



## **K** City of Anaheim, Referendum Measure Approving Development Agreement No. 2016-00002

Shall Anaheim City Council Ordinance No. 6377, which would approve a Development Agreement and provide a vested right to develop a Four Diamond 634-room, eight-story hotel on property located at 1030 W. Katella Ave. during the five-year term of that Development Agreement in accordance with governmental approvals and entitlements granted by the City, be adopted?

### What your vote means

YES	NO
A "Yes" vote by a majority of those voting on Measure K means that Ordinance 6377 and the Development Agreement will go into effect.	A "No" vote by a majority of those voting on Measure K means Ordinance 6377 and the Development Agreement will not go into effect.

### For and against

FOR	AGAINST
<p>Lucille Kring Anaheim City Councilmember</p> <p>Michelle Lieberman President, Anaheim Neighborhood Association</p> <p>Anthony Novello Business Manager, Plumbers &amp; Steamfitters Local 582</p> <p>Alden Esping Retired Educator, Former Vice Chairman, Anaheim Budget Advisory Commission, YMCA Volunteer</p> <p>Jim Cain Chairman, Anaheim Hills Community Council</p>	<p>Cynthia Ward</p>

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City of Anaheim

ORDINANCE NO. 6377

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM APPROVING THAT CERTAIN DEVELOPMENT AGREEMENT NO. 2016-00002 BY AND BETWEEN THE CITY OF ANAHEIM AND FJS, INC, A TEXAS CORPORATION AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY.

(DEV2015-00134)

WHEREAS, Article 2.5 of Chapter 4 of Division 1 of Title 7 (commencing with Section 65864) of the Government Code of the State of California (herein referred to as the "Statute") authorizes a city to enter into a contract which is called a development agreement in order to establish with certainty what regulations will govern the construction of a development; and

WHEREAS, the City Council of the City of Anaheim (herein referred to as the "City Council"), as a charter city, enacted Ordinance No. 4377 on November 23, 1982 (herein referred to as the "Enabling Ordinance"), making the City subject to the Statute; and

WHEREAS, pursuant to subdivision (c) of Section 65865 of the Statute, the City Council adopted Resolution No. 82R-565 on November 23, 1982 (herein referred to as the "Procedures Resolution"), establishing procedures and requirements for consideration of development agreements by the City upon receipt of an application therefor; and

WHEREAS, in accordance with the Statute, the Enabling Ordinance and the Procedures Resolution (herein referred to collectively as the "Development Agreement Law"), the City of Anaheim received a verified petition from FJS, Inc., a Texas corporation (the "Developer"), requesting that the City consider and approve a Development Agreement in the form of Development Agreement No. 2016-00002, to provide for the development of the "Project" (as defined below) and certain vested development rights in connection therewith. Development Agreement No. 2016-00002 is proposed in conjunction with the Developer's application for the following additional entitlements, which, together with Development Agreement No. 2016-00002, are intended to permit the demolition of the existing buildings on that certain 6.44-acre (approximate) parcel of land located at 1030 West Katella Avenue in the City of Anaheim, County of Orange, State of California (herein referred to as the "Developer's Property"), and the development on the Developer's Property and that certain 1.67-acre (approximate) triangular parcel of land currently owned by the City and proposed for sale to the Developer of an eight-story AAA Four Diamond Hotel containing up to 634 hotel rooms, up to 42,000 square feet of meeting space, up to 31,179 square feet of retail and restaurant space, and a seven-level parking structure, of which the ground floor would be dedicated to back-of-house uses for the Anaheim Convention Center (herein referred to collectively as the "Proposed Project"):

1. Conditional Use Permit No. 2016-05859; and
2. Final Site Plan No. 2016-00002.

WHEREAS, the Developer's Property and the City Property are herein referred to collectively as the "Property". The Property is generally depicted on the map attached hereto as Exhibit A and more particularly described in Exhibit B attached hereto and incorporated herein by this reference; and

WHEREAS, on June 13, 2016 following a duly noticed public hearing, the Planning Commission of the City of Anaheim (herein referred to as the "Planning Commission") made certain findings that the Developer has demonstrated eligibility to enter into Development Agreement No. 2016-00002 and that Development Agreement No. 2016-00002 meets the criteria set forth in the Development Agreement Law and, therefore, by the adoption of its Resolution No. PC2016-046, recommended to the City Council that said Development Agreement be approved; and

