



**PUBLIC NOTICE
PLANNING & ZONING COMMISSION**

Meets

Wednesday, May 3, 2023

6:00 PM

**ELOY CITY COUNCIL CHAMBERS
595 NORTH C STREET
ELOY, ARIZONA 85131**

AGENDA

I. Call to Order

II. Roll Call

III. Invocation

IV. Pledge of Allegiance

V. Public Appearances

Those wishing to **ADDRESS THE PLANNING & ZONING COMMISSION** may do so by signing in on a form provided by the Community Development Director, identifying the topic(s) or agenda item(s). **ACTION** taken as a result of public comment regarding non agenda items will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date. **SPEAKERS SHALL BE LIMITED TO THREE (3) MINUTES.**

VI. Motion to approve the January 18, 2023 meeting minutes of the Planning and Zoning Commission

A. Meeting Minutes

VII. Old Business: Possible discussion and/or action on the following:

VIII. New Business: Possible discussion and/or action on the following:

- A. Conduct a public hearing for a Staff initiated request to amend the Eloy City Code, Chapter 21-Zoning; Article II. Section 21-2-1 Zoning District and Map Established, add Solar Generating and Storage Facility to the Overlay Zoning District; Article II. Section 21-2-7 Overlay Zoning Districts by adding Section 21-2-8 Solar Generating and Storage Facilities; Article III. Section 21-3-1.39 Supplemental Use Standards-Solar Generation Facilities; Article IX. Section 21-9-1 Definitions; Article IX Section 21-9-2 Acronyms; and Amend City's Official Zoning map to add the Solar Generating and Storage Facility Overlay and its designated area. **Letters received by the City related to this case have been included as attachments for the Public Record.** (Case No. TA2023-006)

- B. Commission to make a recommendation for approval, approval with conditions, denial or continuance for Case No.: TA2023-006.
- C. Conduct a public hearing for a staff initiated text amendment to the Eloy City Code, Chapter 21-Zoning revising, portion of Section 21-9-1 Definitions as it pertains to HOTEL OR MOTEL (REVISED), GUEST ROOM (NEW) AND TRANSIENT PURPOSES (NEW). (Case No.: TA2023-007)
- D. Commission to make a recommendation for approval, approval with conditions, denial or continuance for Case No.: TA2023-007.

IX. Informational Item:

X. Communications:

- A. Ex-Officio Member Announcements
- B. Community Development Director Announcements

XI. Motion to Adjourn

POSTED BY 5:00 P.M., THURSDAY, APRIL 27, 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 COMMISSION AND/OR STAFF MAY PARTICIPATE BY TELEPHONIC OR VIDEO MEANS.

**MEETING MINUTES OF
THE CITY OF ELOY
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, January 18, 2023
6:00 p.m.**

I. CALL TO ORDER

Chairperson Steven Paulson called the meeting to order at 6:00 p.m.

II. ROLL CALL

*One or more members of the Planning and Zoning Commission may attend by telephonic means.

Members present:

- Chairperson Steven Paulson
- Vice-Chairperson Conrad Tolson
- Commissioner Larry Brown
- Commissioner Edward Saucedo
- Alternate Commissioner Kathryn Meyers
- Commissioner Allen Crawford
- Ex-Officio Sara Curtis

Members Absent:

None.

Staff present:

- Jon Vlaming, Community Development Director
- Belinda Cota, Planner
- David Malewitz, City Manager

Others present:

- Michael S. Buschbacher, Earl & Curley, applicant
- Ricardo Torres, Earl & Curley
- Dan Snyder, City of Eloy Council member/Robson Ranch resident
- Monica Cañez, Eloy resident

III. INVOCATION

Chairperson Paulson led the Invocation and requested a moment of silence.

IV. PLEDGE OF ALLEGIANCE

Chairperson Paulson led the recitation of the Pledge of Allegiance.

V. PUBLIC APPEARANCES

None.

VI. MOTION TO APPROVE THE DECEMBER 21, 2022 MEETING MINUTES OF THE PLANNING AND ZONING COMMISSION.

Commissioner Paulson asked for a motion to approve the meeting minutes of the Planning and Zoning Commission. Commissioner Brown made a motion to approve the December 21, 2022 meeting minutes as presented. Commissioner Crawford seconded the motion as presented. The motion was approved with a vote 5-0.

VII. OLD BUSINESS: POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

None.

VIII. NEW BUSINESS: POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

A. CONDUCT NOMINATIONS AND SELECTION OF A CHAIR FOR CALENDAR YEAR 2023

Mr. Vlaming explained that on the first of the year, City Code identifies that the Commission is tasked to identify and confirm a Chairperson and a Vice-chairperson for the calendar year (Agenda items A and B)

Chairperson Paulson asked for nominations and selection of a Chairperson for calendar year 2023. Vice-Chairperson Tolson nominated Steven Paulson as the Chairperson. Commissioner Crawford seconded the nomination. The nomination carried with a vote 5-0.

B. CONDUCT NOMINATIONS AND SELECTION OF A VICE-CHAIR FOR CALENDAR YEAR 2023

Chairperson Paulson asked for nominations and selection of a Vice-chairperson for calendar year 2023. Commissioner Crawford nominated Conrad Tolson as the Vice-chairperson. Chairperson Paulson seconded the nomination. The nomination carried with a vote 5-0.

C. CONDUCT PUBLIC HEARING TO DISCUSS THE APPLICATION CASE NO.: RZPADA2022-042. APPLICATION SUBMITTED BY PETERSEN ARIZONA LAND AND ENTITLEMENT FUND (PALEF) AND SAQ PROPERTIES IN CARE OF EARL & CURLEY C/O MICHAEL S. BUSCHBACHER FOR A

SECOND (2ND) AMENDMENT TO THE INTERSTATE 10-8 BUSINESS PARK WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY BY ADDING APPROXIMATELY 95 ACRES TO THE PROJECT AND REZONING THE 95-ACRE PARCEL FROM I-1, LIGHT INDUSTRIAL TO I-2, GENERAL INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY ON PINAL COUNTY ASSESSOR'S PARCEL NUMBER 403-07-158H, IN A PORTION OF SECTION 28, TOWNSHIP 7 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA.

Chairperson Paulson opened the Public Hearing.

Mr. Vlaming explained this agenda item is the second amendment for an additional 95 acres and commented the applicant is in the process of acquiring another parcel adjacent to the existing assemblage conducted with the original and the 1st amendment to the Planned Area Development (PAD). He indicated that all of the provisions of the PAD will apply to this additional acreage of 95 acres to give them a greater area for their master plan. The 95 acre parcel is located toward the project's southeast corner, adjacent to the Silverado RV Park (to its immediate east). This is the request that is on the table to fold this into the PAD overall. He stated that there was representation from Early and Curley and that they had a power point presentation on the screen if the Commission so desired to see it.

Mr. Buschbacher introduced himself and gave a brief presentation supported by the PowerPoint. He commented he was in front of the Planning and Zoning Commission about three times so far with the first one back in 2019. He noted that they have continued to market the property and have seen individuals interested in it and there was a desire to add more land to make it more attractive for others to cast a wider net and to land more quality businesses. He added that he was there to add an additional 95 acres to the PAD and help smooth out the circulation to connect to Toltec Road. He continued that this request tonight is for approval of the I-2, General Industrial Zoning District as the base zoning district for an additional 95 acres being added to the 1,192 acres from the original PAD. The total project acreage would now be 1,287 acres. This additional acreage is key to align the collector spine road that would connect from Sunland Gin Road to Toltec Road and would provide good access for the property. With that, he asked if anyone had any questions.

Commissioner Brown asked what would be the total acreage. Mr. Buschbacher responded 1,287 acres.

Vice-chairperson Tolson commented that on one of the attachments it shows that the applicant held a neighborhood meeting on December 21, 2022. He noted that he did not see who received the invitation or if they had any comments to their proposal. Mr. Buschbacher responded that there was one individual who joined the citizen participation Zoom call and it was a lady employee at Las Colinas RV Park (northwest of the project across on the west side of Sunland Gin Road). They wanted to know if the project would affect them in any way. He explained that the development was

across the street and it would not affect them and that was more or less the discussion. Vice-chairperson Tolson asked, based on the list of property owners attached to the meeting packet, how he would know they received the meeting invitation. Mr. Buschbacher responded that the notifications were sent via first-class mail with a list that was confirmed by the Community Development Department Staff. Mrs. Cota added that the list of addresses are obtained from the Pinal County Assessor's data base, and those addresses are used to contact the property owners. Some mail was returned and it is due to property owners not updating the information with Pinal County. He continued that Staff did not receive any calls in support or against the proposed application. Vice-chairperson Tolson commented that the Robson Ranch Homeowner's Association (HOA) received a letter and that could have easily been misplaced. His thought was they could easily get lost in someone's mail box. He also inquired about the concept plan for Interstate 10-8 Business Park, Exhibit #7, and ask if the rail served industrial could shift away from being directly across from the Robson Ranch vehicle entrance along Jimmy Kerr, more specifically, Pinal County Parcel number 402-14-004A. He commented he is a Robson Ranch resident and he would not like to see heavy industrial uses across from the Robson Ranch main entrance, so asked if the concept plan could be arranged and shifted away. Mr. Buschbacher mentioned this is the only area that has this amount of rail served industrial land in the State, It would allow materials to enter the site and be delivered to the manufacturing facilities in the future, etc., which adds to the marketability of the site.

The PAD was established back in to 2019 with the existing zoning. Mr. Vlaming added that the General Plan has identified this area as General Industrial for quite a long time due to its locational attributes for industrial type of uses between Frontier Street (State Highway 84) and Interstate 10 (I-10), with two full diamond interchanges and rail served along Frontier Street. He noted that what they are seeing now is that there are not a lot of rail users (not to say there would not be in the future) but at least at this point the City of Eloy has been marketing heavily the Sunshine Industrial Park further to the south and there has been a lack of rail served industrial there for a number of different reasons. He continued that when you add a spur that adds up to a lot of cost to the overall development. He also wanted to make a point that the beauty of this PAD is that the developer would be able to shift those uses around the site and again with the I-2, General Industrial designation it allows light industrial as well. Vice-chairperson Tolson also asked "so when the applicant comes forward with a particular plan across the entrance from Robson Ranch and it turns out to be a heavy industrial user would "we" (Commission/staff/the city) be able to do anything about it? Mr. Vlaming responded that unless the Zoning Administrator determines that there are unusual circumstances or special conditions related to an application, in which case the Administrator may defer action and refer such application to the Planning and Zoning Commission for final decision. Vice-chairperson Tolson commented that otherwise the area could end up with General Industrial across the Robson Ranch entrance. Mr. Vlaming responded we could, but the General Industrial designation has a pretty wide variety of operations going on the subject property, some of which tend to go into the lighter side and some are much more on the heavier side. He finished with, "obviously if the applicant gets more towards the heavier side, Staff will be very interested in that". Vice-chairperson Tolson asked what a half-street improvement

means. Mr. Buschbacher responded that it means having traffic in two directions. There is a set right of way width that is required to put a side walk, landscape, etc. The half street is measured from the center line of the roadway to the associated development property line (for example: if there is a 110 foot right of way, there would be a 55 foot half street and on a 55 foot half street, you could easily stripe it to accommodate two-way traffic). Commissioner Crawford commented that Mr. Peterson, who first proposed this project back in 2019, told the Commission his plan was to build an entryway fairly quickly and asked if the Commission can expect it being built by the end of this year (2023). Mr. Buschbacher responded he cannot commit with the entrance being built, but it would be expected with the first availability to close a big sale of the land. They have hired Arizona Land Advisors to market the property, in addition to their own efforts, and there are several potential buyers. He added they are hoping that something happens quickly to start moving forward with that because they would like to see that too. Commissioner Crawford asked if the owner had anyone that has put any money on this project yet. Mr. Buschbacher commented there has been some letters of intent passed to his client and there are offers being considered. Commissioner Crawford commented that it seems like they are in the land acquisition business. Mr. Buschbacher responded, again this is to cast the widest possible net to get good businesses to come down to Eloy. They are here to clean up the circulation and this would allow the developer to connect the spine road to Toltec Road. So this is adding one more bit of detail.

