



City Council Staff Report

Date: January 18, 2012

CONSENT CALENDAR

Subject: APPROVAL OF AN ENCROACHMENT LICENSE TO WINDTEC ENERGY, LTD, FOR PRIVATE HIGH VOLTAGE UNDERGROUND ELECTRIC LINES IN 19TH AVENUE

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

Approval of this item will authorize the issuance of an Encroachment License to Windtec Energy, LTD, for operation and maintenance of private high voltage underground electric lines located in 19th Avenue.

RECOMMENDATION:

- 1) Approve Agreement No. _____, an Encroachment License between the City of Palm Springs and Windtec Energy, LTD, a California corporation, for operation and maintenance of private high voltage underground electric lines located in 19th Avenue; and
- 2) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

Chapter 14.16 of the Palm Springs Municipal Code requires an encroachment permit to be issued for any improvements constructed in the public right-of-way. Additionally, whenever utility facilities or other improvements of a type of use determined by the Director of Public Works to require additional liability protection for the City, a formal agreement through an Encroachment License is required.

On March 9, 2011, the Planning Commission approved Conditional Use Permit Case No. 5.123 for the installation and operation of a 4.98 megawatt solar energy conversion system ("SECS") project on a 24 acre site located north of Interstate 10 and south of 19th Avenue. When completed, the power generated by the SECS will be fed through a privately operated and maintained underground high-voltage electrical system to an SCE electric sub-station. There are portions of the private underground high-voltage

electrical system that must extend from the SECS site, across 19th Avenue, to the SCE substation. Conditions imposed by the Planning Commission required the applicant to obtain an Encroachment License for the private underground high-voltage electrical lines extending across public rights-of-way. The proposed Encroachment License satisfies that requirement.

The applicant (Windtec Energy, LTD) requests an encroachment, 30 feet wide, extending across 19th Avenue approximately 400 feet east of the centerline of Karen Avenue. The private utilities will be installed at an appropriate depth with a marker tape above it to further protect and identify the privately owned utility. Conditions of the Encroachment License require the applicant to join and maintain membership with Underground Service Alert of Southern California (USA/Dig Alert), imposing requirements on the applicant to maintain its private utilities, and to identify and mark its location within the right-of-way when construction or excavation may occur within the street.

Staff recommends approval of the encroachment license with Windtec Energy, LTD.

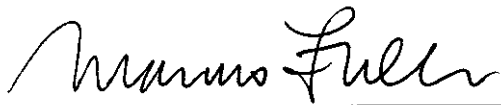
FISCAL IMPACT:

None.

SUBMITTED:

Prepared by:

Recommended by:





Marcus L. Fuller
Assistant Director of Public Works



David J. Barakian
Director of Public Works/City Engineer

Approved by:


Thomas J. Wilson, Asst. City Manager
David H. Ready, City Manager

Attachments:

1. Encroachment License

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF PALM SPRINGS
P.O. Box 2743
Palm Springs, California 92263-2743
Attn: City Clerk and Public Works
and Engineering

Filing Fee Exempt Per Government Code 6103
EL 11-01

(For Recorder's Use Only)

PRIVATE UTILITY ENCROACHMENT LICENSE

THIS ENCROACHMENT LICENSE (the "License") is entered into this _____ day of _____ 2012, by and between **Wintec Energy LTD, a California Corporation** ("Licensee") and the **CITY OF PALM SPRINGS**, a California charter city ("City").

RECITALS:

A. Licensee is the owner of real property located in the City of Palm Springs, County of Riverside, State of California, identified by Assessor's Parcel Number (**APN 666-320-026**) by that certain Grant Deed recorded as Document No. 2009-0552479, recorded on October 27, 2009, Official Records of Riverside County, attached hereto as **Exhibit "A"** and incorporated herein by reference ("Licensee Property"), and;

B. City is the owner of certain fee and/or easement interests in that certain real property located in the City of Palm Springs, County of Riverside, State of California adjacent to the Licensee's Property, and more particularly described and shown on **Exhibit "B"** ("City Property").

C. Licensee desires to construct and maintain **six (6) 35 kV buried high voltage cable conduits extending across 19th Avenue (as further specified in Section 3.0 of this License)**, hereinafter referred to as the "Encroachment", shown on **Exhibit "C"**, which will encroach within the City Property as described and shown as **Exhibit "D"**, attached hereto and incorporated herein by reference (the "Encroachment Area").

D. City has agreed to grant to Licensee an encroachment permit ("Permit") for the Encroachment in accordance with Chapter 14.16 of the City of Palm Springs Municipal Code on the condition that Licensee executes this License.

NOW THEREFORE, the parties hereto agree as follows:

1.0 License. The City hereby grants a License to Licensee to construct the Encroachment within the Encroachment Area upon all of the terms and conditions of the Permit and this License. This license does not cover any jurisdiction other than the City of Palm Springs public rights-of-way.

2.0 Commencement of Construction. Licensee shall commence the construction of the Encroachment within a reasonable amount of time, in no event to exceed ninety (90) days following the execution date of this License. Before beginning any physical work on the Encroachment, Licensee shall notify City that construction of Encroachment will be commenced, at least twenty-four (24) hours prior to commencement of such work. Licensee shall also notify the City upon completion of the Encroachment.

