



**PUBLIC NOTICE
THE ELOY CITY COUNCIL
Meets
MONDAY, FEBRUARY 27, 2023
5:00 PM
ELOY CITY COUNCIL CHAMBERS
595 NORTH C STREET
ELOY, ARIZONA 85131
For a
WORK SESSION**

AGENDA

- I. Call to Order**
- II. Roll Call**
- III. Pledge of Allegiance**
- IV. Unscheduled Public Appearances**
- V. Discussion Items**

- A. Council to continue the discussion with Staff (from the Council Work Session conducted on February 6, 2023) related to the issues, directions and preliminary recommendations related to the provision of Utility Scale Solar Generating and Storage Facilities within the City's incorporated area.

Jon Vlaming

VI. Adjournment

**POSTED BY 5:00 PM, THURSDAY, FEBRUARY 24, 2023 AT ELOY CITY HALL,
ELOY POST OFFICE, TROY THOMAS COMMUNITY CENTER, TOLTEC
COMMUNITY/SENIOR CENTER AND CITY WEBSITE: www.elayaz.gov**

Mary Myers, MMC, CPM
City Clerk

INDIVIDUALS WITH SPECIAL ACCESSIBILITY NEEDS MAY CONTACT LORENA LaSALDE-RIOS, ADA COORDINATOR FOR THE CITY OF ELOY AT 520-466-9201 OR 520-466-7455 (TDD). IF POSSIBLE, SUCH REQUESTS SHOULD BE MADE 72 HOURS IN ADVANCE. ONE OR MORE MEMBERS OF THE COUNCIL AND/OR STAFF MAY PARTICIPATE BY TELEPHONIC OR VIDEO MEANS.

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: V.A.

Date: 2/27/2023

Date submitted:
02/22/2023

Action: Other

Subject: Council to continue the discussion with Staff (from the Council Work Session conducted on February 6, 2023) related to the issues, directions and preliminary recommendations related to the provision of Utility Scale Solar Generating and Storage Facilities within the City's incorporated area.

Date requested:
2/27/2023

TO: Mayor and City Council

FROM: Jon Vlaming, Community Development Director

RECOMMENDATION:

There is not a recommendation for this item.

DISCUSSION:

Council held a work session with the members of the Eloy Planning and Zoning Commission and City staff on February 6, 2023 to address the issues associated with the provision of utility scale solar generating and storage facilities within the City of Eloy. As a result of that presentation and discussion, the Council has determined that an additional work session is warranted to further review the opportunities and potential constraints afforded by the location of these facilities within the City over an extensive operational timeframe, estimated at 20-30 years.

The City has been the subject of significant interest for these facilities due to Eloy's location, existing electrical substation, accessibility to the grid, land values and large parcel ownership. As such, the City staff has prepared preliminary drafts of changes to its adopted Zoning Code (text changes to its Supplemental Use Standards regulations, and amendments to its adopted zoning map (potentially incorporating a solar generation overlay) as well as providing additional definitions and acronyms. NO DECISIONS WILL BE MADE BY THE CITY COUNCIL AT THIS WORK SESSION.

FISCAL IMPACT:

There is not a fiscal impact related to the discussion of this topic.

Approved as to Form:



Stephen R. Cooper, City Attorney



Solar Facilities

Eloy, Arizona

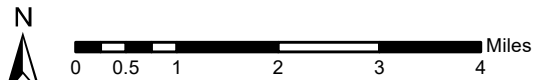
		As Proposed	As Proposed Overlay
Current Solar Projects	Operational	1,002 AC.	1,002 AC.
	Design	912 AC.	912 AC.
	SUBTOTAL	1,914 AC.	1,914 AC.
Proposed Solar Projects	A	1,645 AC.	640 AC.
	B	605 AC.	0 AC.
	C	651 AC.	651 AC.
	D	1,285 AC.	1,285 AC.
	E	2,035 AC.	2,035 AC.
	SUBTOTAL	6,221 AC.	4,611 AC.
	TOTAL	8,135 AC.	6,525 AC.

