

**ORDINANCE NO. 20060309-014**

**AN ORDINANCE AUTHORIZING EXECUTION OF THE SECOND AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING FOR EAST AUSTIN ECONOMIC DEVELOPMENT BETWEEN THE CITY AND ROBERTSON HILL LAND, LTD.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The City Manager is authorized to execute the Second Amendment to the Memorandum of Understanding for East Austin Economic Development between the City of Austin and Robertson Hill Land, Ltd., in substantially the form attached as Exhibit A.

**PART 2.** This ordinance takes effect on March 20, 2006.

**PASSED AND APPROVED**

\_\_\_\_\_, March 9, 2006

§  
§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

**AMENDMENT NUMBER TWO**  
**TO**  
**MEMORANDUM OF UNDERSTANDING FOR EAST AUSTIN ECONOMIC**  
**DEVELOPMENT**  
**BETWEEN**  
**CITY OF AUSTIN**  
**AND**  
**ROBERTSON HILL LAND, LTD.**

**Dated:**     \_\_\_ March 2006

This Amendment Number Two (Amendment Two) to the Memorandum of Understanding for East Austin Economic Development (MOU) is made and entered into by and between the **CITY OF AUSTIN** (City), with offices located at 301 West Second Street - Suite 2030, Austin, Travis County, Texas 78701, **ROBERTSON HILL LAND, LTD.**, a Texas limited partnership having as its general partner **RHL GP, LLC**, a Texas limited liability company (Robertson Hill), situated at 1400 Post Oak Boulevard – Suite 500, Houston, Harris County, Texas 77056-3008 for the purposes and considerations stated below:

**WHEREAS**, the City and Robertson Hill desire to contract and amend the MOU entered into by and between City and Riata Partners, L.L.C., a Texas limited liability company (Riata), executed on or about 7 June 2001, as modified on 4 February 2005 by the City's consent to the grant of certain rights under the MOU to be assigned by Riata to Robertson Hill, and as further amended on 7 November 2005 by Amendment One (Original Agreement); and

**WHEREAS**, Riata has assigned its interest in the Original Agreement to Robertson Hill;  
and

**WHEREAS,** City and Robertson Hill desire to revise the Original Agreement by making certain revisions to the residential housing terms of the Original Agreement;

**NOW, THEREFORE,** in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by all of the parties to this Amendment Two, City and Robertson Hill severally and collectively agree and by the execution hereof shall be bound to the mutual obligations and to the performance and accomplishment of the hereinafter described modifications, alterations and changes to the Original Agreement in the following respects only:

**Section 1.** City and Robertson Hill agree to amend Article Two, Section 2.1.F. of the Original Agreement by eliminating and striking out Article Two, Section 2.1.F. in its entirety and substituting in its place the following new Article Two, Section 2.1.F.:

"F. to include for a minimum period of fifteen years Reasonably-priced new residential housing units ("Units") in an amount not less than ten percent (10%) of the total number of residential housing units built on each distinct Project developed on a portion of the Property, with, at the sole option of Riata or its assigns with respect to each distinct Project developed on a portion of the Property, either (a) half of the Units built within the Project and half of the Units either built or acquired and rehabilitated offsite on property located within the following zip code areas: 78702, 78721, 78722 and that portion of the 78723 zip code area which lies south of 51<sup>st</sup> Street in the City of Austin, or (b) all the Units built on the Property; and"

**Section 2.** This Amendment Two may be executed in multiple counterparts, each of which shall be considered an original, but all of which together shall constitute one agreement.

**Section 3.** This written Amendment Two (together with the Original Agreement) is intended by the parties as a final, complete and exclusive expression of their agreement. All prior agreements and negotiations regarding the terms and conditions of the Original Agreement or any modifications thereto that are in conflict with this Amendment Two are superseded by this Amendment Two, and there are no other agreements or understandings between the parties. No course of prior dealing between the parties, no usage of trade and no parol or extrinsic evidence of any nature shall be used to supplement or modify any terms of the Original Agreement, any modifications to the Original Agreement, or this Amendment Two.

**EXECUTED AND DELIVERED** effective as of the date first above written.

**City:**                      **CITY OF AUSTIN**

**BY:** \_\_\_\_\_

**NAME:**    Michael McDonald

**TITLE:**    Acting Assistant City Manager

**ROBERTSON HILL:**    **ROBERTSON HILL LAND, LTD**  
                                 **By RHL GP, LLC, its general partner**

**BY:** \_\_\_\_\_

**NAME:**    Martin J. Fein

**TITLE:**    Sole Member

**PREPARED IN THE LAW OFFICE OF:**

City of Austin  
Law Department

**APPROVED AS TO FORM:**

\_\_\_\_\_  
James M. Williams, Sr.  
Assistant City Attorney  
Texas State Bar Number 21549500