3.0 Construction of Encroachment. The Encroachment shall consist of six (6) 35kV buried high voltage cable conduits with a bare copper trench ground wire, enclosed in a Fluidized Thermal Backfill (TFB) and compacted backfill, with a minimum depth of 54 inches from top of grade to the top of the conduits, as shown on **Exhibit "C"**. A cable marking tape shall be installed in the center of the trench for magnetic location purposes. The Encroachment shall be perpendicular to the public right-of-way. Any structure placed pursuant to this License shall be constructed in a careful and workmanlike manner and in accordance with plans and specifications to be submitted to and approved by the City of Palm Springs Department of Public Works & Engineering and Department of Building & Safety, before Licensee commences construction of Encroachment within the Encroachment Area, or commences construction of any work on Licensee Property.

4.0 Maintenance. Licensee shall have the right and obligation to maintain, repair and replace, at its own cost and expense, the Encroachment so as to keep the Encroachment Area in a neat, clean, first class condition and in good order and repair, free of trash and debris at all times. As the Encroachment Area consists of public street rights-of-way, the Licensee shall ensure that any excavations, trenches, and backfill and repaving of trenches excavated by Licensee for the Encroachment are maintained as required by the City, in accordance with applicable City standards or as directed by the City Engineer. Licensee hereby agrees to perform such additional repairs and/or maintenance work in the Encroachment Area within fifteen (15) days notice from City. Licensee shall have access across the City Property at all times while the License is in effect solely for the purposes as noted in Section 3. In the event that Licensee does not maintain the Encroachment as required herein, the City will have the option to either (i) terminate the License as more particularly provided in Section 7 or, (ii) after giving Licensee reasonable notice, to make such repairs or perform such maintenance as is required. If City performs the required repairs and/or maintenance, City shall submit an invoice to Licensee for payment of the repairs and/or maintenance work performed by City, including administrative fees, and Licensee shall pay such invoice received within thirty (30) days for such work performed. Failure to pay any invoice submitted to Licensee by City within thirty (30) days notice from City shall automatically terminate the License herein granted.

4.1 Construction by Others within Encroachment Area. Licensee hereby acknowledges that the License herein granted by City is non-exclusive, and that City may grant subsequent encroachments within the Encroachment Area to other parties, including public utility companies, other governmental agencies, and private parties. Licensee hereby agrees to join and maintain membership with United Service Alert of Southern California (Dig Alert) for the entire term of this License, or until the Encroachment is removed, whichever occurs first. Licensee shall be required, pursuant to this provision of the License granted by City, to monitor notifications from USA/Dig Alert (1-800-227-2600) of excavations or other work within the Encroachment Area by public agencies or private

parties that may directly affect Licensee's Encroachment. It shall be the Licensee's sole responsibility to adequately mark, identify, and locate its Encroachment within the Encroachment Area for any and all public agencies or private parties who have duly notified USA/Dig Alert of excavations or other work within the Encroachment Area. Failure of Licensee to timely and/or correctly mark, identify, and locate its Encroachment within the Encroachment Area shall be the responsibility of the Licensee. Licensee shall indemnify, hold harmless, and release City from all damages of any kind, due to damages incurred to its Encroachment within the Encroachment Area, including complete loss of the use and/or value of the Encroachment due to excavations or other work within the Encroachment Area by public utility companies, other governmental agencies, and private parties, including the City, who have duly notified USA/Dig Alert of their intention to excavate or perform other work within the Encroachment Area. Licensee acknowledges that this provision of the License granted by City releases City of any financial or other obligations to maintain the Encroachment within the Encroachment Area, and that Licensee shall be solely responsible for ensuring that its Encroachment is adequately protected for the entire term of this License.

Licensee further acknowledges its Encroachment consists of a privately owned, underground, high-voltage electrical system, and its responsibility to ensure the Encroachment is identified and appropriately marked within the Encroachment Area to ensure future work within the Encroachment area does not result in injury or loss of life. Licensee hereby indemnifies the City from any and all liability, in accordance with Section 6 of this License, for any injuries or loss of life resulting from Licensee's failure to comply with the requirements of maintaining the Encroachment and ensuring its identification within the Encroachment Area through membership in USA/Dig Alert.

4.2 Relocation of Encroachment within City Right-of-Way. In the event of a conflict with an underground utility proposed by any public agency whose proposed utility is approved for installation by City within the Encroachment Area, Licensee hereby agrees to relocate the Encroachment, at Licensee's sole expense, as necessary to remove any such conflict with an underground utility proposed by any public agency. Licensee shall prepare relocation plans for the Encroachment and submit to the City Engineer, as well as the affected public agency, for review and comment within thirty (30) days notice from City of the underground utility conflict. Licensee shall relocate the Encroachment, as directed by the City, pursuant to Sections 2, 3, and 5 of this License, except, however, that relocation of the Encroachment, as approved by City, shall commence no later than thirty (30) days following approval of relocation plans for the Encroachment by City.