Eloy Zoning Map

Preliminary Solar Overlay Area

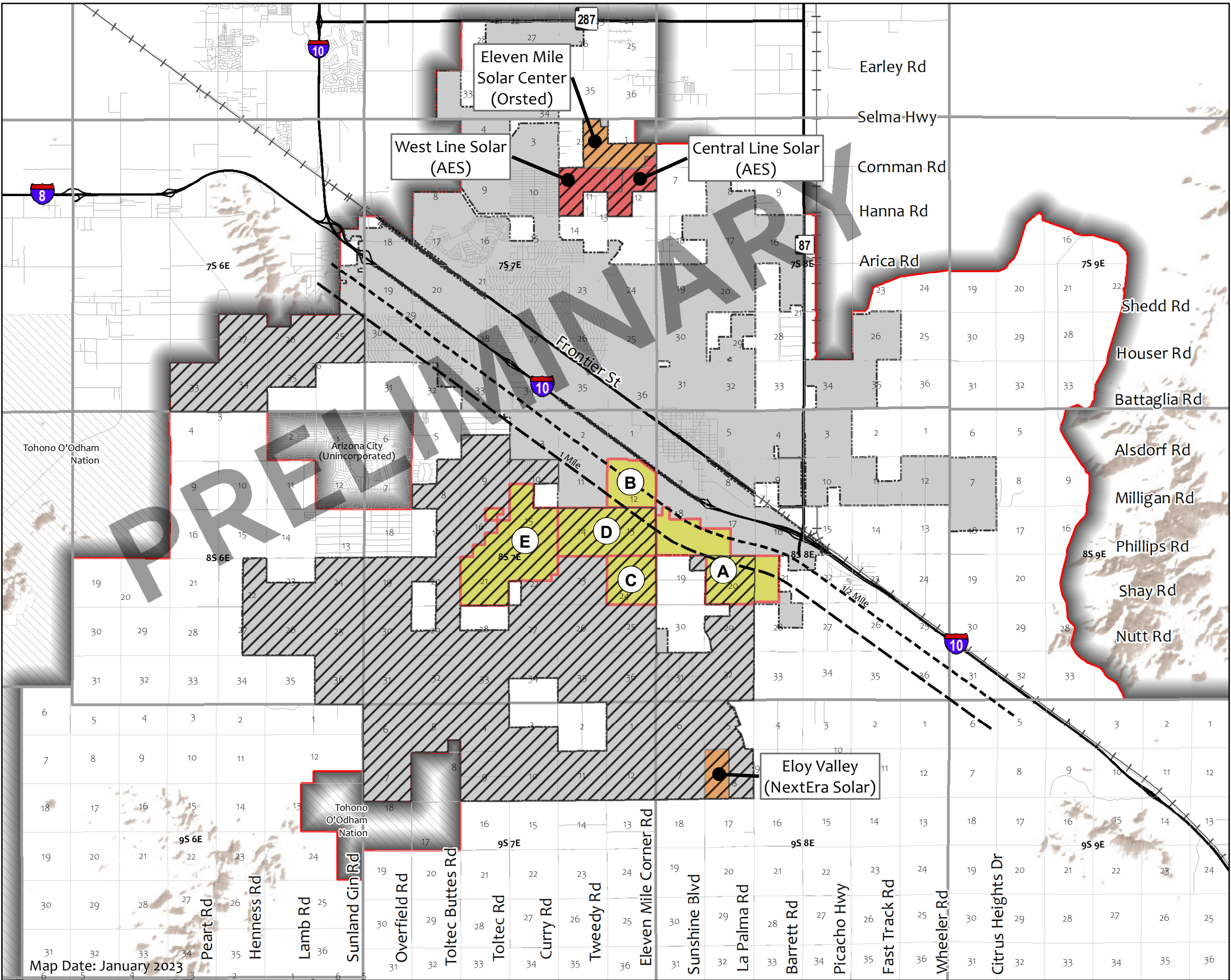
Reference

- Eloy City Limits
- Eloy Planning Boundary
- Railroad
- 1/2 Mile I-10 Buffer
- 1 Mile I-10 Buffer



Disclaimer: This map is furnished for reference purposes only and is not suitable for legal, financial, engineering, or surveying purposes or commitments. The City of Eloy assumes no responsibility for errors, omissions, or inaccuracies presented, and shall have neither liability nor responsibility for any direct or indirect loss or damage in connection with, or arising from, the information on this map. Any conclusions derived from this map are the responsibility of the user.

