

EXECUTIVE OFFICER'S REPORT

To The
Local Agency Formation Commission

TO:

Commissioner	RAY CASTILLO (Chair)	[Supervisor]	Commissioner	DON CAMPBELL (Vice-Chair)	[City]
Commissioner	MIKE KELLEY	[Supervisor]	Commissioner	VACANT	[City]
Commissioner	ED SNIVELY	[Public]			
	Alt Commissioner	JACK TERRAZAS	[Supervisor]		
	Alt Commissioner	KAY OURS	[City]		
	Alt Commissioner	DAVID WEST	[Public]		

REPORT DATE: April 3, 2013

FROM: Jurg Heuberger, AICP, CEP, Executive Officer



PROJECT: **SOL ORCHARD SOLAR ENERGY FACILITY, EC # 1-12**
Proposed annexation into the City of El Centro for APNs 044-430-012-000, 044-450-024-000, 044-450-025-000, 044-450-443-000, totaling approximately 140 acres.

HEARING DATE: **April 25, 2013** **TIME:** 8:40 AM

AGENDA ITEM NO: 10

HEARING LOCATION: IID Board Room, 1285 Broadway, El Centro, CA
(for directions call 760-353-4115)

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In summary & order)

- OPTION #1:** Approve the proposed annexation as presented by the Executive Officer and as requested by the applicant.
- OPTION #2:** Approve the proposed annexation as requested with modifications, following the hearing by the Commission.
- OPTION #3:** Continue the hearing for not to exceed 70 days, (end date July 4, 2013).
- OPTION #4:** Deny the annexation

Project Data:

DATA & FACTS:

Project ID	EC 1-12	El Centro
Project Name:	Sol Orchard Solar Energy Facility	
Applicant/Proponent:	Sol Orchard Imperial 1, LLC.	
Application Type:	Petition	
Application Filed:	March 14, 2012	EXHIBIT - A
Certificate of Filing:	April 23, 2012	EXHIBIT - B
Area/Size:	140 +/- acres (per application filed)	
Location/Legal:	One section of the project is located north of West Villa Road and west of Dogwood Road. The second section is located south of West Villa Road, east of North 3rd Street, north of Euclid Avenue, and west of the IID El Centro Generating Station.	
Proposed Project:	Annexation	

TAX AGREEMENT:

Board of Supervisors Action:	April 2, 2013 Minute Order # (NOT YET RCVD AS OF THE DATE OF THIS DOCUMENT)	EXHIBIT - C
City Resolution:	Dated April 2, 2013 Resolution # (NOT YET RCVD AS OF THE DATE OF THIS DOCUMENT)	EXHIBIT - D
Tax Split:	Auditor-Control Letter dated March 5, 2013	EXHIBIT - E

CEQA:

Lead Agency:	City of El Centro	
Documentation:	Mitigated Negative Declaration	EXHIBIT - G

ANALYSIS

I: Project Description:

This project is the annexation of about 140 acres to the City of El Centro for the development a 20 megawatt solar energy facility.

City Council Approvals:

- 1) **RESOLUTION 13-04:** *Dated February 19, 2013, by the El Centro City Council adopting the Mitigated Negative Declaration and Reporting Program for the General Plan Amendment, Change of Zone, and Conditional Use Permit.* **EXHIBIT - F**
- 2) **RESOLUTION 13-05:** *Dated February 19, 2013, by the El Centro City Council approving the General Plan Amendment.* **EXHIBIT - H**
- 3) **RESOLUTION 13-06:** *Dated February 19, 2013, by the El Centro City Council approving the Conditional Use Permit (a).* **EXHIBIT - I**
- 4) **RESOLUTION 13-07:** *Dated February 19, 2013, by the El Centro City Council approving the Conditional Use Permit (b).* **EXHIBIT - J**
- 5) **RESOLUTION 00-00:** *Dated April 2, 2013, by the El Centro City Council approving a tax and fiscal impact agreement with the County of Imperial.* **EXHIBIT - K**
(NOT YET RCVD AS OF THE DATE OF THIS DOCUMENT)
- 6) **ORDINANCE 13-04:** *Dated March 5, 2013, by the El Centro City Council amending the zoning map pertaining to the approved zone change.* **EXHIBIT - L**

II: County Land Use:

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for annexation is shown to be Urban for the future expansion of El Centro.
- 2) *County Zoning:* A-2-U (General Agriculture, Urban Overlay)
- 3) *Surrounding Land Uses:* The project is contiguous to the City of El Centro at the south side, is bordered on the east and west by un-incorporated agricultural and residential areas.

III: Sphere of Influence:

EXHIBIT - M

The proposed project is within the boundary limits of the current Sphere of Influence for the City of El Centro.

CEQA:

Mitigated Negative Declaration prepared by Michael Brandman Associates.

