

MEMORANDUM OF UNDERSTANDING
BETWEEN

TETON COUNTY EMERGENCY MANAGEMENT AND
SILVER STAR COMMUNICATIONS

This Memorandum of Understanding ("MOU") dated, _____ January 2011, is intended to document the intentions of Teton County Emergency Management (TCEM), of Teton County, Idaho, with offices located at 150 Courthouse Drive, Room 107, Driggs, Idaho 83422 and Silver Star Communications (SSC) with corporate offices located at 104101 US HWY 89, PO Box 226, Freedom, Wyoming 83120, to work together in collaboration on fulfilling the communication needs of the Teton County, Idaho and its residents.

WHEREAS, the County is in need of filling in "dead spots" or no-service areas where emergency responders' radios cannot function due to a lack of antennae. The area in the north county is such a dead spot for both emergency radio and cellular phone operations. SSC was approached about this situation and worked with the TCEM Coordinator to find a solution. These parties agreed that tower space would be made available for public agency antennae, some electronics space inside their building and shared monthly costs for the power supply.

WHEREAS, SSC has proposed to build a South Clementsville Tower, located in Tetonia, Idaho to expand their network coverage in the area, which could also server to help the County with filling the radio-dead zones spots;

REGARDING SSC's proposed South Clementsville Tower, located in Tetonia, Idaho the parties agree to the following terms once the tower is constructed and operational;

To allow TCEM, for a period of ten (10) years, space on the tower at 40' height for two (2) public safety system antennas plus rack space in the building up to four (4) rack-units; rack space shall be at no cost for a period of five (5) years; years six through ten (6-10) the rack space will be chargeable at \$37.42 /RU/year for year six, plus a 3% increase annually; tower space shall be at no cost for a period of ten (10) years; SSC will bill calculated monthly power charges to TCEM based on actual use, payable within fifteen (15) days of invoice.

TCEM may at any time in the life of this MOU choose to place an outdoor cabinet on the site in a location approved by SSC for equipment in lieu of the rack space to avoid charges.

Twenty-four (24) hours a day, seven (7) days a week access to the site will be provided.

Teton County Emergency Management Coordinator Greg Adams and SSC have worked diligently to accommodate the needs of TCEM for the public safety communications system while protecting the business interests of SSC. As a consequence of this, emergency responders and the Sherriff's Department are not likely to experience as much of a radio dead zone around the River Rim and the north county area.

BE IT KNOWN, each party indemnifies the other against injuries or losses resulting from the actions of its personnel.

This MOU incorporates the entire understanding and agreement between the parties and supercedes all prior understandings and agreements between the parties, whether oral or written, with respect to the subject matter hereof. To be effective, an amendment, waiver or termination of this MOU must be in a document signed by an authorized officer of each party.

Ron McCue, Chief Operating Officer
Silver Star Communications

Greg Adams, Coordinator
Teton County Emergency Management

Dated: _____

Date: _____

Wendy Danielson

From: Curt Moore
Sent: Tuesday, January 11, 2011 12:11 PM
To: Wendy Danielson
Subject: FW: Silverstar update

Planning Commissioners:

The two emails below provide an update on the County's request to attach public agency antennae to the Silver Star S. Clementsville Tower as a condition of approval. I also received an email this morning from the Silver Star Project Engineer: They are holding to their offer (spelled out in an unsigned MOU) to allow public antennae, but with stipulations such as a 10-year period at no charge.

Curt Moore

From: Kathy Spitzer
Sent: Friday, January 07, 2011 2:11 PM
To: Curt Moore
Cc: tetonemc@silverstar.com
Subject: Silverstar

Hi Curt - here are my thoughts for P&Z on the Silverstar application.

As a possible condition of the Silverstar CUP, the County has requested that Silverstar allow it to locate certain emergency / public safety equipment on the proposed communications tower. Although Silverstar seems taken aback by the proposal, these types of agreements are very common in other areas of the country. In fact, some government entities go so far as to demand a portion of the revenue derived from renting tower space to third parties in exchange for the accommodation (CUP/variance).

Conditions may be attached to the granting of a CUP. 8-6-1-B-8(d) lists some suggested conditions, one of them being providing for on-site public facilities or services.

The space on the tower would remedy a specific problem addressed by Congress in 6 USC 194 - the inability of emergency first responders to communicate with one another in a time of crisis. It can definitely be a condition of granting the CUP, and public needs such as this should be considered for future applications as well.

It is my recommendation, given the public need for emergency communication, that this communication tower only be permitted if, as a condition of approval for the CUP, the needs articulated by our Emergency Services Coordinator, Greg Adams, are addressed. Also, there should not be a time limitation on the benefit - the public benefit should remain for so long as the tower stands and the public need remains.

So you are aware that there is resistance to our request, Silverstar's reaction is below. Their competitive advantage is not the County's concern. Their claim of taking is completely without basis (at minimum you have to have a right, a property interest before there can be a taking, once this threshold inquiry is satisfied the needs of the public are balanced against the thing taken).

Kathy Spitzer

Teton County Prosecuting Attorney
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From: Karen Ricks [<mailto:kricks@silverstar.net>]
Sent: Friday, January 07, 2011 7:50 AM
To: Greg Adams
Cc: rmccue@silverstar.net <<mailto:rmccue@silverstar.net>>
Subject: RE: MOU

Greg,

Silver Star is not willing to enter into a no cost agreement for tower and rack space in perpetuity based on our previously stated concerns, including:

It would amount to a government taking on the part of the County

It would place Silver Star at a competitive disadvantage with other providers in the County Tower space even at a 10' height has significant commercial value based on it's elevation with relation to the surrounding area

We believe that we have acted in good faith to arrive at the proposed offer which provides generous consideration for meeting Teton County Emergency Management communication needs in the area for a significant period of time.

Sincerely,

Karen M. Ricks, P.E.
Engineering Manager

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