

## RESOLUTION

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BURLESON AND HEMPHILL, LLC, CONCERNING A TELECOMMUNICATIONS TOWER FACILITY AT 620 SW WILSHIRE BLVD; INCORPORATING THE RECITALS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, Hemphill, LLC (“Hemphill”) is the applicant in that certain Specific Use Permit Application for a Telecommunications Tower Facility in the 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; and

**WHEREAS**, 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”); and

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

**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; and

**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, as set forth in a memorandum of understanding between the parties, attached hereto and incorporated herein by reference for all purposes (the “Memorandum of Understanding”); and

**WHEREAS**, the City desires to approve the Memorandum of Understanding and authorize the City Manager to execute the document on behalf of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**

**OF BURLESON, TEXAS, THAT:**

**Section 1.**

The Memorandum of Understanding is hereby approved, and City Manager, Bryan Langley, is authorized to execute the document on behalf of the City.

**Section 2.**

The foregoing recitals are adopted and incorporated herein for all purposes.

**Section 3.**

This resolution shall take effect immediately from and after its passage.

**PASSED AND SO RESOLVED** by the City Council of the City of Burleson, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chris Fletcher, Mayor  
City of Burleson, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Amanda Campos, City Secretary

\_\_\_\_\_  
E. Allen Taylor, Jr., City Attorney