Hearing no other comments, Chairperson Paulson closed the public hearing.

D. CONSIDERATION, DISCUSSION, AND RECOMMENDATION TO THE ELOY CITY COUNCIL FOR APPROVAL, APPROVAL WITH CONDITIONS, DENIAL OR CONTINUANCE OF CASE NO.: RZPADA2022-042. (PROJECT NAME: INTERSTATE 10-8 BUSINESS PARK)

Chairperson Paulson asked for a motion for approval, approval with conditions, denial or continuance of Case No.: RZPADA2022-042. Vice-chairperson Tolson made a motion to approve with the following condition: *“Applicant shall strive to locate the Retention/Open Space directly across the entry to Robson Ranch Boulevard within a portion of Pinal County Assessor’s number 402-14-004A consisting of 70.4 acres more or less”*. Commissioner Crawford seconded the motion as presented. The motion was approved with a vote 5-0.

AYES: Chairperson Paulson, Vice-Chairperson Tolson, Commissioner Brown, Commissioner Saucedo, Commissioner Crawford

NAYS: None.

E. CONDUCT A PUBLIC HEARING TO DISCUSS THE APPLICATION SUBMITTED BY THE CITY OF ELOY TO REZONE PINAL COUNTY ASSESSOR’S PARCEL NUMBER 404-05-009B FROM R1-12, SINGLE FAMILY RESIDENTIAL (APPROXIMATELY 240.25 ACRES) AND R1-43, ESTATE RESIDENTIAL (APPROXIMATELY 280.25 ACRES). THE SUBJECT PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF SHEDD

Planning and Zoning Commission

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ROAD AND ELEVEN MILE CORNER ROAD, IN A PORTION OF SECTION 23, TOWNSHIP 7 SOUTH, RANGE 7 EAST, G&SRB&M, PINAL COUNTY, ARIZONA.

Chairperson Paulson opened the Public Hearing.

Mr. Vlaming gave an overview of the proposed Staff sponsored rezoning of approximately 280.25 acres. This property is identified in the General Plan as Light Industrial as it is adjacent to the Eloy Municipal Airport. The City purchased it in 2012 and it has been in agricultural production ever since. The Eloy City Council recently approved an extension to the lease agreement with the Barnes family to continue to farm the land. With that in mind, and the update of the Eloy Airport Master Plan and the land being zoned residential-it is not compatible with the extension of the runway of the airport. So in keeping with the General Plan, Staff believes it is time to move forward with a re-zoning proposal for the Commission's consideration to change it to Business Park which is the lowest intensity of industrial use within the three industrial designations in the General Plan. This use would allow for the continued expansion of the runway and related activities to improve the airport going forward. The intent is not to create an incompatible situation in terms of noise with airport operations or potential dangerous situations. For those reasons, Staff is requesting, for Commission consideration, if they concur with Staff's request to rezone the property to Business Park makes good planning, economic and good investment sense with the plans City of Eloy has for the Eloy Municipal Airport. Staff will be engaging in the update of the Airport Master Planning effort, which would kick off in 2023 with regards to the future plans for the airport, type of aircraft, noise contours, etc. Staff believes this is a good move to prepare for aviation related uses. He asked if anyone had any questions and added Staff is recommending approval.

Ms. Monica Cañez, Toltec resident commented that she is a property owner and owns property near the proposed Business Park designated area and asked why this location and in the center of the existing residential area and not the property on the east side between Eleven Mile Corner Road and Tumbleweed Road (where the existing residential housing is not impacted by the expansion of the Eloy Municipal Airport).

Mr. Vlaming responded to Ms. Cañez's question. As the City continues to expand the airport operations with more take-offs and landings at the airport with different kinds of aircraft, the noise contour will continue to expand in the future. It is currently part of the Airport Master Plan to evaluate it. The City would not like to see residential development at the end of the runway if the property was to be sold. So for those reasons, Staff believes it would be better to have this area at the least intense industrial land use classification and it would be compatible with what it would be on the runway and the residential areas to the immediate west. There would not be any type of heavy industrial type users. Business Park is typically characterized as a type of layout where there is office use in the front and indoor storage in the back with no manufacturing associated under this zoning category. Ms. Cañez asked if the noise would be contained. Mr. Vlaming responded it will continue to expand in the distant future, but this master planning effort is looking out 20-30 years. Even though the City owns this land, and

there are no plans to develop it at this time, staff wants to position it for the near future and to protect the airport operations. If the property would ever go to auction, we would want the potential buyer to know that it would be Business Park related uses.

Ex-officio Curtis explained that right now, there are planes flying on top of the farms and the farms do not care if there is noise. There are residents that live to the west and south, she being one who resides there too. If this zoning proposal changes and if the farms were to go away i.e. there was no more water and decided to change the use, there would not be more houses built there, but would be something related to the airport instead, such as airport hangers or small businesses related to the airport rather than houses. If houses do get built close to the airport, the houses could cause problems to the airport i.e. too much noise to the residents- it is not a good location for houses to be placed there. The existing houses to the west and south are located outside the airport area and are zoned residential. Instead of more houses located there, it would be businesses related to the airport. He asked Ms. Cañez if it made sense. Ms. Cañez responded it did. Ex-officio member Sara Curtis added that she lives in the area and is part of the skydivers and has talked to the stakeholders and those who work at the airport. They all think this is a good idea because basically, if you put too many houses it can be dangerous for airport operations. So she noted that it would be better to change the zoning category, so if the farm goes away it would be better to have airport related businesses in its place. Ms. Cañez said thank you for the clarification.

Hearing no other comments, Chairperson Paulson closed the public hearing.

F. CONSIDERATION, DISCUSSION, AND RECOMMENDATION TO THE ELOY CITY COUNCIL FOR APPROVAL, APPROVAL WITH CONDITIONS, DENIAL OR CONTINUANCE OF CASE NO.: RZ2023-001. (PROJET NAME: AIRPORT BUSINESS PARK).

Chairperson Paulson asked for a motion for approval, approval with conditions, denial or continuance of Case No.: RZ2023-001. Commissioner Brown made a motion to approve as presented. Commissioner Crawford seconded the motion as presented. The motion was approved with a vote 5-0.

AYES: Chairperson Paulson, Vice-Chairperson Tolson, Commissioner Brown, Commissioner Saucedo, Commissioner Crawford
NAYS: None.

IX. INFORMATIONAL ITEMS:

- None.

X. COMMUNICATIONS:

A. EX-OFFICIO MEMBER ANNOUNCEMENTS

- Ex-Officio Curtis informed the Commissioners and those present that the property owner of Francis Roses donated to the City, forty (40) rose bushes to be planted at City Hall and at the Senior Center.

B. COMMUNITY DEVELOPMENT DIRECTOR ANNOUNCEMENTS

- Mr. Vlaming informed the Commissioners that they will not be a meeting in February, and the next one would be on March 15, 2023.
- The State of the City 2023 was held earlier in the day from 11:30 am – 1:30 pm, with Mayor Micah Powell as the speaker and the theme was –Opportunity-Together for the future of our community. It was well received and well attended.
- Gold Bond/National Gypsum-Staff meets on a weekly basis and is making good progress with the construction site over on Date Street.

XI. MOTION TO ADJOURN.

Chairperson Paulson asked for a motion to adjourn. Commissioner Crawford made a motion to adjourn and was seconded by Vice-chairperson Tolson. The adjournment passed with a vote of 5-0 and the meeting adjourned at approximately 6:57 p.m.

CITY OF ELOY

REQUEST FOR COMMISSION ACTION

Agenda Item: **VIII.A.**

Date: **5/3/2023**

Date submitted:
04/10/2023

Action: Formal

Date requested:
5/3/2023

Subject: Conduct a public hearing for a Staff initiated request to amend the Eloy City Code, Chapter 21-Zoning: Article II. Section 21-2-1 Zoning District and Map Established, add Solar Generating and Storage Facility to the Overlay Zoning District; Article II. Section 21-2-7 Overlay Zoning Districts by adding Section 21-2-8 Solar Generating and Storage Facilities; Article III. Section 21-3-1.39 Supplemental Use Standards-Solar Generation Facilities; Article IX. Section 21-9-1 Definitions; Article IX Section 21-9-2 Acronyms; and Amend City's Official Zoning map to add the Solar Generating and Storage Facility Overlay and its designated area. Letters received by the City related to this case have been included as attachments for the Public Record. (Case No. TA2023-006)

TO: Planning and Zoning Commission

FROM: Jon Vlaming

RECOMMENDATION:

The Staff recommendations are as follows, and are more fully described in the Discussion section of this report:

Utility Scale Solar Generation Buffer: Staff recommends that the Planning & Zoning Commission recommend Alternative E for approval. Alternative E establishes a buffer distance based on Alternative C above and includes the additional buffer area consisting of all acreage extending a defined radius distance (ranging from approximately 4,170 to 5,300 feet, as measured from the southern boundary of the Interstate 10 right of way on Sunland Gin Road (approximately 5,300 feet radius to Shedd Road), Toltec Road (approximately 4,170 feet radius to Battaglia Road), Sunshine Boulevard (approximately

4,600 feet radius to Phillips Road), and Barrett Road (approximately 3,200 feet radius toward Shay Road) as shown on the attached Solar Overlay Buffer map.

Utility Scale Solar Overlay: City Staff recommends that the Solar Overlay as depicted, consisting of 5,025 acres, on the attached Solar Facilities map, be recommended for approval by the Planning & Zoning Commission. City Staff does not recommend that the proposed expansion (proposed at approximately 3,555 acres overall and 2,931 acres currently in the City) be recommended for approval at this time.

Zoning Ordinance Text Amendment: Identifies the amendments and new additional text to address the provision of utility scale solar in a comprehensive manner. These recommended text changes are identified in the clean text version attached to this item (Utility Scale Solar Amendments to Eloy Zoning Code).

DISCUSSION:

The City has been the subject of significant interest for the siting of utility scale solar generation and battery storage facilities due to Eloy's location, existing electrical substation, accessibility to the grid, land values and large parcel ownership. In addition, external factors including the diminishment of support for such facilities in neighboring communities and ongoing discussions regarding reduced surface water deliveries to Central Pinal County, and continued locations for data centers and semi-conductor manufacturing in Maricopa County are all driving large projects to potentially locate in Eloy.

