

EXCLUSIVE NEGOTIATING AGREEMENT

This **EXCLUSIVE NEGOTIATING AGREEMENT** (this "Agreement") dated as of June 21, 2016 (the "Effective Date"), is made by and between the **CARSON HOUSING AUTHORITY**, a public body, corporate and politic (the "Authority"), and **META HOUSING CORPORATION** (the "Developer"), with reference to the following facts.

RECITALS:

A. The Developer has stated that it has secured rights to the 1.8-acre property known as Assessor Parcel Numbers 7343-001-040 and 041 and located at 21205 Main Street in the City of Carson, California ("Property").

B. The Authority and the Developer wish to negotiate with each other as to the terms and conditions of an agreement that would result in Developer covenanting to construct and operate a 46-unit multi-family affordable rental development, with leasing preference towards working artists (the "Project"). The Authority and the Developer believe it to be in the best interest of the Authority for the Project to be developed on the Property.

E. The Authority anticipates that following the execution of this Agreement, the Authority and the Developer shall negotiate the terms of an Affordable Housing Agreement ("AHA") for redevelopment of the Property by the Developer. Authority and Developer wish to conduct exclusive negotiations for an AHA.

F. During the Exclusive Negotiating Period (as defined below), the staff, consultants and attorneys of the Authority and the City will devote substantial time and effort in reviewing plans, assembling and reviewing information and providing redevelopment planning and assistance to the Developer in connection with the proposed Project and in negotiating and preparing the AHA.

G. The Authority and the Developer desire to enter into this Agreement in order to facilitate the negotiation of the AHA and to set forth the rights and obligations of the parties during the Exclusive Negotiating Period.

NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **EXCLUSIVE NEGOTIATING PERIOD.** During the period from the Effective Date through the date that is one hundred eighty (180) days thereafter (the "Exclusive Negotiating Period"), Developer and the Authority shall negotiate with each other in good faith with respect to the creation of an AHA providing for the development of the Project.

2. **OBLIGATIONS OF AUTHORITY.** During the Exclusive Negotiating Period, the Authority shall have the following obligations:

a. the Authority shall not negotiate, discuss nor otherwise communicate with any other person or entity, other than the Developer, regarding the Property or the development of the Project, except for entities or persons which have an interest therein pursuant to applicable law or contractual rights or obligations;

b. the staff of the Authority shall be available to meet with Developer to discuss the Project, so that Developer shall have sufficient input to prepare its full proposal for the Project.

3. OBLIGATIONS OF DEVELOPER.

a. Preliminary Development Concept Package and Authority Evaluation.

i. Within sixty (60) days of the Effective Date, the Developer shall submit to the Authority a "Preliminary Development Concept Package," consisting of the following:

1. a preliminary development proposal generally describing the Project for the site subject to Authority review and approval.

2. an initial estimate of development costs, including construction and non-construction costs, such as the proposed purchase price for land;

3. a preliminary description of the proposed method of financing;

4. a proposed construction and operating pro forma which identifies all sources and uses of funds;

5. submittal of preliminary design(s) (including a scaled site plan indicating building and parking layout) for the purpose of demonstrating compliance with the design requirements of the City of Carson and to assist the Authority in conducting a review under the California Environmental Quality Act ("CEQA"); and

6. evidence reasonably acceptable to the Authority that the Developer has secured rights to the Property.

7. evidence reasonably acceptable to the Authority that the Developer and its joint venture partners (if any) have the significant financial resources necessary for development, which may include but not be limited to, a preliminary loan approval or audited financial statements.

Authority staff may solicit proposals and select independent financial or design consulting firms to verify and further analyze the Preliminary Development Concept Package at the Authority's sole expense.

ii. Within thirty (30) days of the date of receipt of the Preliminary Development Concept Package, the Authority will provide its evaluation ("Preliminary Authority Evaluation") to the Developer of the Preliminary Development Concept Package. Such evaluation will include the Authority's evaluation of items addressed in the Preliminary Development Concept Package. The Preliminary Authority Evaluation shall indicate Authority's preliminary determinations as to the appropriate level of review under CEQA.

b. Following the Preliminary Authority Evaluation, the Authority and the Developer shall continue to negotiate in good faith concerning the development and use of the Property. During the Exclusive Negotiation Period, the Developer shall bear the costs of all actions and activities of the Developer, and the Authority shall bear the costs of all actions and activities of the Authority.

c. Prior to the termination of the Exclusive Negotiating Period, or any extension thereof, the Parties shall negotiate in good faith a mutually acceptable AHA for the development of the Project. If such an AHA is not entered into during the Exclusive Negotiation Period, or any extension thereof, then all rights, duties, and obligations of the parties hereto (except as otherwise provided in Section 13 hereof) shall terminate, and Authority shall be free to negotiate with any other party with respect to redevelopment of the Property for any purpose or use whatsoever.