EXHIBIT - G

Cortese/Knox/Hertzberg Reorganization Act of 2000:

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.*

Comment: The proposed project as identified in the staff report from El Centro and the MND is a solar project which will not affect population, assessed values, topography etc.

- (B) *Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.*

'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

Comment: Due to the fact that this is a commercial solar project and requires no utilities, it will not impact the service capacity of the city.

- (C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

Comment: it could be argued that this project might affect the residential area to the west, however at this time that area is generally sparsely populated with larger lots being the norm.

- (D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

Comment: The proposed project is consistent with the majority of growth related policies adopted by the Commission.

- (E) *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*

Comment: This project will remove a specific amount of agricultural land and when viewed from a cumulative perspective, it does become part of a greater problem for which no solutions have been devised by either the County or the City. The difference here is that this area is within a defined "urban boundary."

- (F) *The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

Comment: This project essentially creates a somewhat "saw tooth" boundary but that type of boundary already exists to the west of this site in this location of the city.

- (G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

Comment: The project in and of itself may be considered consistent.

- (H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

Comment: This area will is within the City of El Centro's Sphere of Influence.

- (I) *The comments of any affected local agencies.*

Comment: No significant adverse comments have been received for this project by any responsible agency.

(J) *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.*

Comment: The City has indicated that it has adequate capacity to service this project area.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

Comment: The project as analyzed by the City of El Centro indicates that the City does have adequate water for this project.

(L) *The extent to which the proposal will affect a city or cities and the county in achieving their respective far shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.*

Comment: This project does not provide for nor create an impact on housing.

(M) *Any information or comments from the landowner or owners, voters, or residents of the affected territory.*

Comment: None received as of the writing of this report.

(N) *Any information relating to existing land use designations.*

Comment: N/A

(O) *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.*

Comment: The proposed project is essentially a commercial solar project and to the knowledge of LAFCO has no imposed conditions or proposed development standards that adversely affect any group of individuals

(P) *Other considerations!*

Comment: NA

Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the Holtville Tribune at least twenty (20) days prior to said hearing, and posted on the Web. In addition, direct mail notices were at least sent to all property owners within 500 feet in the incorporated territory and one mile within the unincorporated areas.

Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, City of El Centro, El Centro Regional Medical Center, and the Applicant.

Conflict of Interest Statement:

To date (at the writing of this report) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing. The Executive Officer does not have any known conflict of interest, does not own any property within the project area, but does own a home within an older section of the City of El Centro.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

- I: Approve the annexation by taking the following four (4) steps, including all conditions as stated or modified under item number 4.
- 1: Certify the Mitigated Negative Declaration as prepared by the City of El Centro and Certified by El Centro.
- 2: Make the finding that this project with the conditions imposed herein (or as modified) is in substantial compliance with the provisions of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy and Procedures.
- 3: Make the findings pursuant to Government Code Section 56375 that:
 - a) The project has been pre-zoned under the City of El Centro's current zoning Ordinance.
 - b) The project is prohibited per section 56375 (e) from being "re-zoned" for a period of two years following annexation.
 - c) The project is contiguous to the City, does not create an island, and is a logical extension of the City within the Sphere of Influence, and/or Urban Area Plan.
 - d) The protest proceedings pursuant to Part 4 commencing with Section 57000 are hereby initiated, and are in compliance with the resolution of approval by the Commission.
 - e) A certified copy of the tax sharing agreement signed by both the County and the City is included.
- 4: Approve the **Annexation**/subject to all of the following conditions:
 - A. Authorize the Executive Officer to forward the Resolution of approval to the City of El Centro, as an information item and for compliance with all relevant conditions imposed herein. (*Pursuant to the Cortese/Knox/Hertzberg Reorganization Act of 2000, enacted through AB 2838, a conducting authority process, i.e. the City being the Conducting Authority, no longer exists and the LAFCO has been delegated the Conducting Authority Process*).
 - B: Pursuant to Cortese-Knox-Hertzberg, authorize the Executive Officer to record the annexation with the County Recorder and the State Board of Equalization, ONLY upon compliance by the applicant and the City, with all applicable conditions, payment of requisite fees, and receipt of all documents necessary and required from the proponents, the City and/or other agencies.
 - C: The Annexation boundary shall be as per map and legal description (**Exhibit – L**) attached hereto. The annexation shall include all contiguous Roads; Road Right of Ways; Canals, Canal Right of Ways; and Public Easements. The final annexation map shall be prepared by a California Licensed Engineer licensed to practice in the category of work to be performed. Said final map shall be reviewed by the Surveyor of the County of Imperial and the Public Works Director of the City of El Centro to assure that the map complies with the correct boundary and surveying requirements, as well as legal descriptions.
 - D: The City of El Centro shall transmit to the Executive Officer certified copies of all approvals given or required to be given by the City of El Centro in approving the land use projects reported herein, including tax agreements unless that information has already been submitted.