5.0 Installation and Maintenance of Safety Provisions. Licensee shall, in connection with the construction and maintenance of the Encroachment, provide, install, and maintain such lights, barriers, warning signs or other safety provisions as are reasonably necessary to protect anyone utilizing the City Property for whatever reason. In the event that the City determines that suitable safety provisions are not being provided by Licensee, the City may, after two (2) days notice from City to Licensee, provide, install and maintain such safety provisions. If the City provides the safety provisions pursuant to this Section 5, City shall submit an invoice to Licensee for payment of the safety provisions installed by City, including administrative fees, and Licensee shall pay such invoice received within thirty (30) days for such work performed. Failure to pay any invoice

submitted to Licensee by City within thirty (30) days shall automatically terminate the License herein granted.

6.0 Indemnity. Licensee hereby agrees to indemnify and defend the City, its officers, agents and employees against and to hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (collectively "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the location, construction, maintenance, relocation or removal of the Encroachment, but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its officers, agents or employees, who are directly responsible to City, and in connection therewith:

(a) Licensee will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Licensee will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities and Licensee agrees to save and hold the City, its officers, agents and employees harmless there from;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Licensee for such damages or other claims arising out of the location, construction, maintenance, relocation or removal of the Encroachment, Licensee agrees to pay the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including, but not limited to, legal costs and attorneys' fees.

7.0 Covenants Running With the Land. The covenants and restrictions by Licensee set forth in this License: (a) are made for the direct benefit of the City Property; (b) will constitute covenants running with the land and equitable servitudes; (c) will bind Licensee and every person having any fee, leasehold or other interest in any portion of the Licensee Property at any time or from time to time; and (d) will inure to the benefit of the City and every person having any fee, leasehold or other interest in the City Property at any time or from time to time.

8.0 Insurance. Licensee shall procure and maintain, at its sole cost and expense, and submit concurrently with its execution of this License, in a form and content satisfactory to City, public liability and property damage insurance against all claims for injuries against persons or damages to property resulting from Licensee's use of the Encroachment within the Encroachment Area under this License. Insurance shall be kept in full force and effect during the term of this License, and shall not be cancelable without thirty (30) days written notice to City of any proposed cancellation. Certificates of insurance evidencing the foregoing and designating the City, its elected officials, officers, employees, agents, and volunteers as additional named insured by original endorsement shall be delivered to and approved by City prior to City's approval of this License. The procuring of such insurance and the delivery of policies, certificates, and endorsements evidencing the

same shall not be construed as a limitation of Licensee's obligation to indemnify City, its elected officials, officers, agents, employees, and volunteers.

8.1 Minimum Scope of Insurance. The minimum amount of insurance required hereunder shall be as follows:

1. Comprehensive general liability and personal injury with limits of at least **Two Million Dollars (\$2,000,000)** combined single limit coverage per occurrence.

For any claims related to this License, Licensee's insurance coverage shall be primary insurance as respects City and its respective elected officials, officers, employees, agents, and volunteers. Any insurance or self-insurance maintained by City and its respective elected officials, officers, employees, agents, and volunteers shall be in excess of Licensee's insurance and shall not contribute with it.

8.2 Sufficiency of Insurers. Insurance required herein shall be provided by authorized insurers in good standing with the State of California. Coverage shall be provided by insurers admitted in the State of California with an A.M. Best's Key Rating of B++, Class VIII, or better, unless otherwise acceptable to the City.

8.3 Verification of Coverage. Licensee shall furnish City with both certificates of insurance and endorsements, including additional insured endorsements, effecting all of the coverages required by this License. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All proof of insurance is to be received and approved by the City before approval of this License. City reserves the right to require Licensee's insurers to provide complete, certified copies of all required insurance policies at any time.

Verification of Insurance Coverage may be provided by: (1) an approved General Endorsement Form for the City of Palm Springs or (2) an acceptable Certificate of Liability Insurance Coverage with an approved Additional Insured Endorsement with the following endorsements stated on the certificate:

1. "The City of Palm Springs, its officials, employees and agents are named as an additional insured" ("as respects Encroachment License No.11-01" may be included in this statement).

2. "This insurance is primary and non-contributory over any insurance or self-insurance the City may have" ("as respects Encroachment License No. 11-01" may be included in this statement).

3. "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate Holder named." Language such as, "endeavor to" mail and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representative" is not acceptable and must be crossed out. **See example below.**

In addition to the endorsements listed above, the City of Palm Springs shall be named the certificate holder on the policy.

All certificates and endorsements are to be received and approved by the City before this License is approved.

Cancellation Example:

SHOULD ANY OF THE ABOVE REFERENCED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30 DAYS* WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED.

**The broker/agent can include a qualifier stating "10 days notice for nonpayment of premium."*

8.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected officials, officers, employees, agents, or volunteers; or, Licensee shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

8.5 Severability of Interests (Separation of Insured). This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

8.6 Insurance Increase. Not more frequently than one (1) time every three (3) years, if, in the opinion of the City, the amount of public liability and property damage insurance coverage at that time is not adequate, the City may require modifications to the required insurance coverage in this Section 8. City shall notify Licensee, and Licensee hereby agrees to provide City with certificates and endorsements evidencing City's required increased insurance coverage amounts within thirty (30) notice from City. Failure of Licensee to provide City with certificates and endorsements evidencing City's required increased insurance coverage amounts within thirty (30) days shall automatically terminate the License herein granted.

