

**ORDINANCE NO. 28550**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ GRANTING  
A COMMERCIAL SOLID WASTE AND RECYCLABLES  
COLLECTION FRANCHISE TO ENVIRONMENTAL  
MANAGEMENT SYSTEMS, LLC DBA EMS**

**WHEREAS**, ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS has submitted an application to the City of San José for a Commercial Solid Waste and Recyclables Collection Franchise; and

**WHEREAS**, on May 12, 2009, 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 ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS; 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 ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS is in the public interest;

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

**SECTION 1.** The City Council hereby grants a Commercial Solid Waste and Recyclables Collection Franchise to ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS, pursuant to which ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS 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 ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS ("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 ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS shall be for a term commencing July 1, 2009, and ending on June 30, 2012. The Council hereby authorizes the Director of Environmental Services,

in the Director's discretion, to extend the term of this Franchise for up to three one-year increments by providing written notice to ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS; provided, however, that no such extension of the term of this Franchise shall become effective unless and until accepted in writing by ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS.

**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 ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS nor this ordinance authorizes ENVIRONMENTAL MANAGEMENT SYSTEMS, LLC DBA EMS operate any landfill, recycling facility or other solid waste disposal facility.

**PASSED FOR PUBLICATION OF TITLE** this 12<sup>th</sup> day of May, 2009, by the following vote:

AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO,  
NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO, CONSTANT.

DISQUALIFIED: NONE.

---

CHUCK REED  
Mayor

ATTEST:

---

LEE PRICE, MMC  
City Clerk