This onslaught of demand has been a surprise to the City and with the anticipated 25-30 year timeframe of these projects (at a minimum), prompted Staff to request policy direction from City leadership to accommodate such uses in the future. As such, City leadership thought it was prudent to conduct a community conversation regarding these uses to ascertain their short and long term benefits and constraints. Their initial direction was to identify only the area south of Interstate 10 as the appropriate location to consider any future utility scale solar uses and to identify an appropriate buffer (separation) between Interstate 10 and these uses to minimize their visibility to passing traffic. The council was also interested in the amount of area of this portion of the City that would be potentially identified for utility-scale solar use.

The City Council held two public work sessions with the members of the Eloy Planning and Zoning Commission and City staff on February 6 and February 27, 2023 to address the issues associated with the provision of utility scale solar generating and storage facilities within the City of Eloy. An additional work session was also held with the members of the Eloy Planning and Zoning Commission on March 29, 2023 to continue the dialogue with interested parties.

For this public hearing with the Eloy Planning & Zoning Commission, City staff has prepared preliminary drafts of text and map changes to its adopted Zoning Code and

adopted Zoning Map. These amendments are summarized below:

Establish a Buffer (Separation) of Utility Scale Solar Within Proximity to Interstate

10: In response to the input from the community relative to the adjacency of existing utility scale solar projects in the northern portion of Eloy, the City Council has directed staff to evaluate a buffer (separation of land that is not developed with utility scale solar) within proximity to Interstate 10. Staff has prepared five alternatives to address this request, which are summarized below and illustrated on the attached map, Solar Overlay Buffer:

Alternative A: Does not establish any buffer on the south side of Interstate 10. It would represent the existing condition.

Alternative B: Establishes a buffer distance of 1,200 feet, as measured from the southern boundary of the Interstate 10 right of way.

Alternative C: Establishes a buffer distance of 2,600 feet (nearly 1/2 mile, as measured from the southern boundary of the Interstate 10 right of way. This boundary would remove approximately 100 acres of Project A (now 1,545 acres) from being developed as utility scale solar use.

Alternative D: Establishes a buffer distance of 2,600 feet, as measured from the southern boundary of the Interstate 10 right of way, but would respect the existing Project A boundary, allowing all of Project A (1,645 acres) to develop as utility scale solar use.

Alternative E: Establishes a buffer distance based on Alternative C above **and** includes the additional buffer area consisting of all acreage extending in a defined radius distance (ranging from approximately 4,170 to 5,300 feet, as measured from the southern boundary of the Interstate 10 right of way on Sunland Gin Road (5,300 feet radius to Shedd Road), Toltec Road (4,170 feet radius to Battaglia Road), Sunshine Boulevard (4,600 feet radius to Phillips Road), and Barrett Road (3,200 feet radius toward Shay Road) as shown on the attached figure Solar Overlay Buffer.

Staff recommends that the Planning & Zoning Commission recommend Alternative E for approval.

Amend the Eloy Zoning Map to Include an Overlay District for Utility Scale Solar

Uses and Define Its Boundaries: Staff intends to amend the City's Official Zoning map (to add the Utility Scale Solar Generating and Storage Facility Overlay Area title and its designated area). In response to the need to update the utility scale solar provisions of the Eloy Zoning Ordinance, the inclusion of a Utility Scale Solar Overlay is proposed by Staff. If adopted, this overlay would identify (on the City's Official Zoning Map) the locations where utility scale solar projects could be submitted for consideration by the City of Eloy. The Utility Scale Solar Overlay boundary will result from the discussion and direction expressed in the location of the Utility Scale Solar Buffer and the identification of the resulting acreage that has been recommended to be the maximum acreage to be included within the Utility Scale Solar Overlay at this time.

If the City Staff recommended buffer (Alternative E) is deemed to be recommended for

approval by the Planning & Zoning Commission, the resulting acreage could be aggregated as the total acreage allowable in the solar overlay:

Eloy Valley Project (NextEra): 320 acres
Proposed Project A: 800 acres (if Alternative E buffer is selected)
Proposed Project B: requested to be removed
Proposed Project C: 651 acres
Proposed Project D: 1,285 acres
Proposed Project E: 1,969 acres (removes 50.61 acres of non-adjacent property)
Total 5,025 acres (6.9 percent of the City's incorporated area).

A utility scale solar provider has submitted a map to the City that depicts an expanded area that would be subject to designation within the Utility Scale Solar Overlay. This area consists of approximately 3,520 acres (4.8 percent of the City's incorporated area). If this area were added, it would bring the overall total of operational, designed and proposed utility scale solar acreage to 8,545 acres (11.5 percent of the incorporated area of the City). This proposed expansion is illustrated on the attached Proposed Solar Overlay Expansion map.

City Staff recommends that the Solar Overlay as depicted, consisting of 5,025 acres, on the attached Solar Facilities map, be recommended for approval by the Planning & Zoning Commission. City Staff does not recommend that the proposed expansion, identified on the attached Proposed Solar Overlay Expansion map, be included within the Utility Scale Solar Overlay at this time.

Eloy Zoning Ordinance Text Amendment: The City intends to amend and augment the following provisions of the Eloy City Code, Chapter 21-Zoning: Articles II, III and IX. These include the following:

Section 21-2-1 Zoning District and Map Established, add Utility Scale Solar Generation and Battery Energy and Storage System Facilities to the Overlay Zoning District;
Section 21-2-7 Overlay Zoning Districts by adding Section 21-2-8 Utility Scale Solar Generation and Battery Energy Storage System Facilities;

Section 21-3-1.39 Supplemental Use Standards-Utility Scale Solar Generation and Battery Energy Storage System Facilities;

Section 21-9-1 Definitions;
Section 21-9-2 Acronyms.

A track changes version and a "clean" version of these text changes are included as attachments for ease of review of the Zoning Code text revisions.

FISCAL IMPACT:

These decisions have a positive and negative fiscal impact on the City of Eloy. The positive fiscal impacts will result from the generation of construction sales taxes, indirect sales taxes afforded through site development and construction, and enhanced property tax collections for the various taxing authorities (i.e. City of Eloy, public school districts, Central Arizona College and Eloy Fire District, etc.). Potential negative fiscal impacts would result from the lack of full-time equivalent employees on the property when constructed, long term utilization of the land for modest site improvements-as opposed to the future implementation of the entitlements (over the next 25-30 years) that have been adopted previously (typically for conventional master planned residential community development), which would have a higher valuation and consequential tax assessment to the benefiting taxing authorities.



Solar Overlay Buffer

Eloy, Arizona

Buffer Distance Alternatives

- 0' From I-10 (Alt. A)
- 1,200' From I-10 (Alt. B)
- 2,600' From I-10 and All of Project A (Alt. C)
- 2,600' from I-10 and Most of Project A (Alt. D)
- 4,170 - 5,300' From I-10 (At Traffic Interchange & 2,600' Buffer) (Alt. E)

Proposed Solar Projects

- A 1,645 Acres
- C 651 Acres
- D 1,285 Acres
- E 2,020 Acres
- Proposed Gateway Corridor

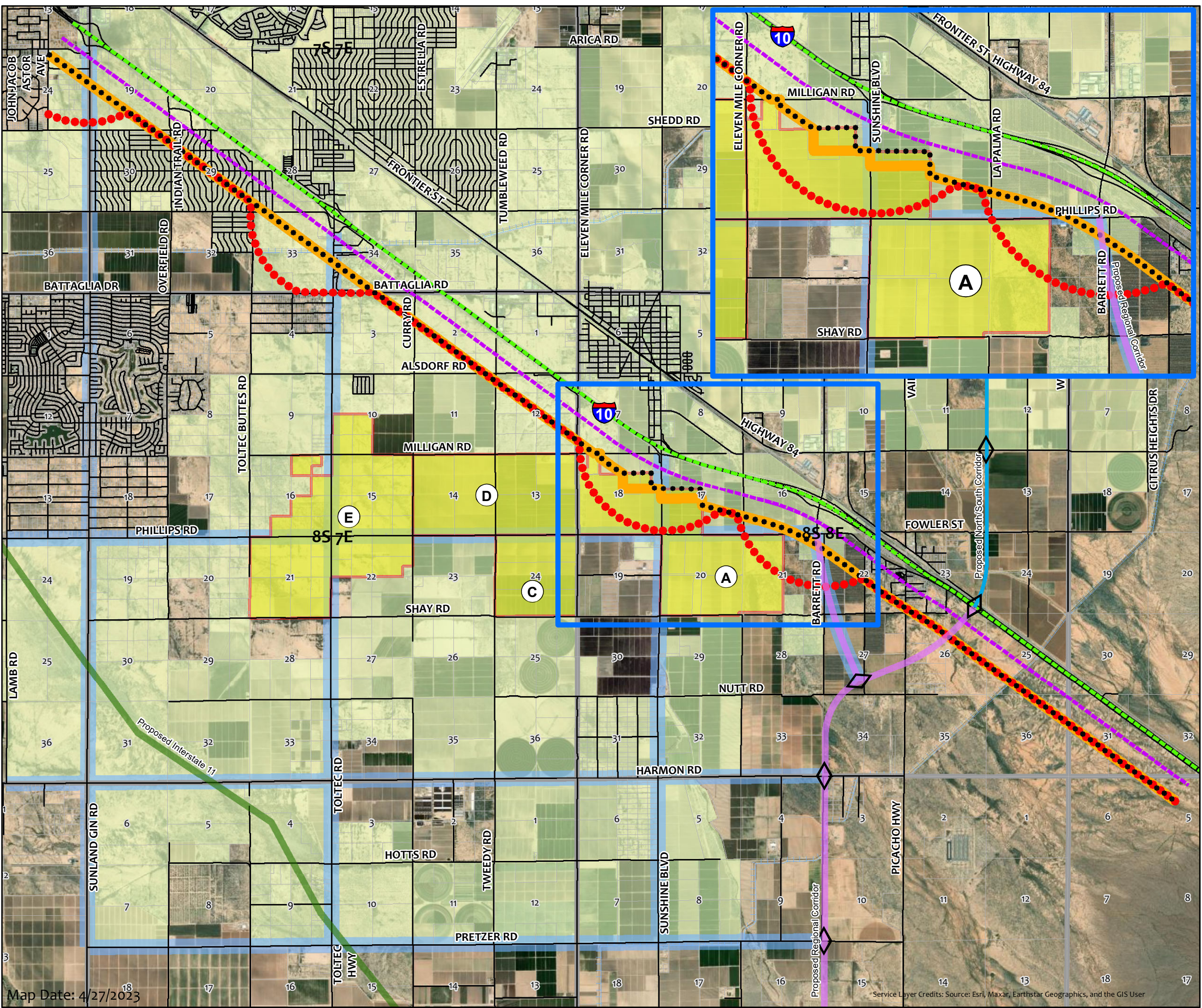
Reference

- Proposed Interchange
- Parcels
- Eloy Incorporated Area
- Unincorporated Pinal County
- Roadway
- Canal



0 0.375 0.75 1.5 2.25 3 Miles

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.





