

SCADA SITE LICENSE AGREEMENT

THIS AGREEMENT is entered into on _____ 2015 between the CITY OF ROCHESTER HILLS (“ROCHESTER HILLS”) a Michigan Municipal Corporation, whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan, 48309 and the COUNTY OF OAKLAND, a Michigan Constitutional Corporation, by and through the Oakland County Water Resources Commissioner in his capacity as the “County Agency” pursuant to Act 342 of the Public Acts of 1939, as amended (“Act 342”) and Miscellaneous Resolution #93-075 whose address is One Public Works Drive, Building 95 West, Waterford, Michigan 48328 (hereafter, the “COUNTY”).

RECITATIONS:

WHEREAS, the COUNTY has requested ROCHESTER HILLS’s permission to install, operate and maintain a Supervisory Control And Data Acquisition (“SCADA”) system and related facilities on certain property (“SUBJECT PROPERTY”) owned by ROCHESTER HILLS identified on the attached **Exhibit 1**; and,

WHEREAS, the COUNTY intends and represents that it will perform an interference study and structural engineering analysis to determine the location for the SCADA system and related facilities to be installed.

WHEREAS, the COUNTY intends and represents that the SCADA system and related facilities will not cause any frequency interference to other communication facilities and will be used by the COUNTY to monitor water, sewer and lake level data on behalf of the COUNTY’s systems; and,

NOW, THEREFORE in consideration of mutual promises, responsibilities and obligations set forth herein, ROCHESTER HILLS and the COUNTY agree:

1. Grant of License. Subject to, and conditioned upon, the COUNTY’s continued conformance to and fulfillment of the terms and conditions set forth in this Agreement, the COUNTY shall be, and hereby is, granted a license allowing the SCADA system and related facilities to be constructed and/or installed on the SUBJECT PROPERTY, as approved by ROCHESTER HILLS’s Mayor, and more fully described on **Exhibit 2**. Except as specifically provided in this Agreement, nothing contained herein shall be construed to lessen or otherwise alter ROCHESTER HILLS’s rights or interests in the SUBJECT PROPERTY, and the license may be revoked by ROCHESTER HILLS any time as provided in paragraph 9.
2. County Responsibility: Compliance with laws. During this Agreement, the COUNTY shall have full and exclusive responsibility for the design, installation, operation, maintenance, repair and removal of the SCADA system and related facilities. The

COUNTY shall perform and conduct the installation, operation, maintenance, repair and removal of the SCADA system and related facilities in a neat and workmanlike manner consistent with good engineering practices. The COUNTY shall undertake all appropriate measures to ensure the safety of the site during and following installation. The COUNTY shall conform with and remain subject to all applicable federal, state and local laws, ordinances, regulations, rules and requirements relating to the installation, operation, and maintenance, repair and removal of the SCADA system and related facilities.

3. Access. The COUNTY shall have access to the SUBJECT PROPERTY throughout the duration of this Agreement. However, the COUNTY shall contact ROCHESTER HILLS prior to undertaking any maintenance, repair, installation or removal of equipment or related facilities on the SUBJECT PROPERTY.
4. Indemnification. To the extent permitted by law, the COUNTY shall hold harmless, indemnify, represent and defend ROCHESTER HILLS, its elected and appointed officials, employees, volunteers and agents from and against claims, demands, suits, liability or loss, including all costs and reasonable attorney fees and/or damages connected therewith, for personal injury, property damage or other claim related to or arising out of this Agreement, including but not limited to the design, installation, operation, use, maintenance, repair and removal of the SCADA system and related facilities. Notwithstanding the foregoing, nothing herein shall be construed to constitute a waiver of governmental immunity; all immunities provided by law are reserved to the COUNTY and ROCHESTER HILLS.
5. Insurance. It is understood that the COUNTY is self-insured. In addition, in the event that the COUNTY engages contractors, the COUNTY shall require such contractors involved in the installation, operation, maintenance, repair and removal of the SCADA system and related facilities to obtain the following coverages:
 - (a) Workers Compensation Insurance. Worker's Compensation Insurance, including employer's liability coverage, shall be in accordance with all applicable statutes of the State of Michigan.
 - (b) Commercial General Liability Insurance. Commercial General Liability Insurance on an "occurrence basis" with limits of liability not less than \$1,000,000.00 per occurrence for personal injury and property damage combined. Coverage shall include the following: (i) contractual liability; (ii) products and completed operations; (iii) independent contractor's coverage, and (iv) broad form general liability endorsement or equivalents.

