

ORDINANCE NO. 1462

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIALTO, CALIFORNIA, APPROVING A PRE-
ANNEXATION DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF RIALTO AND LYTLE DEVELOPMENT
JOINT VENTURE III AND LYTLE DEVELOPMENT
COMPANY

WHEREAS, a Pre-Annexation Development Agreement ("*Development Agreement*") between the CITY OF RIALTO, a California general law municipal corporation ("*City*"), and LYTLE DEVELOPMENT JOINT VENTURE III, a California general partnership ("*LDJVIII*") and holder of an equitable ownership in the Property, and LYTLE DEVELOPMENT COMPANY, a California corporation ("*LDC*") and owner of legal title to the Property, (LDJVIII and LDC collectively are referred to herein as "*Owner*"), a copy of which is attached hereto and incorporated herein as Exhibit "A", has been proposed for the purpose of defining and memorializing the rights and obligations of such parties regarding the development of certain real property currently within both the unincorporated territory of the County of San Bernardino and the boundaries of City (the "*Property*") and

WHEREAS, the Planning Commission of City conducted a duly-noticed public hearing on March 23, 2010 regarding the Development Agreement, and at its conclusion, after considering the testimony and all other evidence submitted by Owner, City staff, and interested parties, adopted its Resolution No. 10-21, approving the Findings described in Section 1 hereof and recommending that the City Council approve the Development Agreement; and

WHEREAS, the City Council conducted a duly-noticed public hearing on April 13 2010 regarding the Development Agreement, and considered the recommendation of the Planning Commission and the testimony and all other evidence submitted by Owner, City staff, and interested parties, and approved the Development Agreement.

NOW, THEREFORE, the City Council of the City of Rialto does hereby ordain as follows:

Section 1. Findings

A. General Plan and Specific Plan Consistency. The provisions of the Development

1 Agreement are consistent with the General Plan of the City.

2 B. Compliance with Legal Requirements. The provisions of the Development Agreement
3 comply with the requirements of Article 2.5 of Chapter 4 of Division 1 of Title 7 of the
4 California Government Code, commencing with Section 65864, Article XI, Section 7 of the
5 California Constitution and the City Development Agreement Ordinance incorporated into its
6 Municipal Code as Chapter 18.79 of Title 18.

7 C. Financially Self-Sustaining Development. The intent of the Development Agreement is
8 that the development of the Property will be financially self-sustaining, so that it imposes no
9 additional financial burden on the residents, property owners or taxpayers in other portions of the
10 City, by providing for the payment of all costs for the public facilities and City services
11 necessary to serve such development.

12 D. Not Adverse to Health, Safety and Welfare. Adoption of the Development Agreement,
13 under current and known circumstances, will not be detrimental to the health, safety or welfare
14 of persons residing, conducting business or owning property in the area of the Project or
15 elsewhere in the City.

16 E. Municipal Rights and Benefits. Adoption of the proposed Development Agreement will
17 provide substantial municipal rights and benefits to the City of Rialto in addition to those which
18 City otherwise could secure, including retention of an existing business within the community
19 and the continued and future receipt of significant property, utility and sales tax revenues from
20 the commercial use of the Property.

21 **Section 2.** Compliance Review. The proposed Development Agreement and City Code
22 Section 18.79.070 requires periodic review of such Agreement by the City Council at least once
23 every twelve months after its execution, to ascertain good faith compliance with terms of such
24 Agreement by the Owner and any successor in interest.

25 **Section 3.** Annexation Contingency. The effectiveness of the Development Agreement is
26 contingent upon completion of the annexation to the City of that portion of the Property now
27 located within the unincorporated area of the County of San Bernardino. That completion also is
28 subject to the negotiation of a Tax Exchange Agreement between the City and County that is

1 acceptable to the City.

2 **Section 4.** Approval. The City Council hereby approves the Development Agreement, with
3 any non-substantive typographical or scrivener errors corrected by the City Administrator, and
4 authorizes the Mayor to sign said Development Agreement after it has been signed by all the
5 other parties to such Development Agreement.

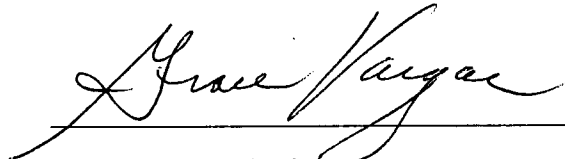
6 **Section 5.** Recordation. Pursuant to Government Code Section 65868.5, the City Clerk is
7 directed to record a copy of said Development Agreement with the County Recorder of San
8 Bernardino County within 10 days after the Mayor's signing of the Development Agreement.

9 **Section 6.** Publication. The City Clerk also shall certify to the passage and adoption of this
10 ordinance and cause the same to be published in the San Bernardino Sun, a newspaper of general
11 circulation in the City, in accordance with the provisions of Section 18.79.080 of the City
12 Municipal Code and the California Government Code.

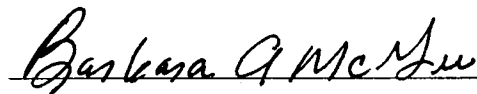
13 **Section 7.** Partial Invalidation Effect. If any court of competent jurisdiction holds any
14 section, subsection, sentence, clause, phrase or portion of this ordinance invalid, such
15 determination shall not affect the validity of the remaining portions of this ordinance. The City
16 Council declares that it would have enacted this ordinance and each section, sentence, clause or
17 phrase hereof irrespective of any determination of invalidity.

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1 **PASSED, ADOPTED AND APPROVED** at a regular meeting of the City Council this
2 27th day of April, 2010 by the following vote.

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7 GRACE VARGAS, Mayor

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10 **ATTEST:**

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15 BARBARA A. McGEE, City Clerk

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19 **APPROVED AS TO FORM:**

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23 JIMMY L. GUTIERREZ, City Attorney

1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**)
3 **CITY OF RIALTO**)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Ordinance No. 1462 was duly passed and adopted at a regular meeting of the City Council of
6 the City of Rialto held on the 27th day of April, 2010.

7 Upon motion of Council Member Scott, seconded by Council Member
8 Palmer, the foregoing Ordinance No. 1462 was duly passed and adopted.

9 Vote on the motion:

10 AYES: Mayor Vargas, Council Members: Robertson, Scott, Baca Jr. & Palmer

11 NOES: None

12 ABSTAINED: None

13 ABSENT: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of City of
15 Rialto this 13th day of May, 2010.

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17
18 Barbara McGee

19 BARBARA MCGEE, City Clerk
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