Solar Facilities

Eloy, Arizona

		As Approved	As Draft Overlay
Current Solar Projects	Operational	1,002 AC.	0 AC.
	Design	912 AC.	320 AC.
	SUBTOTAL	1,914 AC.	320 AC.
		As Proposed	
Proposed Solar Projects	A	1,645 AC.	800 AC.
	C	651 AC.	651 AC.
	D	1,285 AC.	1,285 AC.
	E	2,020 AC.	1,969 AC.
	SUBTOTAL	5,601 AC.	4,705 AC.
TOTAL		7,515 AC. (10.2%)	5,025 AC. (6.9%)

Eloy Zoning Map

Draft Utility Scale Solar Overlay Area

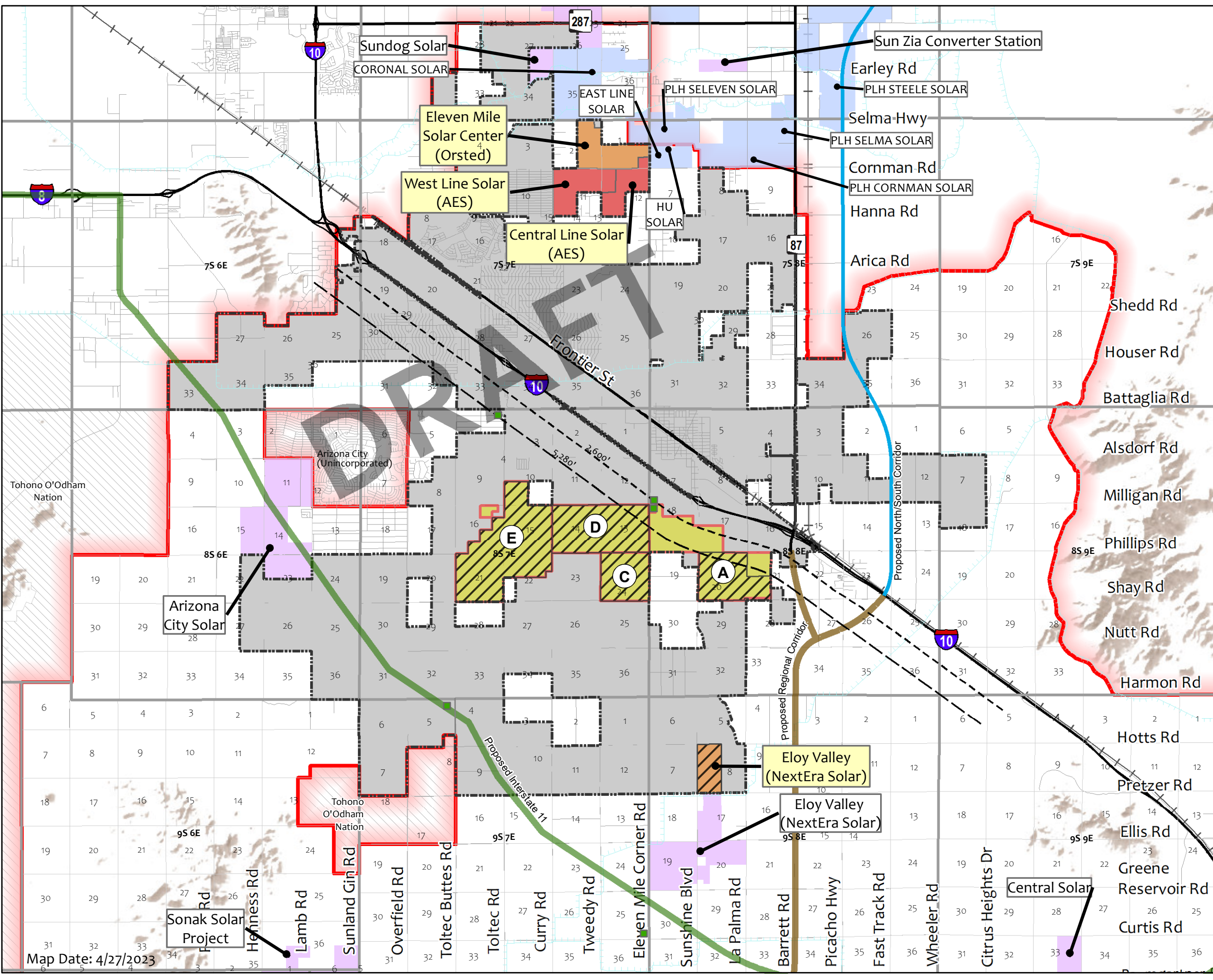
Reference

- Eloy City Limits
- Eloy Planning Boundary
- Coolidge Solar Projects
- Pinal County Solar Projects
- Substation
- Canal
- Railroad
- 2,600' I-10 Buffer
- 5,280' I-10 Buffer

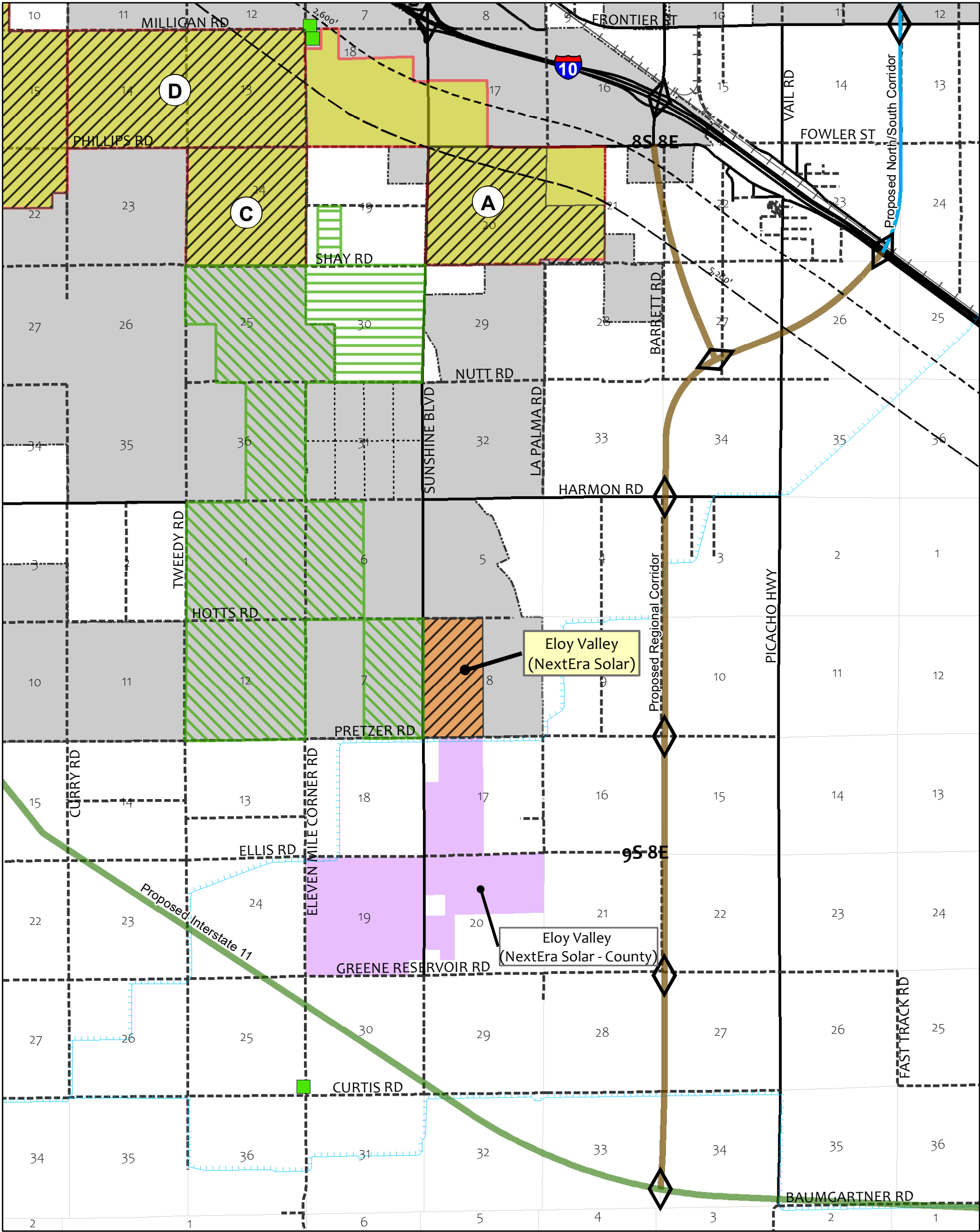


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Service Layer Credits: Sources: Esri, USGS, NOAA
Document Name: GP_SolarFacilityOverlay



Map Date: 4/27/2023



As Draft Overlay

Current Solar Projects	
Operational	0 AC.
Design	320 AC.
SUBTOTAL	320 AC. (0.4%)
Proposed Solar Projects (with Overlay)	
A	800 AC.
C	651 AC.
D	1,285 AC.
E	2,020 AC.
SUBTOTAL	4,756 AC. (6.3%)
Proposed Overlay Expansion	
	2,931/624 AC.
SUBTOTAL	2,931 AC. (4.0%)
TOTAL	7,956 AC. (10.8%)

- Eloy Zoning Map**
- Draft Utility Scale Solar Overlay Area
- Proposed NextEra Expansion**
- Eloy
 - County
- Proposed Corridors**
- Proposed North-South Corridor
 - Proposed Regional Corridor
 - Proposed Interchange

- Reference**
- County Solar Projects
 - Eloy City Limits
 - Substation
 - Canal
 - Railroad
 - 2,600' I-10 Buffer
 - 5,280' I-10 Buffer
- Roadway**
- Paved
 - Unpaved
 - Proposed



Proposed Solar Overlay Expansion

Eloy, Arizona

Map Date: 4/27/2023



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City of Eloy, Arizona

21-3-1.39: UTILITY SCALE 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 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 Overlay Area. Such Solar Overlay boundary represents those areas within the City where such projects may be proposed and approved. A request to expand the existing adopted boundaries shall occur with a formal request to the City Council by the Applicant. The burden of proof to substantiate such request will be the sole responsibility of the Applicant, prior to the acceptance of any entitlement, site plan or building plans by the City of Eloy. The City will look favorably on a request that:

- Is located south of Interstate 10
- Is located between approximately 3,200'-5,300' from the southern right of way boundary of any existing or future traffic interchange on Interstate 10
- Is located a minimum of (2,600') from the southern right of way boundary of Interstate 10
- Is located contiguous to an existing and/or approved utility scale solar generation facility
- Is located proximate to an existing or designed and capital funded electrical substation, transmission line or other satisfactory inter-tie location
- Is located on an existing brownfield site, aggregate extraction site, or site exhibiting low vegetative, ecological and/or cultural resource value

2. Solar Generation Facility and BESS Acreage Limit: The total amount of all approved and constructed future solar generation and supportive BESS south of Interstate 10 shall be limited to 5,025 acres (6.9%) percent of the total amount of acreage (73,400 acres) within the City of Eloy.

3. Project Size: A project shall consist of one or more lots that collectively total a minimum of three hundred ten (310) gross acres.

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 feet (75'). 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, and R-3. Such setbacks shall be increased to one hundred feet (100') where they abut a proposed Gateway Corridor (i.e. Sunland Gin Road, Toltec Road, Sunshine Boulevard, future southerly extension of SR-87, Phillips Road, Harmon Road or Pretzer Road) or any other arterial roadway served with a traffic interchange to a freeway or proposed regional corridor.

4. Lot Coverage: Maximum lot coverage percentage shall be three percent (3%) except that freestanding, ground mounted solar arrays shall not count toward the lot coverage percentages. All inverters, inverter pads, BESS containers and on-site project substations are to be included in the lot coverage determination.