9.0 Termination. The License is terminable with or without cause by City at any time. Licensee shall remove the Encroachment and restore the Encroachment Area on the City Property to its former condition, at Licensee's sole cost and expense, within thirty (30) days notice from City. In the event Licensee fails to remove the Encroachment and restore the Encroachment Area on the City Property within thirty (30) days notice from City, City shall have the right to do so without notice to Licensee. Licensee shall immediately reimburse the City for all expenses incurred by City in the removal of the Encroachment and restoration of the Encroachment Area on the City Property. Said amounts shall accrue interest from the date the expenses were incurred by City at the maximum non-usurious interest rate permitted by law.

10.0 Notices. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to be given under the provisions of this License shall be in writing and either served personally or sent prepaid, first-class mail to the following address:

To City: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Clerk

With Copy to: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: City Attorney

Licensee: Wintec Energy, LTD
1090 N. Palm Canyon Drive – Suite A
Palm Springs, CA 92262
Attn: Frederick W. Noble

Either party may change its address from time to time by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed pursuant to this Section 10.

11.0 Attorneys Fees. In any action between the parties hereto seeking enforcement of this License, or in connection with the License or the Permit, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding in addition to its recoverable court costs.

12.0 Successors and Assigns. All rights and obligations created by this License shall be appurtenant to and shall run with the Licensee Property and the City Property and each part thereof and interest thereon, and shall be binding upon the owners of the Licensee Property and its respective successors and assigns acquiring any right, title and interest in the Licensee Property.

13.0 Amendment or Modification. This License may not be modified or amended except by written agreement executed by the then-owner of the Licensee Property and the City Property and recorded in the Office of the County Recorder, County of Riverside, California.

14.0 Governing Law. This License shall be governed by and construed in accordance with the laws of the State of California.

15.0 Severability. The invalidity or unenforceability of any provision of this License with respect to a particular party or set of circumstances shall not in any way affect

the validity and enforceability of any other provision hereof or the same provision when applied to another party or to a different set of circumstances.

16.0 Recordation. This License shall be recorded in the Office of the County Recorder, Riverside County, California, and it shall serve as notice to all parties succeeding to the interest of Licensee or City that their use of the Licensee Property and the City Property shall be benefited and/or restricted in the manner herein described.

17.0 Counterparts. This License may be executed in any number of counter parts, each of which shall constitute an original.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the City and the Licensee have caused this License to be executed the day and year first above written.

ATTEST:
CITY OF PALM SPRINGS

By _____
City Clerk

Date: _____

CONTENTS APPROVED:

By _____
City Manager

Date: _____

By _____
City Engineer

Date: _____

APPROVED AS TO FORM:

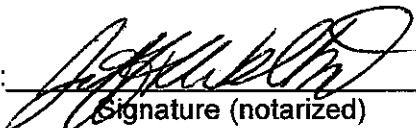
By _____
City Attorney

Date: _____

APPROVED BY CITY COUNCIL:

Date: _____ Agreement No. _____

LICENSEE
WINTEC ENERGY LTD, a California corporation

By: 
Signature (notarized)

By: 
Signature (notarized)

Name: Jeffrey S. Weltou
Title: COO / Senior VP

Name: TED NOBLE
Title: Managing Director

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside }

On January 6, 2012 before me, Ami Ritter, Notary Public
Date Here insert Name and Title of the Officer

personally appeared Jeff S. Welton and Ted T. Noble
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ami Ritter
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Private Utility Encroachment License

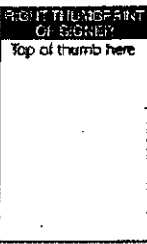
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____



LARRY W. WARD
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000

www.riversideacr.com

NOTARY CLARITY

Under the provisions of Government Code 27361.7, I certify under the penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary: AMI RITTER

Commission #: 1787248

Place of Execution: RIVERSIDE COUNTY, CA

Date Commission Expires: January 12, 2012

Date: 1/9/2012

Signature: *Felipe Primera*

Print Name: FELIPE PRIMERA

EXHIBIT "A"

RECORDING REQUESTED BY:

Stewart Title of California

WHEN RECORDED MAIL TO

AND MAIL TAX STATEMENTS TO:

Wintec Energy LTD, a California Corporation

1090 N. Palm Canyon Dr
Ste A
Palm Springs, CA 92262

TITLE ORDER NO. 2794-196277

ESCROW NO. 2795-196277

APN. 666-320-005-0 & 666-320-026-9

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRA 011-087

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S):

DOCUMENTARY TRANSFER TAX is: \$0.00

CITY TAX is:

Monument Preservation Fee is:

- computed on full value of property conveyed, or
- computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area: City of Palm Springs, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Palm Energy Properties, a California general partnership

hereby GRANT(S) to Wintec Energy LTD, a California Corporation

the following described real property in the ^{City of Palm Springs} County of Riverside, State of California:

FOR LEGAL DESCRIPTION, SEE - EXHIBIT A - ATTACHED HERETO AND MADE A PART HEREOF.