Service Layer Credits: Sources: Esri, USGS, NOAA



City of Eloy, Arizona

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21-3-1.39: SOLAR GENERATION ~~AND BATTERY ENERGY STORAGE SYSTEM~~ FACILITIES:

A. All solar generation and battery energy storage system (BESS) facilities must comply with the following standards:

1. Solar ~~Facility~~ Overlay Area: All solar generation and BESS facilities shall be proposed by the applicant and approved by the Eloy City Council within the adopted Solar ~~Facility~~ Overlay Area. Such Solar Overlay Facility boundary shall not be expanded in the future and only represents the areas within the City where such projects may be proposed and approved.

2. Annual Solar Generation Facility and BESS Acreage ~~Limit~~Cap: The total amount of all approved and constructed future solar generation and supportive BESS shall be limited to () percent of the total amount of acreage (73,400 acres) within the City of Eloy now, which equates to thousand (,000) acres, which is only a portion of the Solar Overlay Area.

34. Lot Size: A minimum lot size of ~~three one~~ hundred ~~sixty~~ ~~ten~~ (310~~160~~) acres shall be established and maintained.

a. Setbacks: A building, structure, or lot shall not be developed, used, or occupied unless it establishes and maintains minimum front, side and rear yard setbacks of seventy-five~~forty~~ feet (75~~40~~'). An additional building setback of one hundred (100) feet between the solar generation project and any existing adjacent residential homes or acreage zoned R1-12, R1-6, R-2, R-3 or any future residential zoning designations between the densities expressed by these zoning districts.

42. Lot Coverage: Maximum lot coverage percentage shall be ~~one~~ten percent (10%) except that freestanding, ground mounted solar ~~arrays~~devices shall not count toward the lot coverage percentages.

53. Building Height: Building height shall not exceed the height limitations designated for the zone in which such building is located. Solar arrays are considered an accessory use, with such use capped at fifteen (15) feet in height, as measured from the finish grade, ~~except that thermal towers may extend up to two hundred feet (200') in height provided that the tower is centrally located on the property and maintains a safe fall zone equal to or greater than the height of the tower.~~ (Ord. 18-880, 7-23-2018)

6. Adjacency: Any proposed solar generation facility and/or BESS facility shall be located with a minimum of ~~approximately~~ 1/2 mile (2,60~~40~~ lineal feet) of adjacency with an existing or permitted solar generation facility.

7. Site Development Standards: The following minimum site development standards and conditions shall be imposed on every solar generation and supportive BESS project. Other site specific standards may be imposed at the discretion of the Zoning Administrator or his/her designee, based on existing and/or potential site conditions.

a. ~~Pre- and Post~~ Construction Property Maintenance: All undeveloped and developed portions of the subject property shall be maintained in a natural, debris-free, and weed-free condition.

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Subsequent to the construction of the solar arrays, native low growing vegetation shall be used to stabilize the site for the duration of the facility's use. Weed control or mowing shall be performed routinely and a performance bond reflecting the costs of such maintenance for a period of six (6) months shall be posted and maintained by the Property Owner or the Property Owner's designee. Solar panels shall be repaired or replaced or removed when they are either nonfunctional or in visible disrepair. Persistent failure, over a period of six (6) months, to maintain the site or its improvements may result in revocation of the conditional use permit or planned area development entitlements and initiate the facility's decommissioning by the City of Eloy.

b. Conforming Development: That development of the solar generation and supportive BESS project shall be in compliance with the CUP narrative or Planned Area Development document and/or the Eloy Zoning Ordinance.