WHEREAS, upon receipt of said Resolution No. PC2016-046, a summary of evidence, a report of the findings and recommendations of the Planning Commission, the City Council did fix the 12th day of July, 2016, as the time, and the City Council Chamber in the Civic Center, as the place, for a public hearing on Development Agreement No. 2016-00002, Conditional Use Permit No. 2016-05859 and Final Site Plan No. 2016-00002 for the Proposed Project (collectively referred to as the "Proposed Entitlements"), and for the purpose of considering the Addendum to the previously certified Final Supplemental Environmental Impact Report No. 2008-00340, dated June 2016 (herein referred to as the "Addendum") and the other CEQA Documents, and did give notice thereof in the manner and as provided by law; and,

WHEREAS, by the adoption of a resolution concurrently with but prior in time to the introduction of this Ordinance and pursuant to the provisions of CEQA, the CEQA Guidelines, and the City's Local CEQA Procedure Manual, this City Council has found and determined the following:

1. That Addendum, together with the other CEQA Documents, collectively constitute the environmental documentation under and pursuant to CEQA relating to the Proposed Entitlements and the Proposed Project;
2. That, pursuant to the findings contained in said concurrent resolution, the CEQA Documents satisfy all of the requirements of CEQA and are adequate to serve as the required environmental documentation for the Proposed Entitlements and the Proposed Project and, together with Mitigation Monitoring Program No. 332 for the Proposed Project, should be approved and adopted; and
3. That no further environmental documentation needs to be prepared under CEQA for the Proposed Entitlements and the Proposed Project.

WHEREAS, this City Council, after due inspection, investigation and study made by itself and in its behalf, and after due consideration of and based upon all of the evidence and reports offered at said hearing, including the evidence presented at the Planning Commission hearing and Planning Commission Resolution No. PC2016-046, does find upon review of the land use aspects of Development Agreement No. 2016-00002, as follows:

1. That the Proposed Project is consistent with the goals, policies, programs and objectives specified in the City's General Plan;
2. That the Proposed Project is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning

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district(s) in which the Proposed Project is and will be located;

3. That the Proposed Project is compatible with the orderly development of property in the surrounding area;
4. That the Proposed Project is not otherwise detrimental to the health and safety of the citizens of the City of Anaheim; and
5. That Development Agreement No. 2016-00002, in the form presented at the meeting at which this Ordinance was adopted, constitutes a lawful, present exercise of the City's police power and authority under, is entered into pursuant to, and is in compliance with the City's charter powers and the requirements of the Development Agreement Law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES ORDAIN AS FOLLOWS:

SECTION 1.

That Development Agreement No. 2016-00002 by and between the City of Anaheim and FJS, Inc., a Texas corporation, in the form presented at the meeting at which this Ordinance was adopted, be, and the same is hereby, approved.

SECTION 2.

That the Mayor be, and is hereby, authorized to execute Development Agreement No. 2016-00002 for and on behalf of the City.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 12th day of July, 2016, and thereafter passed and adopted at a regular meeting of said City Council held on the 26th day of July, 2016, by the following roll call vote:

AYES: Mayor Pro Tem Kring and Council Members Murray and Brandman

NOES: Council Member Vanderbilt

ABSENT: Mayor Tait

ABSTAIN: None

CITY OF ANAHEIM  
s/ Lucille Kring  
MAYOR PRO TEM OF THE CITY OF ANAHEIM

ATTEST:  
s/ Linda Andal  
CITY CLERK OF THE CITY OF ANAHEIM

**If you desire a copy of Exhibit "A" and "B" of Ordinance No. 6377 and Development Agreement No. 2016-00002, please call the election official's office at (714) 765-5166 and a copy will be mailed, emailed, or provided at no cost to you. You can also visit [www.anaheim.net/elections](http://www.anaheim.net/elections) for a copy.**



# Ballot Measures-K

## Impartial Analysis City of Anaheim Measure K

**Overview:** Measure K is a referendum regarding Anaheim Ordinance 6377, adopted by the City Council on July 12, 2016. Ordinance 6377 approved a Development Agreement between the City of Anaheim and FJS, Inc. ("FJS") for the construction of an eight story, 634 room, AAA Four Diamond Hotel located at 1030 West Katella Avenue ("Development Agreement"). The measure was placed on the ballot by a petition signed by the requisite number of voters. If approved, the measure would affirm Ordinance 6377, and the Development Agreement will go into effect. If the measure fails, then Ordinance 6377 and the Development Agreement would not go into effect.