d. Financial Information. Within the time periods set forth in the AHA and provided financing will be obtained by Developer from an institutional lender(s) approved by the Authority in its reasonable discretion for the acquisition of the Property and/or development of the Project, Developer shall provide Authority with a letter evidencing a commitment ("Commitment Letter") from such lender(s), (in form and substance reasonably acceptable to Authority), indicating that such lender(s), has a definitive interest in financing the acquisition, construction and/or development of the Project by Developer, as the case may be. The Commitment Letter shall also outline the financial terms pursuant to any proposed financing for the Project as well as specifically identify the sources of all equity financing ("Equity Commitment") to be used by Developer in the development of the Project. In the event the Project is to be financed exclusively by equity financing, the Equity Commitment shall evidence an amount sufficient to provide for the net acquisition costs of the Property and development of the Project by Developer, as the case may be. The Equity Commitment may be in the form of letters of intent from credit worthy investors. To the extent Developer wants such Commitment Letter or Equity Commitment or financial terms or financial statements to remain confidential, they shall be supplied to and maintained by the Authority in confidence to the extent permitted by law. Subject to its reserved rights set forth the in Section 3 herein, the Developer acknowledges that it may be requested to make certain confidential financial disclosures to the Authority, its staff or legal counsel, as part of the financial due diligence investigations of the Authority relating to the potential development of the Project. The parties recognize that such financial disclosures may contain sensitive information relating to other business transactions of the Developer, that the disclosure of such information to third parties could impose commercially unreasonable and/or anti-competitive burdens on the Developer. Accordingly, the Authority agrees to maintain the confidentiality of any business records described in Government Code Section 6254.15, as may be provided by the Developer to the Authority or its consultants, as permitted by law. The Authority shall advise the Developer of any Public Records Act requests for such business records, and the proposed response of the Authority thereto, a reasonable time prior to the Authority's delivery of such response and, if the Authority proposes to disclose any such business records, the Authority shall first agree to confer with the Developer to consider any objections that the Developer may have to such disclosure.

4. AFFORDABLE HOUSING AGREEMENT. During the Exclusive Negotiating Period the parties shall attempt to negotiate an AHA regarding the development of the Property, which contains various provisions, including, but not limited to, the following: (i) the design of the Project by the Developer, which design shall be subject to approval by the Authority and the City; (ii) Developer shall complete its due-diligence inspection period investigations of and approve all Property site conditions including, but not limited to, soils, geologic, environmental and other conditions that may impact its ability to construct the improvements identified in the Site Plan and architectural renderings; (iii) the construction of the Project by the Developer in accordance with final plans and specifications to be provided by the Developer and approved by the Authority and pursuant to a detailed schedule of performance approved by the Authority, and in full compliance with all applicable laws including, but not limited to, those pertaining to the payment of prevailing wages, if applicable; (iv) the operation and

management of the Project by the Developer in a good and professional manner and the maintenance of landscaping, buildings and improvements in good condition and state of repair so as to be attractive to the residents and to the community; (v) the operation of the Project by the Developer in compliance with all equal opportunity standards established by Federal and State law; (vi) the right of the Authority and the City to inspect the Project from time to time to assure compliance with the foregoing provisions; (vii) the furnishing by the Developer to the Authority, upon the Authority's request, of conceptual drawings and schematics, final plans and working drawings for the Project and participation in presentations regarding all phases of development; (viii) assurances that the Project shall be of the highest quality.

5. ARCHITECTURAL RENDERINGS. Prior to the twentieth (20th) day after the date on which the Authority provides its comments on the Preliminary Development Concept Package, the Developer shall deliver to the Authority architectural renderings of the Project, including but not limited to, scaled elevations, site plan, and perspective views.

6. EXTENSION. The Exclusive Negotiating Period may be extended by the mutual written consent of the parties for up to a cumulative total of not more than ninety (90) days. The Authority's Executive Director may grant such extension upon receipt of an extension request and a report from Developer indicating in specific terms the efforts of Developer to date and the anticipated steps to be undertaken in the extension period for completion of the planning and negotiation phases of the Project. Prior to granting any such extension, the Authority shall consider all the efforts made by the Developer under and pursuant to the terms and conditions of this Agreement including tenant lease commitments and to negotiate in good faith an AHA with the Authority for the Project. The granting of any extension pursuant to this Section 6 shall be in the complete control and discretion of the Authority.

7. FAILURE OF DEVELOPER TO NEGOTIATE IN GOOD FAITH. In the event Developer has not continued to negotiate diligently and in good faith, Authority shall give written notice thereof to Developer, who shall then have ten (10) business days to commence negotiating in good faith. Following the receipt of such notice and the failure of Developer to thereafter commence negotiating in good faith within such ten (10) business days, this Agreement may be terminated by Authority.

8. FAILURE OF AUTHORITY TO NEGOTIATE IN GOOD FAITH. In the event Authority has not continued to negotiate diligently and in good faith Developer shall give written notice thereof to Authority which shall then have ten (10) business days to commence negotiating in good faith. Following the receipt of such notice and the failure of Authority to thereafter commence negotiating in good faith within such ten (10) business days, this Agreement may be terminated by Developer.

