

ORDINANCE NO. 28567

**AN ORDINANCE OF THE CITY OF SAN JOSÉ GRANTING A
COMMERCIAL SOLID WASTE AND RECYCLABLES
COLLECTION FRANCHISE TO THE FLEA MARKET, INC.**

WHEREAS, THE FLEA MARKET, INC. 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 THE FLEA MARKET, INC.; 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 THE FLEA MARKET, INC. 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 THE FLEA MARKET, INC., pursuant to which THE FLEA MARKET, INC. 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 THE FLEA MARKET, INC. ("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 THE FLEA MARKET, INC. 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 THE FLEA MARKET, INC.; provided, however, that no

such extension of the term of this Franchise shall become effective unless and until accepted in writing by THE FLEA MARKET, INC..

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 THE FLEA MARKET, INC. nor this ordinance authorizes THE FLEA MARKET, INC. operate any landfill, recycling facility or other solid waste disposal facility.

PASSED FOR PUBLICATION OF TITLE this 12th 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