"R&T Code 11911: No Documentary Transfer Tax is due as this deed is given on real property without consideration."

Dated: September 17, 2009

Palm Energy Properties, a California general partnership

By: Wintec Energy, LTD, general partner

STATE OF CALIFORNIA

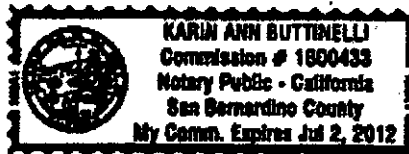
COUNTY OF Riverside

By: Frederick W. Noble, President

By: SIGNED IN COUNTERPART
Ralph W. Engh, a General Partner

On October 9, 2009 before me,
Karin Ann Buttinelli a Notary Public,
personally appeared Frederick W. Noble

who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hen/their authorized capacity(ies), and that by his/hen/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT "A"

EXHIBIT - A-

LEGAL DESCRIPTION

PARCEL A:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL B:

LOT 1 OF TRACT NO. 20335, AS PER MAP RECORDED IN BOOK 163, PAGES 95 AND 96 OF TRACT MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

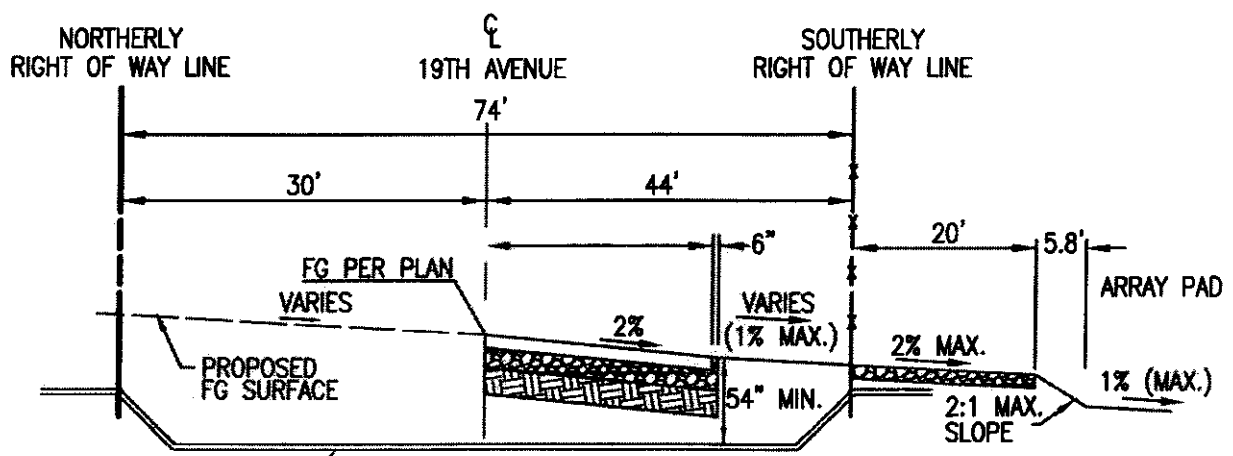
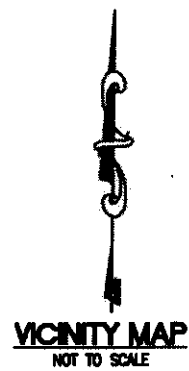
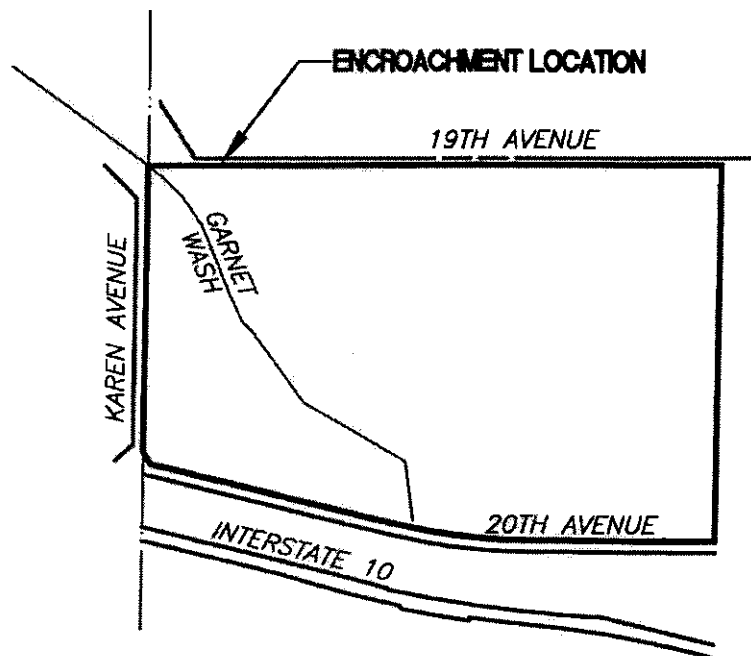
EXHIBIT "B"

19th AVENUE

That portion of the North half of 19th Avenue, shown as Lot "C" on Tract Map No. 20335, per Map Book 163, Pages 95-96, inclusive, official Records of Riverside County, accepted by the County of Riverside on November 25, 1986, and annexed by the City of Palm Springs as part of Annexation No. 26 on October 5, 1994.

