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21 February 2012

Mayor and City Council
City of Anaheim
c/o City Clerk Linda N. Andal
200 South Anaheim Boulevard, #217
Anaheim, CA 92805

Via Facsimile Only to 714-765-4105

Re: Request to Cure Violation of Ralph M. Brown Act

Dear Mayor and City Council for the City of Anaheim:

On behalf of Amin David, Martin Lopez, Jose Moreno, Lorena Moreno, and Orange County Communities Organized for Responsible Development, I am writing to request the cure of multiple violations of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*) committed by the Anaheim City Council at its meeting on January 24, 2012, with respect to Item 23 (GardenWalk Hotel Project) on its agenda for the meeting.

First, the agenda did not adequately inform the public that the City Council might give *final* approval to *two* separate agreements providing economic assistance to a hotel developer. Item 23 on the agenda called for "Discussion to consider an amendment to an existing economic assistance agreement and provide direction to staff to develop an agreement with the developer (GardenWalk Hotel Project)." This description contemplated a single contract, but the City Council's vote resulted in the execution of *two* contracts (to allow for phasing of two hotel towers instead of construction of both towers at the same time, as the prior agreement required). Moreover, unlike the items listed in the "consent calendar" and "public hearings" portions of the agenda, this particular agenda item did not call for the City Council to "accept" or "approve" or take other definitive final action; the item called for "discussion to *consider* . . . and *provide direction* to staff. . . ." In this regard, even members of the City Council and the City Attorney did not understand, when the motion was originally made, that the matter would not be coming back to the City Council for approval in the future; it was revealed, just seconds before the final vote and long after the motion was originally made, that the matter required final City Council approval so that it could be concluded by the developer prior to January 31, 2012. The agenda description did not apprise the public that the City Council would be giving *final* approval to two contracts the City Council would never again have a chance to consider, the public would never have a chance to critique, and the text of which was not even available for review at the time of the vote. The inadequacy of the agenda's description for Item 23 violated the Brown Act.

Second, the two economic-assistance agreements that were executed as a result of the City Council's decision on Item 23 assume that the City had the legal authority to enter into such agreements. The policy from which the City's legal authority stems was approved in April 2008,



and it contemplated the execution of economic-assistance agreements by the end of 2009 and the commencement of construction not more than 18 months after the agreements were made. To the extent that the City Council's decision on Item 23 is construed as giving the City the authority to deviate from the policy requirements approved in 2008, the potential for the City Council to confer such authority was not specified in the agenda description for Item 23 (or for any other item on the agenda). The lack of such notice to the public violated the Brown Act.

Under the Brown Act, the violations must be cured not more than 30 days after receipt of this letter. Please notify me *in writing* as soon as possible to let me know whether the violation will be cured and, if so, when the cure will take place. (My clients may sue before receiving your response.)

Thank you for your prompt attention to this important matter.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs

