

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF BURLESON AND HEMPHILL, LLC FOR
TELECOMMUNICATIONS FACILITY**

This **Memorandum of Understanding** (“MOU”) is made and entered into as of this ____ day of April, 2022 (“Effective Date”) by and between **Hemphill, LLC**, its successor and assigns, (“Hemphill”), an Oklahoma limited liability company, and the **City of Burleson**, a Texas home-rule a municipal corporation (“City”), acting by and thru its duly authorized City Manager, City and Hemphill may be referred to herein individually as a “party” or collectively, as the “parties.”

WHEREAS, Hemphill is the applicant in that certain Specific Use Permit Application for a Telecommunications Tower Facility in the City of Burleson Texas (“City”), generally located at 620 SW Wilshire within the municipal boundaries of the City (“Development Site”) and designated by the City as Case 19-082 (“SUP”), which was approved by the City on December 13, 2021. A legal description of the Development Site is attached hereto as **Exhibit A** and is incorporated herein by reference. A development plan was approved by the City in connection with its approval of Case 19-082 and is on file in the office of the Zoning Administrator of the City (“Development Plan”).

WHEREAS, the approved SUP and Development Plan allowed for a 100’ tall telecommunications tower and related facilities on the Development Site (“Telecommunications Facility”).

WHEREAS, pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (so-called “Spectrum Act”) (47 U.S.C. Section 1455 *et seq.*), and rules adopted by the Federal Communications Commission (FCC) pursuant to the Spectrum Act (*see* 47 C.F.R. Section 1.6001, *et seq.*) (collectively, “Federal Telecommunications Rules”), a one-time 20’ extension to the height of a telecommunications tower is allowed by right to facilitate colocation of wireless facilities on an existing wireless support structure.

WHEREAS, the City and Hemphill have agreed that the City will allow the one-time additional 20’ tower height extension permitted under the Federal Telecommunications Rules to be constructed with the initial installation of the Telecommunications Facility, for an allowed overall height of up to 120’, so long as Hemphill agrees that such allowance is a one-time exception, and that no future request for height extensions to the Telecommunications Facility will be made except through application for amendment of the Specific Use Permit by the City.

NOW, THEREFORE, the parties agree as follows:

1. Extension of Telecommunications Facility. The City agrees to allow a 20’ extension to the height of the Telecommunications Facility with the initial installation of the Telecommunications Facility. Hemphill agrees that the City’s allowance for the 20’ extension to be permitted with the initial installation of the Telecommunications Facility, is a one-time allowance, and that no future request for height extensions to the Telecommunications Facility will be made except through application for amendment of the SUP.

2. No Amendment of the SUP. This MOU does not constitute any amendment of the

SUP as approved by the City.

3. **Terms of MOU.** This MOU shall commence upon Effective Date and terminate upon the earlier of (1) removal of the Telecommunications Facility or (2) amendment of the SUP.

4. **Contact Person/Notice.** Each party's primary contact person and contact information for notice and communication purposes under this MOU are as follows:

To City: City of Burleson, Texas Will Allen, Emergency Operations Manager 141 W. Renfro St. Burleson, TX 76028 wallen@burlesontx.com P: 817-426-9965	Hemphill, LLC: Hemphill, LLC Attn: John Wright, Director Tower Operations 1305 N. Louisville Ave. Tulsa, OK 74115 jwright@hemphill.com P: 405-213-6927
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5. **Binding Effect.** This MOU shall be (a) be binding on and inure to the benefit of the parties, their respective successors and assigns, and (b) promptly following the Effective Date, be recorded in the deed records of Johnson County, Texas, and, upon such recordation, shall constitute a covenant running with the land, binding upon all parties having any right, title, or interest in the Telecommunications Facility, or any part thereof.

6. **Amendment.** This MOU may only be amended by the mutual written MOU of the parties.

7. **Governing Law and Venue.** This MOU shall be construed in accordance with and governed by the laws of the State of Texas without regard to principles of conflict of laws, and the parties submit to the jurisdiction of the state courts in Johnson County, Texas. Venue of any action arising out of this MOU shall be exclusively in Johnson County, Texas.

8. **Counterparts; Facsimile Execution.** This MOU may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same MOU. Delivery of an executed counterpart of this MOU by email or facsimile will be equally as effective as delivery of an original executed counterpart of this MOU. Any party delivering an executed counterpart of this MOU by email or facsimile also will deliver an original executed counterpart of this MOU but the failure to deliver an original executed counterpart will not affect the validity, enforceability, or binding effect hereof.

9. **Savings Clause.** If a court of competent jurisdiction finds any provision of this MOU illegal or invalid, then the offending provision will be stricken and the remainder of the MOU between the parties will remain in effect.

EXHIBIT A

LEGAL DESCRIPTION

Lot 1R1, Block 1, Burleson Plaza, a addition to the City of Burleson, Johnson County, Texas, according to the plat recorded in Volume 8, Page 554, Plat Records, Johnson County, Texas.