City of Eloy, Arizona

5. 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.

6. Contiguous: Any proposed solar generation facility and/or BESS facility shall be located contiguous (for a minimum distance of 2,600 lineal feet) with an existing or permitted solar generation facility. A bordering public roadway right of way between existing and proposed solar fields shall be permissible to establish acceptable contiguity.

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: A Site Maintenance Agreement shall be mutually executed between the Property Owner and the City (as a condition of approval) to ensure that all undeveloped and developed portions of the subject property shall be maintained in a natural, debris-free, and weed-free condition. 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.

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/agent 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 with City Staff to select appropriate drought tolerant landscape vegetation (from the Pinal AMA Low Water Use Plant List prepared by the Arizona Department of Water Resources) to be located in a

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minimum ten (10) foot landscape setback along all minor and major arterial frontages of the project. The landscape setback along Sunland Gin Road, Toltec Road, Sunshine Boulevard, Phillips Road, Harmon Road, and Pretzer Road shall be a minimum of twenty feet (20'). All landscape areas are to be served with a drip irrigation and water tank storage system and irrigated on a regularly 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 finish grade of the land prior to the commencement of operations of the Solar Generation Facility. The fence shall be maintained in an upright and functional condition pursuant to the executed Site Maintenance Agreement and the adopted National Electric Code.

g. 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.

h. Noise: Daytime generated noise from any solar component or activity will be under 70 dBA (as measured at the property line) with noise emissions generated from dusk to dawn under 35 dBA.

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

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.

l. Regional Land Use Impacts and Mitigation: At the discretion of the Zoning Administrator, the property owner/agent 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.

n. Interim Arterial Road Improvements: The property owner/agent 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

City of Eloy, Arizona

of twenty-eight (28) feet within the projects' half-street rights of way. The subbase of such roadways shall be six (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

o. Internal Project Roadway Emergency Response Access: The property owner/agent 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.

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.

q. 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.

8. 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.

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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.

9. 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:

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

b. 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 a credit rating of at least "A" from Standard & Poor's or A2 from Moody's and a capital surplus of at least \$10,000,000,000, or 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 Baa3 or higher by Moody's or BBB- or higher by Standard & 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.

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.

f. 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

City of Eloy, Arizona

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.

10. 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.

11. 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.

a. 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.

b. 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.

City of Eloy, Arizona

c. 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.

Acronyms

BESS Battery Energy Storage System

Definitions

Battery Energy Storage Systems (BESS): Are facilities that capture unused energy from the inverter, allowing it to be stored for later use during reduced periods of energy production.

Solar Generation Facility: An improved area of land in which a large number of solar arrays are organized in an interconnected arrangement to deliver electricity to a single connection point (i.e. substation), at a desired voltage.

Photovoltaic: Are arrays of cells containing a solar voltaic material that converts solar radiation in direct current electricity.

Property: A single, or an aggregation of, Pinal County Assessor's parcels to achieve the minimum identified Project Size.

Solar Array: A combination of a large number of panels, or an interconnected system of panels, or an integrated system of panels, that deliver the on-site generated electricity to a single connection point and at the desired voltage.

Solar Panel: Consists of multiple photovoltaic cells interconnected in an electrical circuit, which may be connected to an exterior circuit at a single point.

City of Eloy, Arizona

21-3-1.39: UTILITY SCALE 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 those areas within the City where such projects may be proposed and approved. A request to expand the existing adopted boundaries shall occur with a formal request to the City Council by the Applicant. The burden of proof to substantiate such request will be the sole responsibility of the Applicant, prior to the acceptance of any entitlement, site plan or building plans by the City of Eloy. The City will look favorably on a request that:

- Is located south of Interstate 10
- Is located between approximately 3,200'-5,300' from the southern right of way boundary of any existing or future traffic interchange on Interstate 10
- Is located a minimum of (2,600') from the southern right of way boundary of Interstate 10
- Is located contiguous to an existing and/or approved utility scale solar generation facility
- Is located proximate to an existing or designed and capital funded electrical substation, transmission line or other satisfactory inter-tie location
- Is located on an existing brownfield site, aggregate extraction site, or site exhibiting low vegetative, ecological and/or cultural resource value

2. Annual Solar Generation Facility and BESS Acreage Limit Cap: The total amount of all approved and constructed future solar generation and supportive BESS south of Interstate 10 shall be limited to 5,025 acres — (6.9%—) 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.

31. Project Lot Size: A project shall consist of one or more lots that collectively total a minimum lot size of three one hundred sixty (ten (310160) gross 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-fiveforty feet (7540'). 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. Such setbacks shall be increased to one hundred feet (100') where they abut a proposed Gateway Corridor (i.e. Sunland Gin Road, Toltec Road, Sunshine Boulevard, future southerly extension of SR-87, Phillips Road, Harmon Road or Pretzer Road) or any other arterial roadway served with a traffic interchange to a freeway or proposed regional corridor.

City of Eloy, Arizona

42. Lot Coverage: Maximum lot coverage percentage shall be ~~three~~~~one~~~~ten~~ percent (~~31~~0%) except that freestanding, ground mounted solar ~~arrays~~~~devices~~ shall not count toward the lot coverage percentages. All inverters, inverter pads, BESS containers and on-site project substations are to be included in the lot coverage determination.

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 1/2 mile (2,640 lineal feet) of adjacency with an existing or permitted solar generation facility.~~

~~6. Contiguous Adjacency: Any proposed solar generation facility and/or BESS facility shall be located contiguous (for a minimum distance of 2,600 lineal feet) with an existing or permitted solar generation facility. A bordering public roadway right of way between existing and proposed solar fields shall be permissible to establish acceptable contiguity.~~

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: A Site Maintenance Agreement shall be mutually executed between the Property Owner and the City (as a condition of approval) to ensure that all undeveloped and developed portions of the subject property shall be maintained in a natural, debris-free, and weed-free condition. 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.

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

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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/~~agent~~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~~coordinatework with City Staff to select appropriate drought tolerant landscape vegetation (from the Pinal AMA Low Water Use Plant List prepared by the Arizona Department of Water Resources) to be located in a minimum ten (10) foot landscape setback along all minor and major arterial frontages of the project. The landscape setback along Sunland Gin Road, Toltec Road, Sunshine Boulevard, Phillips Road, Harmon Road, Pretzer Road shall be a minimum of twenty feet (20'). All landscape areas are to be served with a drip irrigation and water tank storage system and irrigated on a regularly 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. The fence shall be maintained in an upright and functional condition pursuant to the executed Site Maintenance Agreement and the adopted National Electric Code. Applicant 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.~~

h.j. Noise: Daytime generated noise from any solar component or activity will be under 70 dBA (as measured at the property line ~~with~~) with noise emissions generated from dusk to dawn under 35 dBA.

ik. 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.

j.l. 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.

City of Eloy, Arizona

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

l. Regional Land Use Impacts and Mitigation: At the discretion of the Zoning Administrator, the property owner/agentdeveloper 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 permitcertificate of completion.

n. Interim Arterial Road Improvements: The property owner/agentdeveloper 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.....

o. Internal Project Roadway Emergency Response Access: The property owner/agentdeveloper 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.

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.

q. 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.

89. 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.

City of Eloy, Arizona

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.

910. 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:

a. 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

b. 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 (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 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,

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or its successor, should have a minimum credit rating of ~~(i)~~ Baa3 or higher by Moody's or ~~(ii)~~ BBB- or higher by Standard & ~~Poors~~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.

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.

f. ~~Reciept~~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.

10g. 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.

11h. 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

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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.

ai. 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.

bj. 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.

ck. 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

Definitions

Battery Energy Storage Systems (BESS) are facilities that capture unused energy from the inverter, allowing it to be stored for later use during reduced periods of energy production. 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 interconnected efficient arrangement to deliver electricity to a single connection point (i.e. substation), at a desired voltage in order to generate electricity for use, sale and/or transmission to site or entities beyond the immediate site of the generating facility.

Photovoltaic: Are arrays of cells containing a solar voltaic material that converts solar radiation in direct current electricity.

Property-A single, or an aggregation of, Pinal County Assessor's parcels to achieve the minimum identified Project Size.

Solar Array: A combination of a large number of panels, or an interconnected system of panels, or an integrated system of panels, that deliver the on-site generated electricity to a single connection point and at the desired voltage.

Solar Panel: Consists of multiple photovoltaic cells interconnected in an electrical circuit, which may be connected to an exterior circuit at a single point.

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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: 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.

3. Lot Size: A minimum lot size of ~~three one hundred sixty (310)~~ 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~~ feet (75'). 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.

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

5. 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 (2,640 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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Commented [A1]: Recommended edit: Suggest changing "acreage zoned...or any future residential zoning designations" to "currently zoned... or active proposed residential development" The rationale for this recommended edit is that this area is currently zoned residential but approved for solar with the overlay. The goal of the overlay is to put solar development in these distinct areas.

Commented [A2]: Recommended edit: Please consider revising to: "Maximum lot coverage percentage shall be five percent (5%) except that freestanding, ground mounted solar arrays, inverters, inverter pads, BESS containers, and project substations shall not count toward the lot coverage percentages."

The reason for the recommendation is 1% is not enough allowance. For example, a project using 500 acres needs more than 1% lot coverage allowance of 5 acres. Non PV lot coverage needs are the following approximations: BESS system ~5-10 acres, project sub 2-3 acres, O&M building up to 1 acre, plus other project components (inverters and inverter pads, etc.). These approximations add up to 15+ acres, which is 3x more than the proposed 1% lot coverage allowance. We agree that 10% may not be necessary, however 1% is not feasible.

Commented [A3]: Recommended edit: Please consider removing this standard. The requirement to site within the Solar Facility Overlay Area should be sufficient to achieve the goal of the standard. Also, there are no projects currently permitted in the area. Without an existing or approved project, there will be no additional projects.

Commented [A4]: Recommended edit: Please consider removing "Pre-" and modify to:
"Post Construction Property Maintenance: All developed portions of the subject property shall be maintained debris free and to current City standards related to weed and invasive plant management."

We suggest establishing a Site Maintenance Agreement between the Permittee and the City that would outline the standards for timely maintenance, corrective action, and process initiating the facility's decommissioning by the City of Eloy.

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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 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 applicant shall indemnify the City of Eloy that this standard is not pursuant to the existing adopted National Electric Code (NEC 2017).~~

g. ~~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.~~

Commented [A5]: Recommended edit:
Please consider replacing "Property Owner or the Property Owner's Designee" with "Permittee or Permittee's Designee". Reason being there is confusion around who the City is referring to when stating "Property Owner".

Please consider revising the last sentence to:
"The City and the Permittee shall enter into a Site Maintenance Agreement that outlines the standards timely maintenance, corrective action, and process initiating the facility's decommissioning by the City of Eloy."

Commented [A6]: Recommended edit:
As suggested above, please consider replacing "property owner/developer" with "Permittee or Permittee's Designee"

Commented [A7]: Recommended edit:
As suggested above, please consider replacing "property owner/developer" with "Permittee or Permittee's Designee"

Please consider revising last sentence to: "All landscape areas to be served with drip irrigation and water tank storage system or a landscape contract, and be irrigated in accordance with the Pinal AMA Low Water Plant guidelines."