**Development Agreement with FJS:** Ordinance 6377 and the Development Agreement, which are on file with the Anaheim City Clerk, were adopted in compliance with local and State laws, including the California Environmental Quality Act. The Development Agreement, together with a Conditional Use Permit and a Final Site Plan that have been approved by the City ("Existing Approvals"), are intended to permit the construction of an eight-story AAA Four Diamond Hotel containing 634 rooms and up to 42,000 square feet of meeting space, up to 31,179 square feet of retail and restaurant space, and a seven-level parking structure, on a 6.44 acre property located at 1030 W. Katella Avenue, as well as on an adjacent 1.67 acre parcel ("Project").

Under the Development Agreement, FJS would agree to develop the Project, consistent with the Existing Approvals, and to pay the City \$100,000 for various public improvements near the Project. In exchange, the City would agree not to revoke the Existing Approvals, and would agree that FJS has a vested right to develop the Project in accordance with the Existing Approvals.

**Vested Rights:** Under the legal doctrine of "vested rights," if a property owner receives a permit from a public agency to construct a project, and then incurs substantial costs in reliance on that permit, the property owner has the right to develop the property consistent with the permit regardless of changes in the public agency's land use regulations. Entering into a development agreement that secures the right to proceed with a project in accordance with its terms is another way a property owner can secure vested rights. Here, FJS has entered into the Development Agreement for the Project. If the measure passes, FJS will have a vested right to develop the Project consistent with the Development Agreement and the Existing Approvals. If the measure fails and the City changes its land use regulations, FJS would either have to conform to the new regulations, or establish that it has a vested right to construct the Project as originally approved even though it does not have a development agreement.

### Summary:

A "Yes" vote by a majority of those voting on Measure K means that Ordinance 6377 and the Development Agreement will go into effect.

A "No" vote by a majority of those voting on Measure K means Ordinance 6377 and the Development Agreement will not go into effect.

s/ Robert Fabela  
Anaheim City Attorney



# Ballot Measures-K

## Argument in Favor of Measure K

For more and better jobs in Anaheim, and revenue for vital neighborhood services – vote Yes on Measure K!

Measure K and its companion, Measure J, are simple questions – should we reaffirm the vote of a bipartisan majority of the Anaheim City Council and allow the redevelopment of an older hotel into a larger, nicer hotel that creates thousands of new, well-paid jobs and brings in hundreds of millions of dollars of new tax revenue to the City paid by tourists, not residents.

Measure K means we can guarantee construction of a new, four-star hotel next to the Anaheim Convention Center on Katella Avenue that is already being built. This new hotel helps the City realize the investment in the beautifully expanded Convention Center by giving conventioners a new, high-end place to stay right next door.

Construction of this new hotel has already begun to create what will be over 2,000 well paid construction jobs for highly skilled workers – with guaranteed preferences for Anaheim residents and veterans.

Once this hotel opens its doors, it'll be home to over 600 new permanent jobs which will be higher paying jobs than those at the old hotel being replaced.

This hotel also means hundreds of millions of dollars in revenue for the City, over and above that which was generated by the older hotel. This gives the City the revenue needed to face challenges related to public safety and homelessness, while still maintaining funding priorities for streets, parks, and community services. Best of all, tourists provide this tax revenue, meaning City leaders won't come to residents for higher taxes.

The benefits Anaheim will reap through these new hotels can't be disputed.

Get the facts at [www.JobsForAnaheim.org](http://www.JobsForAnaheim.org), and vote YES on Measure K and Measure J!

s/ Lucille Kring  
Anaheim City Councilmember

s/ Michelle Lieberman  
President, Anaheim Neighborhood Association

s/ Anthony Novello  
Business Manager, Plumbers & Steamfitters Local 582

s/ Alden Esping  
Retired Educator, Former Vice Chairman, Anaheim Budget Advisory Commission, YMCA Volunteer

s/ Jim Cain  
Chairman, Anaheim Hills Community Council

## Rebuttal to Argument in Favor of Measure K

**Vote NO** on Measure K to send a message to Anaheim leaders that **big subsidies** should be matched with big benefits for Anaheim residents. Supporters of Measure K do not mention that the ordinance would grant a development agreement to a real estate developer that, through a separate agreement, **will receive a \$147.8 million subsidy** over 20 years of operation for its luxury hotel.

Under the separate agreement, **70% of the tax revenue generated by this proposed hotel over 20 years will go back to the developer.** This means that \$147.8 million that could go to our parks and firefighters will instead go to FJS Inc., an affiliate of a Hong Kong-based real estate developer. A **NO vote** on Measure K will overturn the ordinance that granted a development agreement to FJS Inc. to build an eight-story, 634-room luxury hotel.

Supporters of Measure K say that the development of this new hotel will create hundreds of permanent jobs and generate tax revenue for the City. However, in their direct ballot argument, they do not specify whether any of these jobs will be guaranteed for Anaheim residents, nor do they provide any guarantee that these jobs will pay livable wages with benefits. They also fail to acknowledge that, of the 121 workers laid off when the Anabella Hotel was closed in order to be redeveloped, about 40% of them were not placed at new jobs with another Wincome Hotel, and lost their jobs.

Send the right message to Anaheim leaders and **VOTE NO** on Measure K.

s/ Cynthia Ward



# Ballot Measures-K

## Argument Against Measure K

During the summer of 2016, nearly 13,000 Anaheim residents signed a petition so they could have an opportunity to vote on the development agreement for the luxury redevelopment of the Anabella Hotel, which the Anaheim City Council previously approved by ordinance. Measure K provides voters with that opportunity.

Voters should **vote NO** on Measure K to overturn an ordinance that would give the hotel's owner – FJS Inc., an affiliate of the Hong Kong-based Wincome Group – land use and zoning protections through a development agreement. Earlier in 2016, the City Council approved *another* agreement that will give FJS Inc. a **\$147.8 million subsidy** for the hotel over 20 years of operation. Rather than going to the owner, that \$147.8 million should instead benefit the **residents** of Anaheim *directly* by going to our parks, police officers, and firefighters.

By voting **NO** on Measure K, Anaheim residents can send a message to Anaheim leaders that **we do not want big subsidies to go to development projects like this one**. Vote **NO** On Measure K and say **NO** to the development agreement for this hotel.

s/ Cynthia Ward

## Rebuttal to Argument Against Measure K

Here are the facts about Measure K that aren't seriously disputed.

FACT – Measure K helps ensure that a new hotel already under construction on Katella Avenue next to the Anaheim Convention Center will be completed as quickly as possible.

FACT – Measure K ensures we'll continue to create **thousands of well-paid construction jobs** with preferences for local residents and veterans.

FACT – Measure K will **triple the permanent jobs** at the new hotel, compared to the previous hotel, and the **jobs at the newer hotel will be better paying**, because pay at four-diamond hotels is higher than budget hotels.

FACT – Measure K means **hundreds of millions of dollars of new tax revenue** over the life of the hotel for vital city services like public safety protection, park maintenance, road repair, and addressing homelessness, compared to the previous hotel.

FACT – The company building the new hotel is **Anaheim-based and has been operating in Anaheim, providing jobs and paying taxes, for 30 years**.

FACT – Measure K reaffirms an approval granted by a bipartisan majority of the City Council to move this hotel forward in the most efficient way possible and keeps a promise our City made not to change the roles on a local hotel company if they agree to build the hotel as presented to the City.

Don't be fooled by arguments against Measure K that talk vaguely about "sending messages." Measure K is about jobs for Anaheim and new tax revenue for vital services by replacing an old hotel with a new hotel at the same site.

Yes on Measure K!

s/ Lucille Kring  
Anaheim City Councilmember

s/ Michelle Lieberman  
President, Anaheim Neighborhood Association

s/ Anthony Novello  
Business Manager, Plumbers & Steamfitters Local 582

s/ Alden Esping  
Retired Educator, Former Vice Chairman, Anaheim Budget Advisory Commission, YMCA Volunteer

s/ Jim Cain  
Chairman, Anaheim Hills Community Council