERPRISES INC. DBA JD SERVICES 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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES ("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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES shall be for a term commencing December 18, 2008, and ending on June 30, 2009. 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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES; provided, however, that no such extension of the term of this Franchise shall become effective unless and until accepted in writing by BERNARDINI ENTERPRISES INC. DBA JD SERVICES.

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 BERNARDINI ENTERPRISES INC. DBA JD SERVICES nor this ordinance authorizes BERNARDINI ENTERPRISES INC. DBA JD SERVICES to operate any landfill, recycling facility or other solid waste disposal facility.

PASSED FOR PUBLICATION OF TITLE this 28th day of October, 2008, by the following vote:

AYES: CHIRCO, CHU, CORTESE, LICCARDO, NGUYEN,
OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CAMPOS, CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk