

1 **RESOLUTION NO. \_\_\_\_\_**

2 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
3 **RIALTO, CALIFORNIA, APPROVING A CONSTRUCTION AND**  
4 **CREDIT AGREEMENT BY AND BETWEEN THE CITY OF**  
5 **RIALTO AND CAPROCK PARTNERS LLC.**

6 **WHEREAS**, CapRock Partners LLC (“CapRock”) submitted various planning and development  
7 applications to the City for the proposed development of a 525,110 square foot warehouse on  
8 approximately 24.37 acres of land located near the intersection of Willow Avenue and Santa Ana  
9 Avenue within the Agua Mansa Specific Plan (the “Project”);

10 **WHEREAS**, on June 13, 2017, the City Council adopted Resolution No. 7142 certifying the  
11 Environmental Impact Report and the Mitigation Monitoring Plan (E.A.R. 15-19) for the Project; and

12 **WHEREAS**, following the action of the City Council, the City filed a Notice of Determination  
13 with the Clerk of the Board; and

14 **WHEREAS**, the Development Review Committee (DRC) approved Precise Plan of Design  
15 #2391 for the Project subject to certain Conditions of Approval; and

16 **WHEREAS**, the Conditions of Approval for the Projects require CapRock to construct certain  
17 public improvements (“Public Improvements”) including but not limited to (i) constructing,  
18 reconstructing, and or widening the existing roadway along the Project’s Riverside Avenue frontage,  
19 (ii) constructing a raised center median in Riverside Avenue (or paying an in-lieu fee), and (iii)  
20 constructing or reconstructing storm drains to serve the Project necessitated by the widening, (iv) and  
21 other improvements to serve the project; and

22 **WHEREAS**, the Public Improvements are identified in the City’s various Nexus Studies or have  
23 been deemed necessary as interim improvements and are therefore eligible for reimbursements or fee  
24 credits in accordance with the provisions of Rialto Municipal Code Section 3.33.100 (entitled “Fee  
25 Credits”); and

26 **WHEREAS**, Section 3.33.110 of the Rialto Municipal Code (entitled “Construction and Credit  
27 Agreements”) permits the City Administrator to negotiate and enter into Construction and Credit  
28 Agreements with Developers, subject to the approval of the City Council; and

1           **WHEREAS**, Section 3.33.100 of the Rialto Municipal Code also provides that a Developer is  
2 not entitled to reimbursement for any excess in the costs to construct the public facility over the amount  
3 of the developer's obligation to pay the development impact fee for the type of public facility  
4 constructed, unless a separate reimbursement agreement is approved by the City Council; and.

5           **WHEREAS**, CapRock and the City have negotiated the terms of a Construction and Credit  
6 Agreement related to the construction of the Public Improvements, a copy of which is attached hereto  
7 as Exhibit A and incorporated herein by reference; and

8           **WHEREAS**, the construction of the Public Improvements were reviewed and considered as part  
9 of the environmental review for the Project; and

10           **WHEREAS**, approval of the Construction and Credit Agreement is an administrative or fiscal  
11 action by the legislative body that will not result in any additional direct or indirect physical change in  
12 the environment than what was already analyzed (Section 15378(b) of the CEQA Guidelines),  
13 consequently no further environmental review is warranted.

14           **NOW, THEREFORE**, the City Council of the City of Rialto hereby resolves as follows:

15           **Section 1.**     The foregoing recitals are determined to be true and correct;

16           **Section 2.**     The City Council hereby finds and determines, based on substantial evidence in  
17 the record that CapRock Partners LLC is entitled to receive credits and or reimbursements from the City  
18 for the cost to construct the Public Improvements.

19           **Section 3.**     The City Council hereby finds and determines, based upon substantial evidence  
20 in the record, the analysis and environmental review completed, and the approved Environmental Impact  
21 Report and Notice of Determination, that there will be no additional significant or adverse impact on the  
22 environment resulting from entering into the Construction and Credit Agreement.

23           **Section 4.**     The City Council hereby approves the Construction and Credit Agreement by and  
24 between CapRock Partners LLC substantively in form and content to that attached hereto in Exhibit A  
25 along with any non-substantive changes as may be mutually agreed upon by the City Administrator (or  
26 his duly authorized representative), City Attorney and CapRock Partners LLC. The final Construction  
27 and Credit Agreement, when duly executed and attested, shall be filed in the office of the City Clerk.  
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**Section 5.** The City Administrator (or his duly authorized representative) is authorized to implement the Construction and Credit Agreement, take all further actions, and execute all documents referenced therein and/or necessary and appropriate to carry out the Project, including causing the issuance of warrants.

**Section 6.** The City Clerk shall certify to the adoption of this Resolution.

**PASSED, APPROVED AND ADOPTED** this 12th day of December, 2017.

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Deborah Robertson, Mayor

ATTEST:

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BARBARA McGEE, City Clerk

APPROVED AS TO FORM:

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FRED GALANTE, ESQ., City Attorney

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

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing  
5 Resolution No.\_\_\_\_ was duly passed and adopted at a regular meeting of the City Council of the City  
6 of Rialto held on the \_\_\_\_ day of \_\_\_\_\_, 2017.

7 Upon motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_,  
8 the foregoing Resolution No. \_\_\_\_\_ was duly passed and adopted.

9 Vote on the motion:

10 AYES:

11 NOES:

12 ABSENT:

13  
14 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of  
15 Rialto this \_\_\_\_ day of \_\_\_\_\_, 2017.

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18 **BARBARA MCGEE, CITY CLERK**

**EXHIBIT "A"**

**CONSTRUCTION CREDIT AND REIMBURSEMENT AGREEMENT**

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