The South half of 19th Avenue, shown in a Grant of Right-of-Way to the City of Palm Springs (City File Number R 11-09B), and recorded on January 4, 2012, as Doc. No. 2012-0001839, official Records of Riverside County Recorder.

EXHIBIT "C"



35KV DIRECT BURIAL CABLE
(SEE SHEET 3 OF 3 FOR SECTION)

SECTION VIEW
NOT TO SCALE

19TH AVE ENCROACHMENT EXHIBIT
WINTEC III - KAREN INTERCONNECT

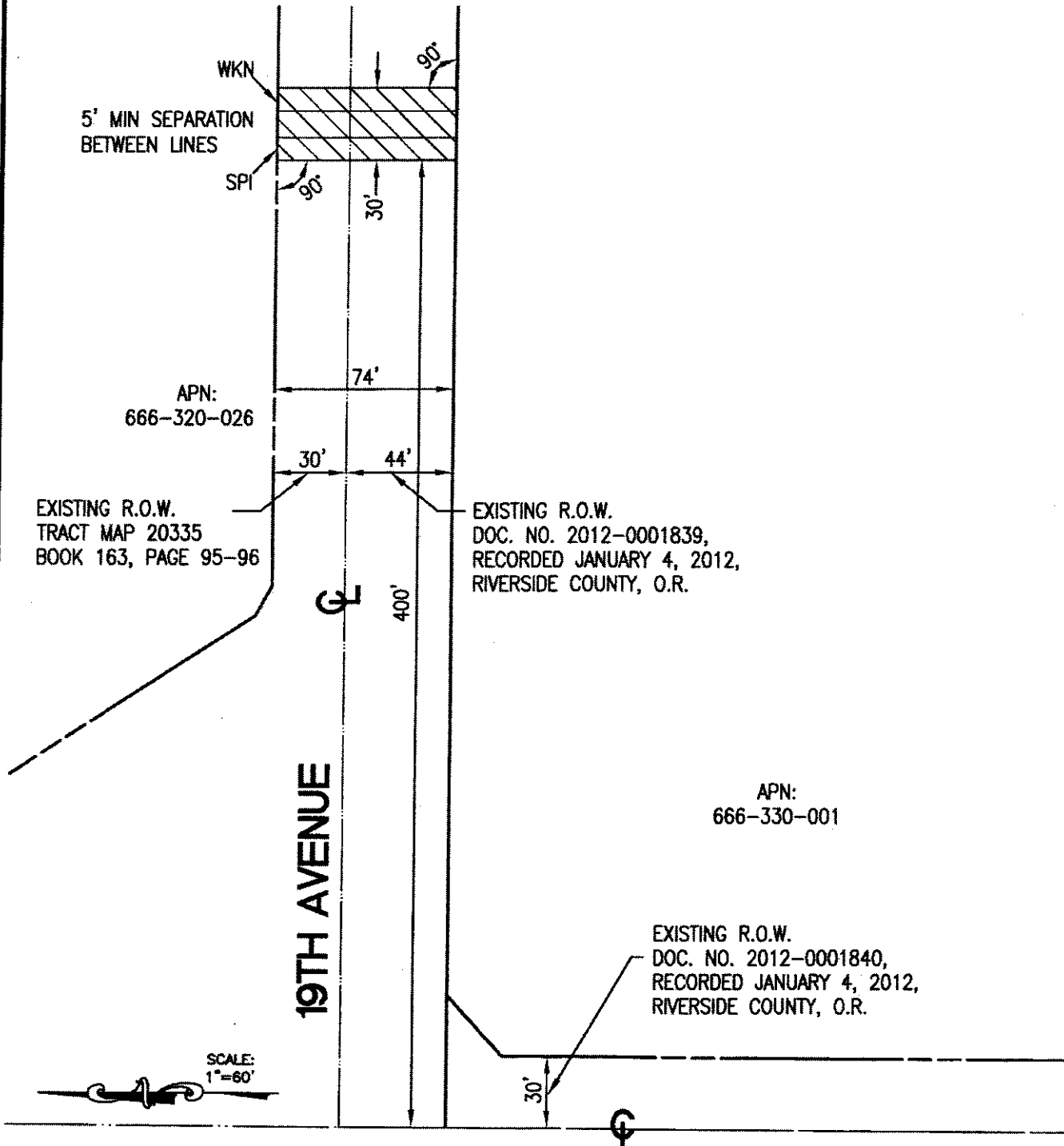
SHEET 1 OF 3



- Engineering
- Planning
- Survey
- Environmental

73-255 El Paseo Drive, Suite 15, Palm Desert, CA 92260
T. 760.346.4750 F. 760.340.0089