9. TERMINATION. Either party may terminate this Agreement (and, with it, the Exclusive Negotiating Period) if the other party fails to comply with and perform in a timely manner, to the reasonable satisfaction of the first party, all provisions hereof to be performed by the other party, or if progress is not being made in negotiations hereunder to the first party's reasonable satisfaction. The party seeking to terminate this Agreement shall give ten (10) days written notice to the other party which specifies any dissatisfaction by the first party, including the opinion that the other party is not diligently

prosecuting the performance of its obligations hereunder, and the first party shall not terminate this Agreement if the other party cures the deficiency specified in the notice to the reasonable satisfaction of the first party within such ten (10) day period.

10. NO PREDETERMINATION OF AUTHORITY DISCRETION. The parties agree and acknowledge that, while this Agreement does provide that the parties shall negotiate in good faith, this Agreement does not obligate either the Authority or the Developer to enter into an AHA, and approval of any AHA shall require the approval of both parties, with the Authority Board giving its approval, if at all, only after consideration of the AHA at a public meeting of the Authority Board, and such consideration following a public hearing and all other proceedings required by law.

11. NO OTHER AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. There are no agreements or understandings between the parties and no representations have been made by either party to the other as an inducement to enter into this Agreement, except as expressly set forth herein. All prior negotiations, written or oral, between the parties are superseded by this Agreement. This Agreement may not be altered, amended or modified except by a writing executed by both parties. Notwithstanding anything provided herein to the contrary, whether express or implied, the City and the Authority shall have no obligation to enter into an AHA with Developer, and neither the City nor the Authority nor their respective members, officers, staff or agents have made any promises to Developer other than to exclusively negotiate with Developer during the Exclusive Negotiating Period, and no statements of the City or the Authority or their respective officers, members, staff or agents as to future obligations shall be binding upon the City or the Authority until a full AHA is approved and duly executed by the Authority.

12. PROHIBITION AGAINST ASSIGNMENT BY DEVELOPER. This Agreement shall not be assigned by Developer without the Authority's prior written consent, which consent may be withheld in its sole and absolute discretion.

13. PROHIBITION AGAINST TRANSFER BY AUTHORITY. The Authority shall not transfer the Property during the Exclusive Negotiating Period.

14. ATTORNEYS' FEES. If either party should bring any legal proceeding relating to this Agreement, or to enforce any provision hereof, the party in whose favor judgment is rendered shall be entitled to recover reasonable attorneys' fees and expenses of litigation from the other.

15. INDEMNIFICATION. The Developer shall indemnify, defend, and hold the Authority and City harmless from any and all costs, losses, claims and other liability resulting from the Developer's breach under this Agreement. This indemnity shall survive the expiration or other termination of this Agreement. In the event that any claim should be filed against the Authority or City which would require indemnification by the Developer, the Authority or City shall notify the Developer of such claim in a timely manner to permit the Developer the opportunity to provide adequate representation to the Authority or City with respect to any such claim.

16. NOTICES. Any notice which is required or permitted to be given hereunder shall be given in writing by certified mail, postage prepaid, and return receipt requested, or by personal delivery. Notices shall be considered given upon the earlier of (a) personal delivery or (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be

given as demanded in that notice:

If to Developer:

Meta Housing
1640 Sepulveda Blvd., # 425
Los Angeles, CA 90025
Attn: Chris Maffris, Senior VP
Phone: (310) 575-3543 x108

If to the City or the Authority:

Carson Housing Authority
701 E. Carson Street
Carson, California 90745
Attn: John Raymond, Director of Community Development
Phone: (310) 830-7600

With a copy to Authority Counsel and City Attorney:

Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attn: Sunny K. Soltani
Phone: (949) 223-1170
Fax: (949) 223-1180

17. PUBLIC HEARING. Any AHA that may be negotiated is subject to consideration and discretion at a public hearing or hearings by Authority or City. Nothing in this Agreement shall commit or be construed as committing Authority to approve any AHA.

18. NON-BINDING NATURE OF AGREEMENT. Each of the parties acknowledges and agrees that because circumstances may change, and because each of the parties have not fully considered the ramifications of their present intentions, including the proposed terms of the AHA, this Agreement shall not be construed to bind the Authority or the Developer to enter into an AHA. The actual covenants and agreements of the parties with respect to the disposition of the Property shall be set forth in the AHA to be hereafter negotiated. By its execution of this Agreement, the Authority is not committing itself to or agreeing to undertake (a) any acquisition of land for the Project or the disposition of land to the Developer; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the Authority, the City, or any agency or department thereof. This Agreement does not constitute a disposition of property or exercise of control over property by the Authority or the City and does not require a public hearing. Execution of this Agreement by the Authority is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the Authority and City as to any AHA and all proceedings and decisions in connection therewith.

19. APPLICABLE LAW. This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of, the State of California. Venue shall be the County of Los Angeles, California.

20. COUNTERPARTS. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

AUTHORITY:

CARSON HOUSING AUTHORITY,
a public body, corporate and politic

By: _____
Albert Robles, Chairman

ATTEST:

Donesia L. Gause, CMC
Authority Secretary

APPROVED AS TO FORM:

Aleshire & Wynder, LLP
a limited liability partnership

By: _____
Sunny K. Soltani, Authority Counsel

DEVELOPER:

META HOUSING CORPORATION

By: _____

Name: _____

Its: _____