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c. Project Zoning Amendments: Any major changes or modifications to the subject CUP or PAD shall be reviewed and processed in accordance with those procedures outlined in the Eloy Zoning Ordinance, as may be amended from time to time. Planned Area Developments previously adopted by the City Council and proposed for amendment, shall not be severed. The Zoning Administrator, or his/her designee, may administratively approve minor amendments and will determine the difference between major and minor amendments.

d. Site Plan Approval: The property owner/developer shall submit and receive Eloy Planning & Zoning Commission approval for the Site Plan for the entire project prior to construction.

e. Perimeter Landscape Treatment: The property owner/developer shall coordinate coordinate work with City Staff to select appropriate landscape vegetation (from the Pinal AMA Low Water Use Plant List prepared by the Arizona Department of Water Resources) to be located in a ten (10) foot landscape setback along all minor and major arterial frontages of the project. All landscape areas to be served with a drip irrigation and water tank storage system and irrigated on a scheduled basis to promote vigorous vegetative health and growth.

f. Solar Generation Perimeter Security: The entire perimeter of the subject solar generation facility shall be enclosed, at a minimum with a chain link fence, powder coated sage green, and erected to a height of seven (7) feet as measured from the finished grade of the land prior to the commencement of operations of the Solar Generation Facility. Failure to maintain the fence in an upright and functional condition will result in revocation of the permit. The aApplicant shall indemnify the City of Eloy that this standard is not pursuant to the existing adopted National Electric Code (NEC 2017).

g.i. Lighting: Any on-site lighting provided for the operational phase of the Solar Generation or BESS Facility shall comply with Section 21-4-5: Outdoor Lighting of the Eloy Zoning Code. be dark sky compliant, fully shielded and directed away from adjacent properties to minimize light spillage.

City of Eloy, Arizona

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h. Noise: Daytime generated noise from any solar component or activity will be under 67 dBA (as measured at the property line ~~with~~) with no noise emissions generated from dusk to dawn.

i. Construction/~~Inspections~~ Building Inspections: The Applicant shall allow designated City of Eloy 3rd Party Inspectors as well as City ~~employees~~employee's access to the solar generation facility at any time for inspection purposes as set forth in their application.

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j. Pre-Operational Training: The Applicant shall arrange a training session with the Eloy Fire District to familiarize personnel with issues unique to the solar generation facility prior to the initiation of solar operations.

k. Regulatory Compliance: The Solar Generation Facility shall be designed, constructed, and tested to meet relevant local, state, and federal standards, as applicable.

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l. Regional Land Use Impacts and Mitigation: At the discretion of the Zoning Administrator, the property owner/developer shall contact existing/proposed land use entities (i.e. Sawtooth Airfield, Kitt Peak Observatory ect.) to confirm that the proposed project does not create direct or indirect negative impacts to their existing or planned operations, or if so, such impacts can be mitigated by the property owner/developer.

m. Minor and Major Arterial Road Dedication: The property owner/developer shall dedicate the full right of way for all minor and major arterial roads (as identified on the City's adopted General Plan-Circulation Map) or as identified by the Eloy Public Works Director prior to obtaining a ~~building permit~~certificate of completion.

n. Interim Arterial Road Improvements: The property owner/developer shall improve all perimeter minor and major arterial roads located along the proposed solar generation and supportive BESS project boundary (or internal to the project boundary) with a double chip seal pavement width of twenty-eight (28) feet within the projects' half-street rights of way. The subbase of such roadways shall ~~be six~~ be (6) inches of aggregate base course material. ~~Low water crossings shall be installed at grade, in locations where drainage model shows flow, and side ditches on the side of roads shall capture regular storm flows and convey flows along current drainage paths.~~

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o. Internal Project Roadway Emergency Response Access: The property owner/developer shall coordinate with the Eloy Fire District on the required roadway cross section to provide adequate internal circulation necessary to serve a vehicle with 75,000 gross vehicle weight from the project vehicular access points to key internal project components (i.e. inverters, batteries, etc.) for fire and emergency response apparatus.

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p. Battery Energy Storage Systems: The provision of a battery energy storage system, only to directly support the solar generation facility, shall only be located within the boundaries of the benefitting solar generation facility.

City of Eloy, Arizona

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g. Groundwater Extinguishment: To the extent allowed by law, all Type-I Non-irrigation and Irrigation Grandfathered Rights associated with the property to be developed as a solar generation facility shall be properly extinguished and the resulting extinguishment credits conveyed to the City of Eloy (or pledged to the City of Eloy account at the Arizona Department of Water Resources) prior to the issuance of any building permit by the City of Eloy.

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9. Decommissioning: Successful decommissioning of the solar generation facility and BESS (as applicable) shall entail the preparation of a decommissioning plan, cost estimate, financial assurances, removal of improvements and incidences of partial decommissioning conditions.

a. Decommissioning Plan: The Applicant shall submit a decommissioning plan to the City of Eloy for approval in conjunction with the building permit. The purpose of the decommissioning plan is to specify the procedure by which the Applicant, or its successor, would remove all of the above and below ground improvements associated with the Solar Generation (and if applicable BESS) Facilities after the end of their usefulness and to restore the property for immediate non-solar related uses.

b. Decommissioning Cost Estimate. The decommissioning plan shall include a decommissioning cost estimate prepared by an Arizona licensed professional engineer which will quantify the gross estimated cost to decommission the Solar Generation Facility (and BESS Facility, if applicable) in accordance with the decommissioning plan and these conditions. The decommissioning cost estimate shall not include any estimates or offsets for the resale or salvage values of the Solar Generation Facility, or BESS equipment and materials.

c. Decommissioning Cost Estimate Peer Review: The applicant, or its successor, shall reimburse the City for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimate.

d. Decommissioning Cost Estimate Update: The applicant, or its successor, shall update the decommissioning cost estimate every five (5) years and reimburse the City for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.

10. Decommissioning Financial Assurances: Prior to the City's approval of the building permit, the Applicant shall provide financial assurances to ensure that decommissioning can successfully occur through either of the following options:

ia. Letter of Credit for Full Decommissioning Cost: A letter of credit issued by a financial institution that has ~~(i)~~ a credit rating of at least "A" from Standard & Poor's or A2 from Moody's and ~~(ii)~~ a capital surplus of at least \$10,000,000,000; or ~~(iii)~~ other credit rating and capitalization reasonably acceptable to the City, in the full amount of the decommissioning estimate; or

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iib. Tiered Securitization: An amount equal to, or more than, ten (10) percent of the approved decommissioning cost estimate to be deposited in a cash escrow account at a

financial institution acceptable to the City of Eloy; or an amount equal to, or more than, ten (10) percent of the decommissioning cost estimate in the form of a letter of credit issued by a financial institution that has ~~(ii)~~ a credit rating of at least "A" from Standard & ~~Peers~~Poor's or A2 from Moody's and ~~(iii)~~ a capital surplus of at least \$10,000,000,000, or ~~(iii)~~ other credit rating and capitalization reasonably acceptable to the City of Eloy, with the amount of the letter of credit increasing by an additional ten (10) percent each year in years 2–9 after commencement of operation of the Solar Generation Facility;

c. Decommissioning Guaranty: The Owner (not the applicant) will provide its guaranty of the decommissioning obligations. The guaranty will be in a form acceptable to the City. The Owner, or its successor, should have a minimum credit rating of ~~(ii)~~ Baa3 or higher by Moody's or ~~(iii)~~ BBB- or higher by Standard & ~~Peers~~Poor's; and

d. Letter of Credit Escalator: In the tenth (10th) year after operation, the Applicant shall increase the value of the letter of credit to one hundred (100) percent of the decommissioning cost estimate. At such time, the Applicant may be entitled to a return of the ten (10) percent cash escrow.

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e. Decommissioning Securitization Review: Upon the receipt of the first revised decommissioning cost estimate (following the fifth (5th) anniversary), any increase or decrease in the decommissioning securitization shall be funded by the applicant or refunded to the applicant (if permissible by the form of security) within ninety (90) days and will be similarly readjusted for every subsequent five-year decommissioning cost estimate update.