EXHIBIT "C"



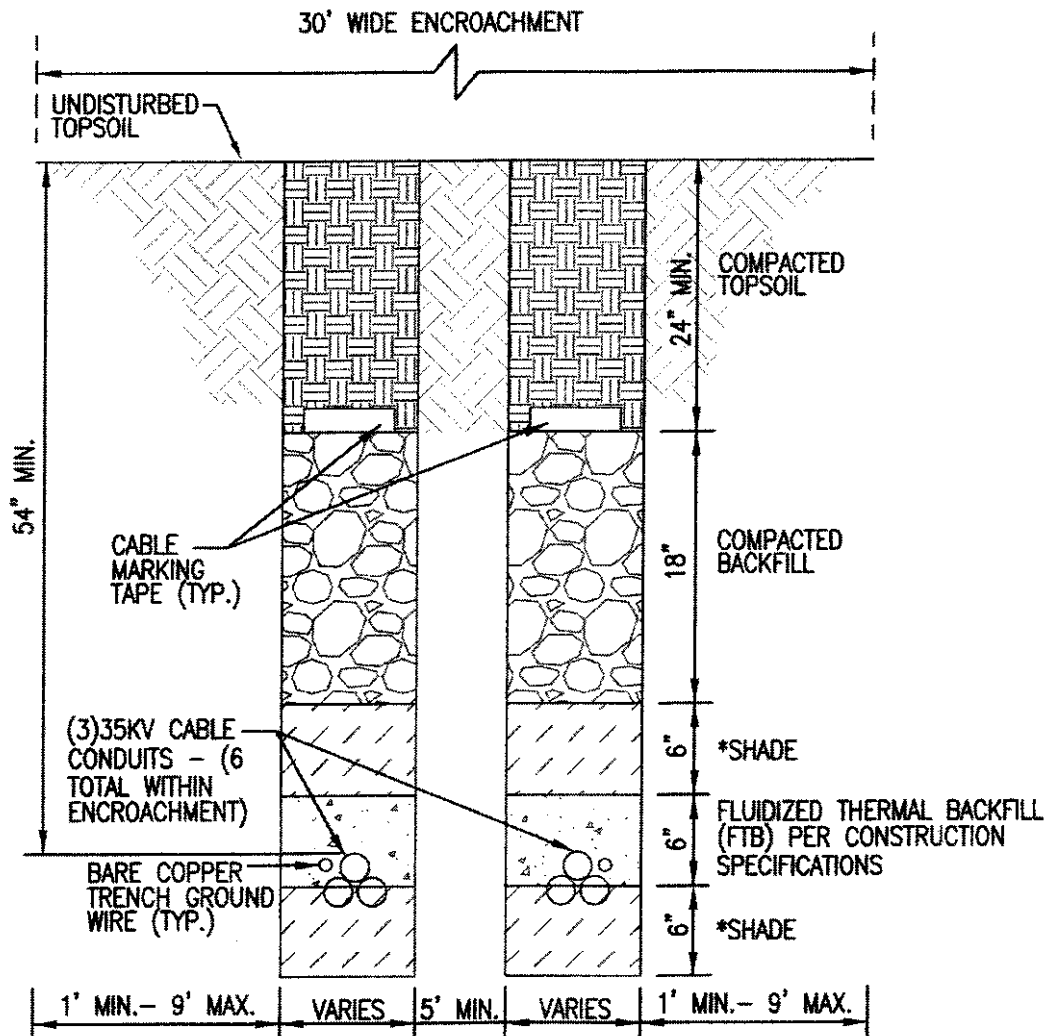
19TH AVENUE

KAREN AVENUE

19TH AVE ENCROACHMENT EXHIBIT
WINTEC III - KAREN INTERCONNECT

SHEET 2 OF 3

EXHIBIT "C"



TRENCH DETAILS

NOT TO SCALE

*SMALL ROCK OR SAND AS LEVELING COMPONENT

19TH AVE ENCROACHMENT EXHIBIT
WINTEC III - KAREN INTERCONNECT

SHEET 3 OF 3

EXHIBIT "D"
TRANSMISSION & COMMUNICATIONS
ENCROACHMENT LOCATION
EL 11-01

AREA A:

THE SOUTHERLY 30.00 FEET OF THE EASTERLY 30.00 FEET OF THE WESTERLY 430.00 FEET OF THE NORTHWEST ONE QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, ALSO BEING ACROSS A PORTION OF A 30.00 FOOT RIGHT-OF-WAY OF 19TH AVENUE AS SHOWN ON TRACT MAP NO. 20335, FILED IN MAP BOOK 163, PAGES 95 AND 96, INCLUSIVE, OFFICIAL RECORDS OF RIVERSIDE COUNTY;

DESCRIBED PARCEL CONTAINS 900 SQUARE FEET, MORE OR LESS AND AS SHOWN ON THE ATTACHED PLAT, BY THIS REFERENCE BEING MADE A PART HEREOF, ALONG WITH THE FOLLOWING PARCEL;

AREA B:

THE NORTHERLY 44.00 FEET OF THE EASTERLY 30.00 FEET OF THE WESTERLY 430.00 FEET OF THE SOUTHWEST ONE QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, ALSO BEING ACROSS A PORTION OF A 44.00 FOOT RIGHT-OF-WAY OF 19TH AVENUE AS SHOWN ON A DEED RECORDED JANUARY 4, 2012, AS DOCUMENT NUMBER 2012-0001839, OFFICIAL RECORDS OF RIVERSIDE COUNTY;

DESCRIBED PARCEL CONTAINS 1,320 SQUARE FEET, MORE OR LESS AS SHOWN ON THE ATTACHED PLAT, BY THIS REFERENCE BEING MADE A PART HEREOF.