- (c) Motor Vehicles Liability Insurance. Motor Vehicle Liability Insurance, including Michigan's no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence for personal injury and property damage combined. Coverage shall include all owned, not owned and hired vehicles.
 - (d) Additional Insured. Commercial General Liability coverage, as described above, shall include an endorsement stating the following shall be "additional insureds" the County of Oakland and the City of Rochester Hills, including their respective elected and appointed officials, employees and volunteers, boards, commissions and/or authorities and board members, including employees and volunteers thereof. These coverages shall be primary to the additional insureds and not contributing with other insurance or similar protection available to the additional insureds even though other available insurance be primary, contributing or excess for claims arising out of activities of the undertaken pursuant to this contract.
 - (e) Cancellation Notice. Commercial General Liability Insurance, as described above, shall include an endorsement stating that the COUNTY and ROCHESTER HILLS shall be given (30) days advance written notice of cancellation, non-renewal, reduction and/or material change in such coverages.
6. Third-Party Use of SCADA System. The COUNTY shall not lease, or otherwise assign, delegate or convey any rights and/or obligations under this Agreement, nor shall the COUNTY allow the SCADA system or related facilities to be used by any third parties, without first obtaining ROCHESTER HILLS's written consent, and subject to such other terms and conditions as ROCHESTER HILLS may require.
 7. Electrical Work. The COUNTY agrees that any electrical work, if described in **Exhibit 2** and required for the SCADA system located at ROCHESTER HILLS's property, will be performed by a licensed electrician and in accordance with applicable codes and standards.
 8. No Representatives as to Use. Except as expressly stated in this Agreement, ROCHESTER HILLS makes no representations with respect to the SUBJECT PROPERTY's suitability for the COUNTY's installation and operation of the SCADA system and related facilities.
 9. Duration. This Agreement shall be revocable at ROCHESTER HILLS's sole discretion. ROCHESTER HILLS shall provide the COUNTY ninety (90) days' prior written notice of its intent to revoke this Agreement. Upon revocation of this Agreement, the COUNTY shall dismantle and remove the SCADA system and related facilities and shall restore the SUBJECT PROPERTY to its prior condition.
 10. General. This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, their respective successors, or grantees.

11. Notices. Any notices which either party may be required to give shall be delivered by First-Class Mail, postage prepaid and addressed to:

ROCHESTER HILLS: **Mayor's Office**
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

COUNTY: **Chief Engineer**
Water Resources Commissioner
One Public Works Drive
Waterford, Michigan 48328

12. Headings. Topical headings appearing in this Agreement are for convenience only. They do not define, limit or construe the contents of any paragraphs or clauses.

13. Amendment. This Agreement can be modified or amended only by written agreement signed by both ROCHESTER HILLS and the COUNTY.

14. Law. The laws of the State of Michigan will control in the construction and enforcement of this Agreement.

15. Entire Agreement. This Agreement sets forth the entire agreement of the parties and supersedes any prior understandings and agreements that may have existed between the parties. Any amendment or modification of this Agreement shall be in writing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the duly authorized officers as of the day and year indicated above.