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f. ~~Receipt~~Receipt of Securitization Funds: The securitization must be received prior to the approval of the building permit and must remain in full force for the duration of the life span of the Solar Generation Facility and until all decommissioning is completed to the satisfaction of the City of Eloy. If the City receives notice or reasonably believes that any form of security has been revoked or the City receives notice that any security may be revoked, the City may revoke the conditional use permit or planned area development entitlement and shall be entitled to take all actions necessary to obtain the rights to the securitized funds.

g. Applicant/Property Owner Obligation: Within six (6) months after the cessation of use of the Solar Generation Facility for electrical power generation or transmission, the applicant or its successor, at its sole cost and expense, shall decommission the Solar Generation Facility in accordance with the decommissioning plan approved by the City. If the Applicant or its successor fails to decommission the Solar Generation Facility within six (6) months, the property owners shall commence decommissioning activities in accordance with the decommissioning plan. Following the completion of decommissioning of the entire Solar Generation Facility arising out of a default by the applicant or its successor, any remaining securitized funds held by the City shall be distributed to the property owners(s) in the same percentage of the securitized funds matched with the percentage of the property owner's acreage ownership of the Solar Generation Facility.

h. Applicant/Property Owner Default; Decommissioning by the City of Eloy: If the Applicant, its successor, or the property owner(s) fail to decommission the Solar Generation Facility within six (6) months, the City shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning securitized funds, and the rights to the Solar Generation Facility and BESS equipment and materials on the property. If applicable, any excess decommissioning securitized funds shall be returned to the current owner of the property after the City has completed the decommissioning activities. Prior to the issuance of any permits, the Applicant and the property owners shall deliver a legal instrument to the City of Eloy granting the City (1) the right to access the property, and (2) an interest in the Solar Generation Facility equipment and materials to complete the decommissioning upon the Applicant's and property owner's default. Such instrument(s) shall bind the Applicant and property owners and their successors, heirs, and assigns. Nothing herein shall limit other rights or remedies that may be available to the City to enforce the obligations of the Applicant, including under the City's zoning powers.

i. Equipment/Building Removal: All physical improvements, materials, and equipment related to solar energy generation, both surface and subsurface components, shall be removed in their entirety. The pre-existing soil grade will also be restored following disturbance caused in the removal process. All perimeter fencing will be removed and recycled or reused. Upon approval of the Zoning Administrator, or his/her designee, the existing perimeter fencing may remain in place.

j. Infrastructure Removal. All access roads will be removed. The exception to removal of the access roads and associated culverts or their related material would be based upon written request from the current or future landowner to allow all, or a portion of these facilities to remain in place for use by that landowner. Otherwise, all access roads will be removed within areas that were previously used for agricultural purposes and topsoil will be redistributed to provide substantially similar growing media as was present within the areas prior to site disturbance.

k. Partial Decommissioning. If decommissioning is triggered for a portion, but not the entire Solar Generation Facility, then the applicant or its successor will commence and complete decommissioning, in accordance with the decommissioning plan, for the applicable portion of the Solar Generation Facility; the remaining portion of the Solar Generation Facility would continue to be subject to the decommissioning plan.

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Acronyms

BESS Battery Energy Storage System

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Definitions

Battery Energy Storage Systems (BESS) are rechargeable batteries that store energy generated by the on-site solar generation facility and discharges it to the electrical grid when needed.

Solar Generation Facility: An improved area of land in which a large number of solar panel arrays are organized in an efficient arrangement in order to generate electricity for use, sale and/or transmission to site or entities beyond the immediate site of the generating facility.

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Photovoltaic: The use of solar panels that absorb sunlight, to generate electricity.

Solar Array: A group of solar panels consisting of a linked series of photovoltaic modules with a maximum height of ten (10) feet from finished grade of the land. Such arrays shall be fabricated to be self-contained, non-polluting and non-reflective. The size of a solar array is measured in square feet by multiplying the overall maximum length and width.

Solar Panel: A collection of solar (or photovoltaic) cells, which generate electricity through photovoltaic effect. These cells, typically consisting of crystalline silicon, are arranged in a grid-like pattern to form a panel and typically encased by a metal structure supporting it and typically measures six (6) feet by ten (10) feet.