- E: The City of El Centro shall within 90 days of the hearing by LAFCO, approving the annexation, submit to the LAFCO a full City Boundary Map depicting the new annexation as part of the overall City Boundary. This City Boundary map shall be signed by a licensed Engineer and shall be submitted as follows;
- a) A digital copy in AutoCAD 2009 or later format
 - b) A 24" x 36" or larger copy
 - c) A 18" x 24" copy
- F: Upon receipt of the City Boundary Map required in Condition E, the Executive Officer shall transmit said map to all affected public agencies, including but not limited to law enforcement, Assessor, etc.
- G: The applicant (petitioner) and/or the City as appropriate shall provide to LAFCO the following items in order to complete the processing of the annexation.
- 1: Eight (8) copies of the Annexation maps and legal descriptions prepared by the licensed engineer, and one "Mylar" copy meeting the size established by the County Recorder's office.
 - 2) Check made payable to the State Board of Equalization as required by Statute.
 - 3) Check payable to LAFCO as determined by the Executive Officer to fully offset the cost of processing the application, including all costs incurred by County or City departments charged with the responsibility to review any portion of this project.
 - 4) A letter from the Petitioners agreeing to the terms and conditions of the LAFCO and waiving all rights to an appeal, or reconsideration of the LAFCO decision, unless petitioner can show that a technical error occurred that would have or could have altered the decision of the LAFCO.
- H: The annexation shall not be recorded until all conditions have been completed and all costs paid in full.
- I: The City of El Centro shall not change any of the zone(s) within the boundary of the project annexation area for a period of two years from the date of recordation, subject to the Government Code Section in the Cortese/Knox/Hertzberg Reorganization Act of 2000. The City shall notify the LAFCO and the County of any proposed change of zone within the boundary area at least 90 days prior to any such Council Hearing, if such is requested prior to the termination of 24 months from recordation. If the City does change the zone or the envisioned land use analyzed within this land use process, in the future and it affects any tax split agreements with other agencies, then the City shall be required to make the appropriate adjustments with the County.
- J: The City shall not enter this property into any type of "redevelopment" program or such other program that would adversely change the fiscal impacts or in any way affect any fiscal impacts or tax sharing agreements with other agencies. If the City, following annexation and after recordation, does change the project so as to change the fiscal information/outcome upon which LAFCO and/or other agencies relied, the City shall be required to fund any deficit that may occur as a result of their change.
- K: All conditions of approval made by or given by the City as evidenced by the Resolutions or Ordinances adopted by the City shall be part of the Conditions of LAFCO in this annexation as if written herein.
- L: The City shall require all IID canals and drains that are within or contiguous to the project, to be under grounded (or eliminated), except for the Canals or drains identified by the IID as not feasible, such as the Central Main Canal. Applicant shall provide to LAFCO assurance acceptance to the Executive Officer which may include bonds or other certificates.

- M: The annexation shall not record until the City provides to LAFCO a hard copy as well as a digital copy of the "mitigation" measures that will be required to be implemented for this project. These mitigation measures will be made a part of the Resolution of approval by LAFCO and to the extent applicable will be required to be implemented or bonded for as appropriate.
- N: The annexation shall not record until the City provides to LAFCO a certified statement from the City engineer that the City has the capacity to provide sewer and water services to this project.

LAFCO Policy:

The proposed annexation application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the IID has (according to the Service Area Plan and/or its resolution of application) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the area.

NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

<p>cc: County Board of Supervisors County Executive Officer County Assessor Raymond Loera, Sheriff George Pacheco, Public Works Tony Rohoutas, Fire/OES Mike Rood, County Counsel Jim Minnick, Assist. Planning Director/County Armando Villa, Planning Director/County</p>	<p>Applicant Douglas R. Newland, Auditor – Controller Bill Brunett, Public Works Director Imperial Irrigation District, General Manager Brad Poiriez, APCD County Office of Education City of El Centro EC 1-12, Sol Orchard</p>
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ATTACHMENTS:

- EXHIBIT A - Application
- EXHIBIT B - Certificate of Filing
- EXHIBIT C - BOS Minute Order #00 & Tax Agreement
- EXHIBIT D - City Resolution #00-00
- EXHIBIT E - Auditor/Controller Letter
- EXHIBIT F - City Resolution 13-04
- EXHIBIT G - Mitigated Negative Declaration
- EXHIBIT H - City Resolution 13-05
- EXHIBIT I - City Resolution 13-06
- EXHIBIT J - City Resolution 13-07
- EXHIBIT K - City Ordinance 13-04
- EXHIBIT L - Sphere of Influence Map
- EXHIBIT M - Legal Description & Annexation Map