Prepared under the supervision of:

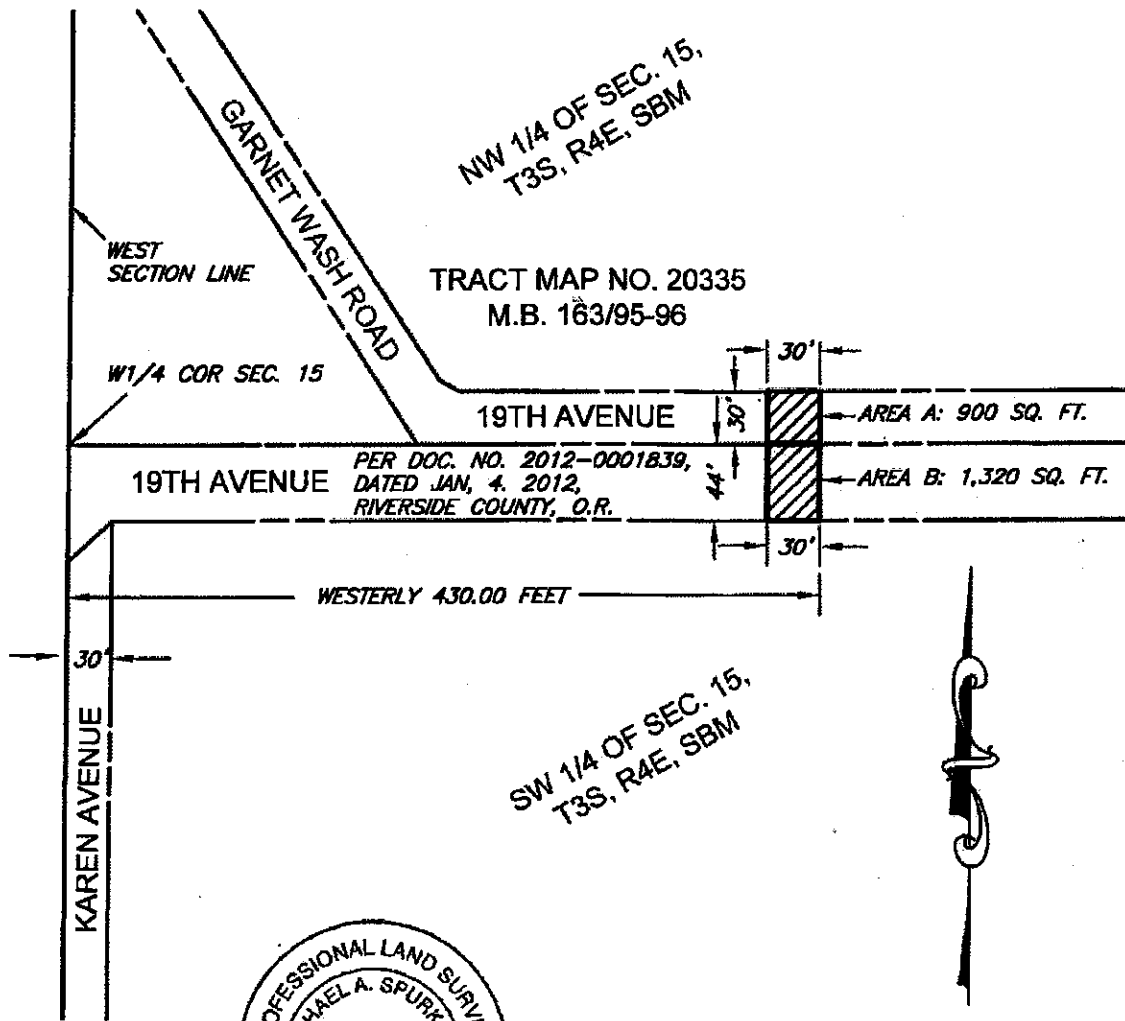

Michael A. Spurkosky, P.L.S. #8273

Date: 1/4/2012

Expires 12/31/11
THE ALTUM GROUP
73-255 El Paseo Drive, Suite 15
Palm Desert, CA 92260
(760) 346-4750



EXHIBIT "D"
TRANSMISSION & COMMUNICATIONS
ENCROACHMENT LOCATION
EL 11-01



SCALE:
1"=100'

PREPARED UNDER THE
SUPERVISION OF:

Michael A. Spurkosky 1/4/2012
 MICHAEL A. SPURKOSKY, P.L.S. NO. 8273 DATE



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