Commented [A8]: Recommended edit:
Please consider revising 2nd sentence to: "Permittee shall maintain the perimeter security fence to the conditions outlined in the Site Maintenance Agreement."

Please consider removing the last sentence. We are not both able to go against best safety practices and hold harmless an entity that is making us do so.

Commented [A9]: Recommended edit:
Please consider revising section to include "...Eloy Zoning Code and requirements outlined in the National Electrical Safety Code (NESC) Section 111 and Table 111-1 which requires lighting in occupied areas."

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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.

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

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jl. 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.

km. 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 (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.

Commented [A10]: Recommended edit:
Solar generating facilities are power plants, therefore they should be subject to the existing Eloy Code of Ordinances for power plants.

However, if the City feels a separate noise requirement is necessary for solar power plants, please consider revising to:
"During operation and or maintenance of the solar facility, generated noise from solar components or activity shall not make or cause any unreasonable noise that disturbs, disrupts, or interferes with the peace or quiet of adjacent neighborhoods or persons of reasonable sensitiveness residing in the area."

Commented [A11]: Recommended edit:
As suggested above, please consider replacing "property owner/developer" with "Permittee or Permittee's Designee"

Commented [A12]: Recommended edit:
As suggested above, please consider replacing "property owner/developer" with "Permittee or Permittee's Designee"

Commented [A13]: Recommended edit:
As suggested above, please consider replacing "property owner/developer" with "Permittee or Permittee's Designee"

Commented [A14]: Recommended edit:
Please consider revising to: "The provision of a battery energy storage system shall only be located within the boundaries of a solar generation facility."

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q. 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 (iii) 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

Commented [A15]: Recommended edit:
Please consider removing this standard.

While this may be standard for residential real estate development, it should not be a requirement for utility scale solar. Unlike residential, the project will not connect to a community water system and will not request new water service. Owners of agricultural land choosing to lease to a solar project will not agree to retire their water rights, especially when they could repurpose the land for agriculture or other use at the end of the project life. Being forced to retire water rights will significantly reduce the value and useability of their land.

Commented [A16]: Recommended edit:
Please consider deleting the last sentence.

Allowing credit for the salvage value in the decommissioning cost estimate is standard with the federal land management agencies and many surrounding municipalities and states. The City would acquire assets with significant value should the project be abandoned.

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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 ~~(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 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 ~~(i)~~ Baa3 or higher by Moody's or ~~(ii)~~ BBB- or higher by Standard & 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.

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.

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.

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Commented [A17]: Recommended edit:

Please consider the following edits for this section.

Include surety bond after letter of credit so it always reads, "letter of credit or surety bond".

Adjust the credit rating requirements to read:
"...credit rating of at least "A-" from Standard & Poor's or A3 from Moody's and assets of at least \$10,000,000; or an A.M. Best financial strength rating of at least "A- (Excellent), or other credit rating and capitalization..."

The reasons for the suggestions are the credit rating requirement as written is higher than what any of our utility counterparties require in our LGIAs or the majority of our PPA counterparties ask for in our PPAs. Also, surety bonds are an accepted financial instrument by the industry.

Commented [A18]: Recommended edit: Please consider revising the second and third sentences to:

"If the Applicant or its successor fails to decommission the Solar Generation Facility within six (6) months, the City shall commence decommissioning activities in accordance with the decommissioning plan. The City shall decommission the facility utilizing the funds provided in the Decommissioning Financial Assurances."

Commented [A19]: Recommended edit:

Please consider using Kern County's decommissioning requirements as the City's foundation in developing its own standards. These requirements have protected Kern County from events that would force decommissioning while allowing many gigawatts of solar projects to be built in the County. The requirements are much more in line with industry standard for WECC (Western Electricity Coordinating Council) projects.

We included Kern County's decom language as a separate attachment for your reference, with some minor language changes incorporated to show how the City could adopt these or similar requirements. It is our suggestion that the City adopt a proven industry standard approach for their decommissioning clause.

Also included is a high level overview of US solar system decommissioning policies from National Renewable Energy Laboratory.

Though if that isn't what the City wants to do, we have

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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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Commented [A20]: Recommended edit:
As suggested above, please consider replacing
"Applicant/Property Owner" with "Permittee or Permittee
Designee"

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Acronyms

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BESS Battery Energy Storage System

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.

City of Eloy, Arizona

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:

Any solar generation or BESS facility proposed within the municipal boundaries of the City of Eloy shall be located within the adopted Solar Overlay Area unless the applicant obtains prior approval from the Eloy City Council to propose a project outside the Solar Overlay Area.

Solar 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 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

A. Preferred criteria for all Installations:

i. A project site that has minimal visual impact on a Visual Resource, or that is more than 10 miles from a Visual Resource and shall have a 1-mile buffer from I-10.

ii. A project site shall be south of I-10.

iii. A project site that uses or is near to existing substations, transmission lines, or points of interconnection.

iv. Projects sites that are on previously disturbed land such as brownfield sites, mining sites, sites with low wildlife habitat and vegetation value, or with few cultural resources.

v. Project sites that retain current and traditional land uses, including ceremonial uses for Native Americans, and allow multiple uses of the land such as ranching, agricultural, and recreational uses, are preferred over single-use projects.

vi. Projects using water conservation methods or reclaimed water are preferred over water intensive systems.

B Disfavored Facilities. Disfavored facility sites may be permitted only if the applicant presents detailed evidence documenting that the facility will have minimal impact on the environment or that the site is more technically necessary than other locations. Disfavored siting criteria for new Utility Scale Renewable Energy Installations are intended to guide decisions about the location and siting of Utility Scale Renewable Energy Installations. The existence of preferred and disfavored criteria at a single potential facility site are not mutually exclusive. In instances where such co-occurrences exist, the County shall review the application narrative and weigh the presence of favored and disfavored elements to determine overall compliance with the objectives of this ordinance.

2. Annual Solar Generation Facility and BESS Acreage Limit: The total amount of all approved and constructed future solar generation and supportive BESS shall be limited to ____ (30%) percent of the

Commented [JA1]: Coconino County Solar Ordinance

City of Eloy, Arizona

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.

3. ~~Lot Size: A minimum lot size of three hundred ten (310) 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 feet (75'). 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. Setbacks: A building, structure or lot shall not be developed, used, or occupied for a solar or BESS project unless it has a minimum setback of one hundred (100) feet between the project facilities and structures and any existing adjacent residential homes~~

~~A. For Solar Energy Installations. All solar arrays and structures must comply with setback, building height, and performance standards between zones for the zoning district in which the system is located, unless the County determines a modified setback is necessary to address impacts to existing adjacent uses~~

Commented [JA2]: Coconino County Solar Ordinance

4. ~~Lot Coverage: Maximum lot coverage percentage shall be one percent (1%) except that freestanding, ground-mounted solar arrays shall not count toward the lot coverage percentages.~~

5. 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 approximately fifteen (15) feet in height, as measured from the finish grade. (Ord. 18-880, 7-23-2018) (approval of heights above 15 ft are at the discretion of the City).

6. ~~Adjacency: Any proposed solar generation facility and/or BESS facility shall be located with a minimum of approximately 1/2 mile (2,600 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. 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

City of Eloy, Arizona

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.

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.

Commented [JA3]: The intention of this section is a little unclear to me

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 with City Staff to select appropriate native 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 finish 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 applicant shall indemnify the City of Eloy that this standard is not pursuant to the existing adopted National Electric Code (NEC 2017).

Commented [JA4]: We cannot indemnify the city from a national standard

Fencing. Proposed fencing shall be designed to minimize visual impacts from and be complementary with scenic corridors and adjacent properties, and to minimize impacts to wildlife and Wildlife Linkages. Security fencing shall be permeable to small animals by leaving a six-inch gap between the bottom of the fence and the ground, exclusive of substation facilities. When feasible, fencing shall be designed around groups or clusters of equipment, as opposed to fencing the entire site. New fencing shall not impact or impede existing easements to private, State, or public lands.

Commented [JA5]: Coconino County Solar Ordinance

Commented [JA6R5]:

City of Eloy, Arizona

g.. 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.

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

i. Construction/Building Inspections: The Applicant shall allow designated City of Eloy 3rd Party Inspectors as well as City employee's access to the solar generation facility at any time with 48 hours notice for inspection purposes as set forth in their application.

Background Noise and Noise Forecasts. Sound levels shall be measured and analyzed to determine the baseline for forecasting operational project impacts. A forecast of the postconstruction noise impacts shall be conducted to assess compliance with the maximum audible noise limit. The noise analysis shall consider facility aging and future modifications or technology changes.

A. Exceptions to noise impacts may be approved by the Planning and Zoning Commission when the applicant demonstrates a significant or substantive need to exceed the noise standards.

Commented [JA7]: Coconino County Solar Ordinance

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.

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: Existing roads shall be used to provide access to and throughout the site, or if new roads are constructed, the amount of land disturbance shall be minimized. Roads constructed to provide vehicle access for site and equipment maintenance shall be designed and constructed to standards approved by the Eloy Public Works Director and the local or nearest fire district, in coordination with the public safety, fire protection and emergency management plan. 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.

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

City of Eloy, Arizona

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 (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

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.

~~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.~~

q. 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.

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. When the Project reaches the end of its operational life, the component parts of each Project shall be dismantled and recycled. All waste resulting from the decommissioning of the facilities shall be transported by a certified and licensed contractor and taken to a landfill/recycling facility in accordance with local, state, and federal regulations.

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. Site Restoration: Restoration of the Project sites shall be to a reasonable approximation of its original condition prior to construction. Returning the land to its original use should entail increasing the nutrient content to pre-construction levels and aerating the soils through tilling. If the land were to be used for another useful purpose, soil stabilization techniques shall be deployed to ensure topsoil preservation to the extent feasible.

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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.

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 issuance of building permits for the project, the project owner/operator shall provide an estimate of the salvage value of equipment, and a separate estimate of the cost to decommission, remove all equipment and restore the site, as estimated by a licensed Professional Engineer registered in the State of Arizona. The estimate of the cost to decommission shall be used as a basis for the project owner/operator to provide a financial security that provides sufficient financial ability for the County to contract an expert to oversee salvage and decommissioning operations that will restore the land to its original condition. At all times over any project's operable life, financial securities provided under this section shall be structured to survive the bankruptcy, dissolution, insolvency, or other termination of the project owner/operator as a legal entity.