CITY OF ROCHESTER HILLS

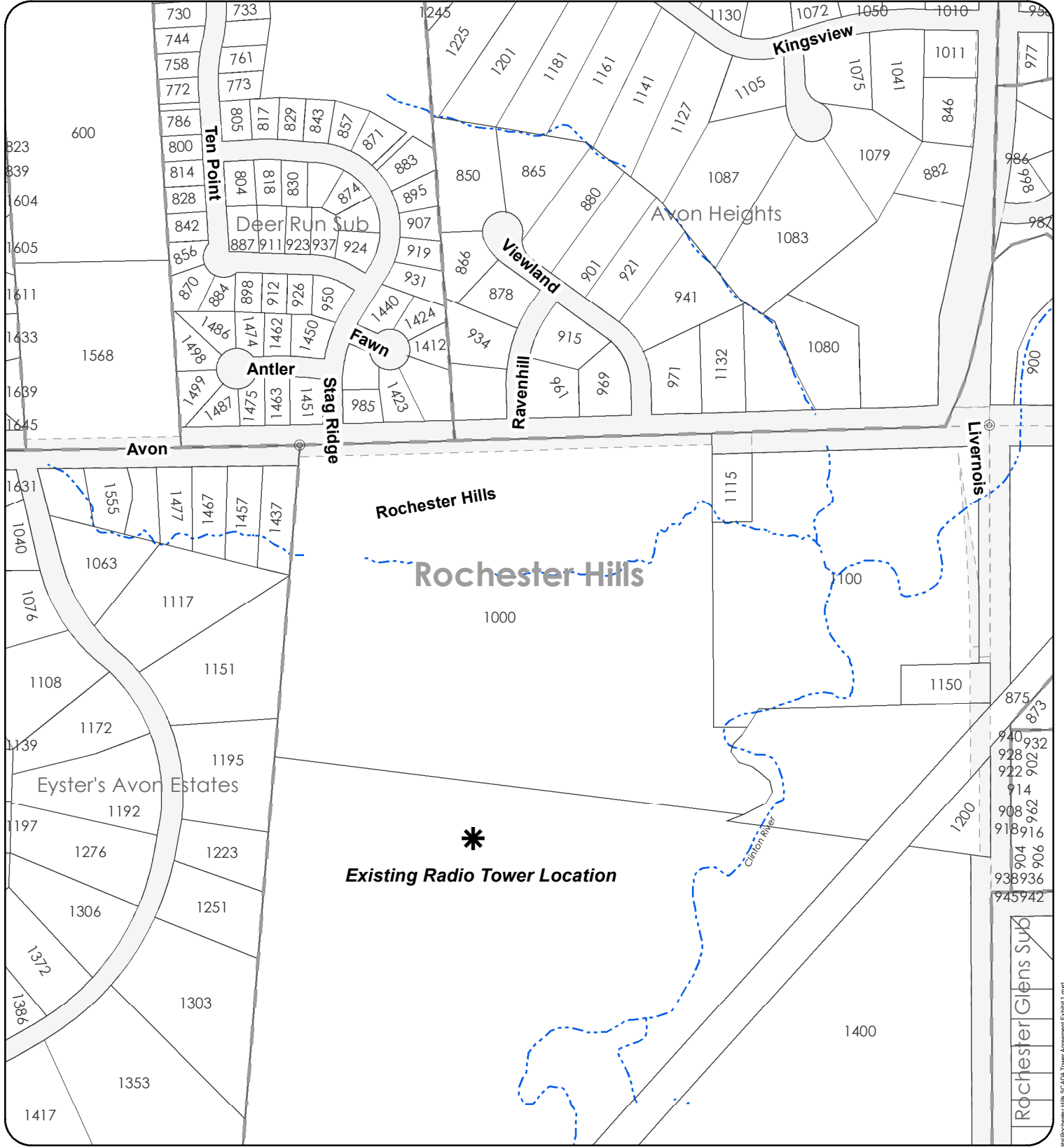
By: _____
Bryan K. Barnett
Its: Mayor

Date: _____

COUNTY OF OAKLAND

By: _____
Jim Nash
Its: Water Resources Commissioner

Date: _____



Legend

- Existing Tower Location
- gisvec1.OC.TaxParcel
- Road R.O.W.

ROCHESTER HILLS CITY HALL SITE
1000 ROCHESTER HILLS DRIVE
SCADA RADIO TOWER SITE LICENSE AGREEMENT
EXHIBIT 1




1 inch = 400 feet

Disclaimer: The information provided in this system has been compiled from recorded deeds, plat, tax maps, surveys and other public records and data. It is not a legally recorded map or survey and is not intended to be used as one. Users of this data are hereby notified that the information sources mentioned above should be consulted for the verification of the information.






Legend

-  Existing Tower Location
-  gisvec1.OC.TaxParcel
-  Road R.O.W.

**ROCHESTER HILLS CITY HALL SITE
1000 ROCHESTER HILLS DRIVE
SCADA RADIO TOWER SITE LICENSE AGREEMENT
EXHIBIT 2**


 1 inch = 300 feet

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