City of Eloy, Arizona

~~Prior to the City's approval of the building permit, the~~The Applicant shall provide financial assurances to ensure that decommissioning can successfully occur through either of the following options:

- a.i. Letter of Credit for Full Decommissioning Cost: A letter of credit issued by a financial institution that has a credit rating of at least "A" from Standard & Poor's to ensure the availability of funds to cover decommissioning and restoration obligations. or A2 from Moody's and a capital surplus of at least \$10,000,000,000; or other credit rating and capitalization reasonably acceptable to the City, in the full amount of the decommissioning estimate; or
- b. Financial security for the performance of decommissioning and restoration obligations shall be provided through a performance bond, letter of credit, or other form of surety issued by a surety registered with the Arizona State Insurance Commissioner and is, at the time of delivery of the bond, letter of credit, or other form of surety, on the authorized insurance provider list published by the Insurance Commissioner. The performance bond, letter of credit, or other form of surety shall be in an amount equal to 100% of the estimated costs for the decommissioning and restoration obligations with credit provided for any recyclable materials. The surety shall be for a term of one (1) year, and will be continuously renewed, extended, or replaced so that it remains in effect for the remaining lifetime of the project or until the secured decommissioning obligations are satisfied, whichever occurs later.
- c. A second financial security shall be submitted no later than the 5th anniversary of commercial operations to provide the County sufficient financial security to cover the cost of decommissioning the project and restoring the land to its original condition. The financial security shall be based on the total cost of decommissioning and restoring the site to its original condition, less the salvage value of the equipment, as estimated by a licensed Professional Engineer registered in the State of Arizona that is independent of the project owner/operator. The financial security shall be re-evaluated every five years to ensure that the estimate reflects current decommissioning costs and salvage value, and to include the cost of inflation to the end of project, as estimated by a licensed Professional Engineer registered in the State of Arizona that is independent of the project owner/operator. A financial security shall be a bond or other security approved by the County Attorney's Office to ensure removal of all equipment and restoration of the land to its original condition.
- D. The applicant shall bear all responsibility for assuring that the assurance bond is sufficient to cover the cost of decommissioning. The instrument shall be transferrable to cover the activities of any other entity which may have acquired the project prior to its decommissioning. Return of the financial assurance shall be subject to County verification that the site has been restored to its original condition within five years of decommissioning.

City of Eloy, Arizona

ii. 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 a credit rating of at least "A" from Standard & Poor's or A2 from Moody's and a capital surplus of at least \$10,000,000,000, or 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 Baa3 or higher by Moody's or BBB or higher by Standard & 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.

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.

f. 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

City of Eloy, Arizona

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

Definitions

Battery Energy Storage Systems (BESS) Battery system used along with Solar to capture unused energy from the inverter and stores power for later use during reduced production times. 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: a large electrical generation facility that uses a large number of solar arrays to deliver electricity to a single connection point at a desired voltage, usually a collection substation. 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.

Photovoltaic: Arrays of cells containing a solar photovoltaic material that convert solar radiation into direct current electricity. The use of solar panels that absorb sunlight, to generate electricity.

Solar Array: a combination of a large number of panels, or an integrated system of panels, so as to deliver the electricity produced at a single connection point and at the desired voltage. 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: consists of multiple photovoltaic cells connected together in an electrical circuit that can be connected to an exterior circuit at a single point. 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.

Major Comments from Solar Developers

Acreage Limit

- As a result of the overlay area itself, the restriction on acreage does not appear needed. Further, plans are in place for future substation development by local utilities which will provide additional opportunity to Eloy to capitalize on its key location. To the extent an acreage limit is desired, a 20% cap seems reasonable. Further, use of the word “annual” in Section (A)(2) is unclear and likely needs revision or deletion. 21-3-1.39(A)(2)

Lot Size

- We suggest revising or clarifying the use of the term “lot size” to instead clarify the acreage restriction applies to the project as a whole (and not any parcel). For example, some projects are assemblages of smaller lots into one project that exceeds the 310-acre requirement. Looking for language clarification that recognizes reality of the assemblage situation. 21-3-1.39(A)(3)

Lot Coverage

- Solar developments include several items in addition to the panels themselves and 1% restriction will make it impossible for some projects to move forward. There are BESS pads, substations, inverter pads, maintenance facilities, and other ancillary uses that need to be accommodated. We have seen a 10% lot coverage restriction work well in other jurisdictions and recommend the same here. 21-3-1.39(A)(4)

Adjacency Requirement

- We have several concerns about the language of the adjacency requirement. For example, because there are no “existing or permitted solar generation facilities” located within a half mile of any of the proposed projects, the language would technically prohibit any of the proposed projects from moving forward. Further, because projects are simultaneously going through the development process, it is unclear how the City or the applicants could rely on the fact that there is or is going to be a “existing or permitted solar generation facility” within a half mile of their project. We suggest deleting this requirement because the overlay zone itself is already acting to achieve the goal of locating solar only where the City deems it appropriate. 21-3-1.39(A)(6)

Revocation of Entitlements

- There are concerns that some of the Sections permit the City to abruptly revoke entitlements for projects once built. While we support the City having a process to revoke entitlements for projects that, after proper notice and a reasonable opportunity to cure, refuse to follow the code, this should be a deliberate and well-defined process. These projects will represent many hundreds of millions of dollars in investments and will require greater certainty in the process. This will benefit both the City and the developers to avoid confusion. Suggest including a notice and cure provision along with including the right of financiers to step in to cure if needed. Examples of provisions that trigger revocation that should be clarified include:
 - Non-specific maintenance failures may result in revocation of permits—requires more specificity and a notice and cure provision. 21-3-1.39(A)(7)(a)
 - Failure to maintain chain link fence will lead to revocation of permit—requires a notice and cure provision. 21-3-1.39(A)(7)(f)

Noise Restrictions

- The noise restrictions appear to set up an unreasonable and impossible standard. Prohibiting all noise from dusk until dawn and 67dBa at the property line at other hours are overly restrictive and could prohibit activities as mundane as a truck driving on the property or even a conversation. We are supportive of a noise restriction that is more fully explained including provisions around measuring. There are other jurisdictions that have done this well and we will provide examples for your consideration. 21-3-1.39(A)(7)(h)

Groundwater Extinguishment

- One of the primary benefits of solar development is that it is a low to no water use resources and that it is an interim use of property. Surrendering water rights as a condition of developing a use that requires no water service from the City lacks that essential nexus required for an exaction to be constitutional. In other words, there is no rough proportionality between the exaction (surrendering water rights) and the impact of the solar development on the local jurisdiction. Further, as a matter of public policy, encouraging farmers to conserve water and “grow solar” as their next crop until additional water sources or until drought conditions subside is a positive impact of solar development. To the extent that surrendering water rights is a condition of developing solar, it would send the opposite signal to farmers and instead encourage them to continue to drain aquifers by farming even as water scarcity increases. We suggest this provision should be deleted as a matter of policy and frankly, must be deleted as a matter of law. 21-3-1.39(A)(7)(q)

Decommissioning

- We support putting in place a clear decommissioning protocol and look forward to working with the City to implement changes to make this provision consistent with best practices. There are several jurisdictions that have implemented decommissioning protocols that work well, and we will provide copies of these for your consideration. Some specific concerns are outlined below (note, these are not all the concerns with this section): 21-3-1.39(A)(9/10)
 - Requiring landowner (and not solar developer) to provide decommissioning assurance in a lease situation is a problem and in fact, the solar developer is almost certain to have higher creditworthiness than the underlying owner anyway. 21-3-1.39(A)(10)(c)
 - 6 months to fully decommission is insufficient time to dismantle large projects. 21-3-1.39(A)(10)(g)&(h)



6859 E. Rembrandt Ave., Suite 125 Mesa, AZ 85212

City of Eloy
Planning & Zoning Commission
595 N. C Street, Suite 104
Eloy, AZ 85131

April 6, 2023

Dear Esteemed Members of the Eloy Planning & Zoning Commission,

As a multi-generation Arizona family with deep roots in Pinal County, we are deeply concerned about the proposed changes to the City's zoning ordinance (21-3-1.39) and accompanying solar overlay map. In this proposed overlay map, our family owns land that would effectively be prohibited from moving forward with a solar project in perpetuity. We are firm believers in the market and view these restrictions as a serious reduction in the value of the potential income (and, therefore, value) from our property, especially considering the current declining pool of agricultural water.

In addition, we feel that the intent of the proposed ordinance and overlay is to prevent large, utility scale, solar projects from converting thousands of acres into solar farms. The approach taken by the City has completely overlooked the recent decision by the Arizona Corporation Commission to move forward with exploring options for a community solar program, one that would focus on bringing smaller, community-based solar projects to utility ratepayers who are unable to access solar energy (which was a consistent concern from the members of the community that addressed the Planning Commission at both recent hearings).

Furthermore, the driver of any solar project is the proximity to existing utility substations. Creating any solar overlay map that does not consider the community solar program and whose defined area is not driven by the location and proximity to existing utility substations seems short-sighted.

We would greatly appreciate your reconsideration of the proposed draft solar ordinance and solar overlay map. At a minimum, we believe that smaller projects (for example, less than 80 acres) should not be banned from the City if they are not within the overlay as is currently proposed and that any solar overlay take into consideration the proximity to existing utility substations regardless of whether they are north or south of I-10.

Your sincere consideration of this matter is appreciated.

Sincerely,

Todd Cooley
Cooley Farms

T E S FARMS
an Arizona General Partnership
314 east rovey avenue
Phoenix, AZ 85012
602 466-4025

April 9, 2023

Mr. Jon Vlaming
Director
Eloy Planning and Zoning
595 N C Street Suite 102
Eloy, AZ 85131

Dear Jon,

These comments pertain to the proposed Solar Facility Zoning that Eloy is considering. Please pass them along to the members of the Planning and Zoning Commission so they can read them prior to their April 19 meeting. I would have mentioned all of these points in the recent working meeting of the Commission, but we had a 3-minute time limit.

T E S Farms is a general partnership that owns more than 1800 acres within the town of Eloy. We own parcels adjacent to Frontier Highway/Jimmie Kerr surrounding the sewage treatment plant on three sides, and also adjacent to I-10 both on the north and the south. Our partnership has owned this land since the partnership was formed in 1965. Originally we owned farms, but as the water dried up so did the farming. For the past several decades, we have been land sellers, paying taxes, cleaning up trash, hauling away junked cars, and seeking buyers who would make good use of our property to the benefit of Eloy.

As was stated again and again in testimony at the recent Planning and Zoning Commission working meeting, it is difficult to sell land in Eloy. As you are aware, we had two sales that fell through in 2021 and 2022 for the property surrounding the sewage treatment plant because of the presence of the sewage treatment plant and the sewer lines; we had another sale fall through in 2022 because the buyer was told by Eloy staff that it would be undevelopable at this time due to it's location-- too far away from water and sewer lines.

These collapsed sales were significant disappointments, but we have been encouraged that, over the past year, we have received a number of letters expressing interest in buying and using our property for solar energy production. Now the Town of Eloy is in the process of creating solar facility zones that would prevent our land from being sold and used for this purpose.

T E S Farms was the only major landowner represented at the Planning and Zoning Commission working group meeting who would not benefit from the solar zone designations. I believe that was because the publicity for the process to create solar zones has been either nonexistent or unsuccessful. I mentioned to you after the meeting that the only reason I was aware that Eloy was considering solar zones was that I received a notice from the Sierra Club, who is concerned that Eloy's solar zoning would limit solar farms in Pinal County. Our realtor, Ken Reycraft, who has actively worked in Pinal County daily for decades, hadn't heard about the solar zoning proposal. I didn't read anything about it in the local paper prior. A google search for "Eloy solar zones" at that time did not show any pertinent articles. (Now a search lists one article dated Feb. 23, 2023 about the City Council meeting.)

Had I not received the notice from the Sierra Club, NO large landowners without current solar projects would have attended the Town Council meeting (which I attended virtually) or the Planning and Zoning Commission meeting, which both Ken and I attended in person. The lack of participation by landowners or realtors or others in the development community without current solar projects didn't necessarily signify that they didn't care about the issue, it likely demonstrated that they didn't know what was going on.

So my first concern about the solar farming zones is there was insufficient publicity to alert affected members of the public about the proposed solar farm zoning. By under-publicizing this process, many landowners who would be adversely affected by this zoning won't have their comments heard and you will be unable to accurately assess the impact this proposed action will have on a substantial part of the Eloy community.

Here are my other concerns and suggestions which I mentioned briefly at the meeting:

(1) This is not the right time to be considering this proposal. Eloy's water future is uncertain but I understand that within a few months, the Arizona Department of Water Resources will be providing clarification. Right now, most of us envision the future Eloy to be like most other cities and towns in Arizona— acres of single-family homes, perhaps some planned developments, industries, offices, stores, a vital downtown. Eloy has a lot of positive features going for it — its location half-way between Phoenix and Tucson; its proximity to the freeway and to transcontinental rail; the growing alternative energy businesses locating there, its reputation as a haven for sky-diving.

If the ADWR says that Eloy's water supply is permanently reduced, there will be no vast residential acreages. Instead Eloy of the future would need to be reconsidered. Will it become an industrial center for alternative energy businesses, with workers commuting from other communities to Eloy? Will it become a transportation hub, with warehouses filled with goods that are easily shipped by truck or rail to other locations? Will it become a model for agro-voltaics, which add growing crops to solar farms? Or will it become electrically self-sufficient and off the grid? **Committing to a configuration for solar before you have a key decision about Eloy's water future is a big mistake.** Once you know Eloy's water situation, you can make rational planning decisions.

(2) My understanding is that the viability of solar farms and facilities is an economic decision that depends on location. At this time, an economically viable location is close to substations and other existing electrical facilities. The proposed solar zones reflect today's projects that are believed to be economically viable because of their location. In a world that is rapidly changing both technologically and in terms of infrastructure, that may not be the case for next year or the year after that. Making a hard and fast commitment to certain solar zones is like investing all your money in tape cassettes because you believe they are the ultimate way to listen to music.

In the future, truck stops and gas stations might want to have solar nearby to power their recharging stations. Industrial parks or certain businesses might want to boast that they are 100% solar and have their own solar mini farm. Solar panels might become so efficient that one acre of panels is sufficient to provide electricity to a shopping center. There may be ways to have solar farms that double as parking lots. Solar panels that cover the CAP Canal. An unchangeable and defined solar zone would be difficult to change.

Instead of creating inflexible solar zones, Eloy should allow solar to be a use that is allowed in certain existing land use zones and regulate solar facilities further through use permits. Use permits would give you the ability to consider the overall impact of a proposed solar facility and give the applicant guidelines for a successful solar project. That way every solar project could be considered on a case by case basis and approved only where they meet the criteria and would be good neighbors.

(3) Related to controlling solar facilities through use permits instead of defining the boundaries of a zone - one reason for defining the boundaries of a solar facilities zone as stated in the working meetings was to keep solar farms at least a mile away from the freeway so they wouldn't be seen. Concern was expressed that acres and acres of solar farms seen from the road would be unattractive. **Having a use permit that contains visual quality criteria would make sure that solar plants don't unnecessarily dominate the view of Eloy while providing more flexibility as to locations.**

Thank you for this opportunity to comment. **I would urge you to delay consideration of this matter until Eloy's water future is better defined and take that time to reach out to all of Eloy, including landowners who would be excluded from future solar projects. I further recommend that you inject flexibility into your consideration of regulating solar facility location in order to be nimble to deal with future situations.** Please let me know if you have questions or would like to discuss this.

Best Wishes,

Jackie Rich
Administrative Partner
T E S Farms, an Arizona General Partnership

April 12, 2023

Chairperson Steven Paulson
City of Eloy Planning & Zoning Commission
595 North C. Street, Suite 104
Eloy, Arizona 85131

RE: City of Eloy Solar Opportunities

Dear Chairperson Paulson:

I am assuming that most of you know who I am and what my history in the City of Eloy has been, but for those who do not, I would like to share the following. I was raised in the City of Eloy. My family was a member of Saint Helens Parish, it would not be unusual on a Sunday morning to see five McCarville's on the Altar. My father as lector, my mother on the organ, and me and my two brothers as Altar Boys. Upon graduation from college in 1980, with a degree in Agronomy, I came back to Arizona and got a real estate license with the intention of being a farm and ranch broker. The vast majority of my business in the first 15 years of my 42-year career was in Eloy. I worked with several generational farmers in the area, helping them expand, or liquidate agricultural properties. I worked with the Hamiltons, the Schlittenharts, the Pretzers, the D'Arrigos, the Haros, the Pierces, and many others. In 1986, the City Manager resigned and became my partner in the Real Estate Brokerage Business, and we expanded our practice to commercial and industrial sales, again a very large percentage of which were in Eloy. We were able to locate the predecessor to Schuff Steel and PDM Strockal. We also located in the same park the Marley Cooling Tower Company and Glass Tile manufacturing, both of which are still there under subsequent businesses. In fact, I sold the entire park to the current developer who has located other business there as well. We also located the bean sprout and alfalfa sprout businesses as well as the BF Goodrich Research Farm. I helped the Hills relocate from Coolidge and acquire additional pieces of property over the years to become the largest sky dive destination in the United States. I also helped them acquire the land for their alternate airport, South on Sunland Gin Road. In my opinion, Eloy has always been a better piece of real estate than Casa Grande, because it has more freeway frontage, interchanges, and they own their own water company, which is a huge advantage. The reason I feel like it is important to understand my background is so that you can feel how sincere I am in sharing the following opinion with you.

Solar Development is a massive opportunity, not a threat. You have all the regulations in place that you need, including the Planning and Zoning Commission, the City Council, and the Citizens' Right of Referral. The way that small cities can compete with larger cities is first and foremost, through a less aggressive regulatory environment. Eloy, just like Casa Grande and Coolidge, does not have the budget to subsidize industrial activity, for example sewer lines, water lines, roads, etc.

What we can do is embrace the industries that are suitable now without subsidy, and the only one that comes to mind is solar. In addition, for every acre of farmland that gets converted into solar, the property tax received goes up by a factor of 30x. I have heard it said that the City of Eloy only gets a portion of that, I think it is 6-8%, but the schools receive 70% of that revenue. This is a cash cow for the school districts, which is one of the City of Eloy's biggest challenges. Oftentimes, when we work with industrial users, they want to see the school grades, because the employers want to know where their employees' children will go to school. In fact, recently, we were able to get a company to move from Coolidge to Casa Grande for this very reason. This is a relatively near-term ability to cure your school funding problem, and there is not another option.

I know that some of you feel overwhelmed when you see the six projects proposed along the freeway. One of those has already been withdrawn, and of those that are left, one or two at the most could get built. Solar is self-limiting, we do not need to worry about limiting them with an overlay. Solar is dependent on transmission and distribution, which is why all these projects are looking at the Milligan substation and subsequent transmission, which cannot support them all. This is one of the biggest opportunities Eloy has seen in a long time and should consider easing regulations, expediting permits, and embracing this industry, instead of overregulating and killing the goose that has laid the golden egg.

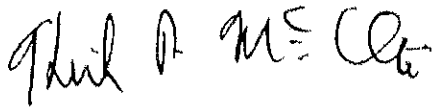
There are several other damaging things in the suggested ordinance that have likely already been removed. The idea that the agricultural rights should be retired is not helpful to the City's water system at all and would prevent the land from ever going back into agriculture, believe it or not solar is a temporary use. The requirement for the retirement of farm ground may not even be legal, as there is no nexus between the requirement and the use. Solar use does not care if a property has water rights or not.

The other requirement that will kill a lot of deals is non solar use limited to an acre. Most solar fields require battery backup, and batteries require a larger non solar footprint. Another reason why this effort should be abandoned is the incorporation of boundaries that make no market sense.

The third thing I noticed that is dangerous is the fact that once this ordinance is in place it states that it can never be amended. I do not believe it is legal for the current council to bind a future council. The entire effort is not only not beneficial, but also harmful, you do not need any more regulatory authority than you already have. It is sending the wrong signal to the renewable energy development community.

Let's embrace this opportunity, fund the schools and get some development going. It also creates the ability to attract industrial development that needs renewable energy which will soon be all. I am happy to discuss this further. Unfortunately, I will be out of the country next week which is why I am writing this letter.

Sincerely,



Kirk P. McCarville, CCIM
Land Advisors Organization
E: kmccarville@landadvisors.com
M: 520-251-0348

CITY OF ELOY

REQUEST FOR COMMISSION ACTION

Agenda Item: **VIII.B.**

Date: **5/3/2023**

Date submitted:
04/10/2023

Action: Formal

Subject: Commission to make a recommendation for approval, approval with conditions, denial or continuance for Case No.: TA2023-006.

Date requested:
5/3/2023

TO: Planning and Zoning Commission

FROM:

RECOMMENDATION:

DISCUSSION:

FISCAL IMPACT:

CITY OF ELOY

REQUEST FOR COMMISSION ACTION

Agenda Item: **VIII.C.**

Date: **5/3/2023**

Date submitted:
04/10/2023

Action: Formal

Subject: Conduct a public hearing for a staff initiated text amendment to the Eloy City Code, Chapter 21-Zoning revising, portion of Section 21-9-1 Definitions as it pertains to HOTEL OR MOTEL (REVISED), GUEST ROOM (NEW) AND TRANSIENT PURPOSES (NEW). (Case No.: TA2023-007)

TO: Planning and Zoning Commission

FROM: Jon Vlaming

RECOMMENDATION:

Staff recommends that the Planning & Zoning Commission recommend approval of these Zoning Ordinance revisions.

DISCUSSION:

The Community Development Department is proposing an amendment to the text of the Eloy Zoning Ordinance that clarifies, updates, specifies changes and/or eliminates information in [Chapter 21 Zoning, Article IX Definitions and Acronyms](#).

Key Zoning Code Definitions proposed to be added and revised:

HOTEL OR MOTEL(REVISED): A building or group of buildings consisting of guest rooms with continuous on-site management, housekeeping, and laundry, and typically provides breakfast. Such a facility customarily includes a bellhop, a restaurant/bar, personal and retail services, conference facilities and on-site recreation services. Such a facility shall also contain a minimum of nine (9) or more sleeping rooms that are occupied or intended or designed to be occupied as the temporary abiding place of persons who are lodged with or without meals, for compensation for a continuous time period that shall not exceed thirty (30) days.

GUEST ROOM (NEW): Living quarters served with cooling facilities that are designed for transient purposes for periods less than thirty (30) continuous days when located in a motel, hotel, or home group care. Every one hundred (100) square feet of net floor area

shall be considered to be a guest room.

TRANSIENT PURPOSES (NEW): Occupancy of a dwelling, guest room, or sleeping room on a temporary basis. Such a temporary basis shall be less than thirty (30) continuous days. Residency for transient purposes requires the provision of food and on-site housekeeping and laundry services.

FISCAL IMPACT:

This action will not have a direct fiscal impact on the City.

CITY OF ELOY

REQUEST FOR COMMISSION ACTION

Agenda Item: **VIII.D.**

Date: **5/3/2023**

Date submitted:
04/10/2023

Action: Formal

Subject: Commission to make a recommendation for approval, approval with conditions, denial or continuance for Case No.: TA2023-007.

Date requested:
5/3/2023

TO: Planning and Zoning Commission

FROM:

RECOMMENDATION:

DISCUSSION:

FISCAL IMPACT: