

TOWN OF BRECKENRIDGE
SOLAR PANEL PROGRAM SITE SPECIFIC AGREEMENT
(INSERT NEIGHBORHOOD)

This Solar Panel Program Site Specific Agreement (“**Agreement**”) is dated _____, 2019 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”), and the undersigned owner(s) of the following real property located in the Town of Breckenridge, Summit County, Colorado:

(INSERT LEGAL DESCRIPTION

(the “**Residential Unit**”).

WHEREAS, Town has established the Solar Panel Program as described below;
and

WHEREAS, Owner desires to participate in the Solar Panel Program; and

WHEREAS, it is a condition of Owner’s participation in the Solar Panel Program that Owner execute and agree to be bound by the terms of this Agreement; and

WHEREAS, this Agreement allows Owner to recover a portion of the cost of the Solar Panels and Systems (as hereafter defined) when the Master Covenant would not allow the recovery of such cost.

NOW, THEREFORE, Town and Owner agree as follows:

1. Definitions.

- A. The defined terms in the Master Covenant (as hereafter defined) are incorporated into this Agreement by reference.
- B. In addition to those terms defined in parentheses above, as used in this Agreement the following words have the following meanings:

HOUSING GUIDELINES: The Town of Breckenridge Housing Guidelines as in effect from time to time throughout the term of this Agreement¹.

¹ The most current version of the Town of Breckenridge Housing Guidelines are available for inspection and

MASTER COVENANT:	INSERT MASTER COVENANT RECORDING INFORMATION
OWNER:	The owner or owners of the Residential Unit described above, and any subsequent owner(s) of the Residential Unit during the term of this Agreement.
SALE:	Any sale or other voluntary transfer of legal title to the Residential Unit.
SOLAR PANEL PROGRAM:	A program that allows an owner who installs solar panels and system on their home to recover a portion off the cost at the time of sale, all as more fully set forth in this Agreement.
SOLAR PANELS AND SYSTEM:	The solar panels and system installed by owner at the residential unit pursuant to the solar panel program.

2. Increase of Adjusted Price Limit For Solar Panels and System; Limitation. During the term of this Agreement the Adjusted Price Limit for the Residential Unit shall be adjusted to reflect the agreed value of the Solar Panels and System as of the date of the sale of the Residential Unit. The allowed value of the Solar Panels and System shall lose value over a twenty-five (25) year schedule, and the value of the Solar Panels and System shall be calculated by the Town as follows:

1. Calculate the total number of full months between: (i) the date of the issuance of the certificate of occupancy for the Solar Panels and System by the Chief Building Official of the Town of Breckenridge, and (ii) the date of the sale of the Residential Unit. Divide such number by twelve (12).
2. Determine the amount actually paid by Owner for the Solar Panels and System. Subtract from such amount the amount of the credit provided by Town, if applicable, pursuant to the Solar Panel Program (Total Amount Paid).
3. Divide the number determined in step No. 2 by twenty-five. The resulting number equals the annual loss of value of the Solar Panels and System (Annual Loss of Value).

copying at Town's Department of Community Development. For further information about Town's Housing Guidelines, and contact information for Town's Department of Community Development, see the "Notice Concerning the Town of Breckenridge Housing Guidelines" recorded October 8, 2019 at Reception No. 1209897 of the records of the Clerk and Recorder of Summit County, Colorado, and any subsequent Notice recorded by Town with the Clerk and Recorder.

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The formula to be used by Town to determine the value of the Solar Panels and System at the time of a sale of the Residential Unit is further described as follows:

Total Amount Paid (Step No. 2)	-	Annual Loss of Value (Step No. 3) X Total Number of Months (Step No.	=	Value of Solar Panels and System at Time of Sale
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For the avoidance of doubt, an example of the calculation of the value of the Solar Panels and System at the time of a sale is as follows:

This is an example where an owner paid \$18,500, including a Town of Breckenridge Solar Credit. The sale date is exactly 2 years after the certificate of occupancy for the solar panels.

Total Amount Paid = \$20,000 - \$1,500 Town Solar Credit = \$18,500	-	Annual Loss of Value = \$18,500/25 = 740 X Total Number of Months = 24/12 = 2 740 x 2 = \$1,480 total value loss	=	Value of Solar Panels and System at Time of Sale = \$18,500 - \$1,480 = <u>\$17,020</u>
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3. Allowed Real Estate Commission Upon Sale. Notwithstanding anything in the Master Covenant to the contrary, and specifically in lieu of the allowed real estate commission described in Section 4C(a) of the Master Covenant, at the time of sale of the Residential Unit the Owner shall be allowed to add to the Adjusted Price Limit a maximum of one percent (1.00%) of the Adjusted Price Limit to provide the selling Owner with assistance in paying any sales commissions to a licensed real estate broker, attorneys' fees, and closing costs incurred by Owner in connection with the sale of the Residential Unit. Provided, however, that until such time as an Owner has owned the Residential Unit for three (3) full years, the maximum amount that shall be allowed to provide Owner with assistance in paying any sales commissions to a licensed real estate broker, attorneys' fees, and closing costs incurred by Owner in connection with the sale of the Residential Unit shall be a maximum of one-half percent (1/2%) of the Adjusted Price Limit. If there is a conflict between this Section 3 and the Housing Guidelines, the Housing Guidelines shall control.

4. Condition of Residential Unit at Time of Transfer. Owner shall be responsible for ensuring that at the time of the sale of the Residential Unit: (i) the Residential Unit is clean; (ii) the appliances in the Residential Unit are in working order; and (iii) there are no health or safety violations related to the Residential Unit. Prior to the sale the Residential Unit Town is authorized to take all necessary actions and incur all reasonable and necessary expenses required to bring the Residential Unit into compliance with the requirements of this section. Such actions and expenses include, but are not limited to: (i) cleaning the Residential Unit; (ii) making necessary repairs to or replacements of appliances and/or Residential Unit fixtures, such as windows, doors, cabinets, countertops, carpets, flooring and lighting fixtures; and (iii) correcting any health or safety violation that exists at the Residential Unit. Reasonable and necessary expenses incurred by Town, or its designee, pursuant to this section shall be itemized and documented by Town, and shall be deducted from Owner's proceeds at closing of the sale of the Residential Unit and paid to Town.

5. Termination of Agreement. This Agreement shall terminate upon the first to occur of the following:

- A. The termination of this Agreement by mutual written agreement of Town and Owner; or
- B. At such time as the Solar Panels and System have no remaining value as determined pursuant to Section 2 of this Agreement.

6. Agreement Controls Over Master Covenant. During the term of this Agreement, if there is a conflict between the terms of this Agreement and the Master Covenant, the terms of this Agreement shall control.

7. Severability; Effect of Declaration of Partial or Total Invalidity. If any one or more of the provisions of this Agreement, or any application of this Agreement, is declared by a court of competent jurisdiction in a final, non-appealable judgment to be invalid, illegal, or unenforceable in any respect, then:

- A. such provision shall be stricken from this Agreement; and the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.
- B. If the entirety of this Agreement, or any application hereof, shall be declared by a court of competent jurisdiction in a final, non-appealable judgment to be invalid, illegal, or unenforceable for any reason, then:
 - i. the Master Covenant shall continue in full force and effect as if this Agreement had not been executed; and

- ii. the validity, legality, and enforceability of the Master Covenant, or any application thereof, shall not in any way be affected or impaired thereby.

8. Waiver; Modification. The restrictions, covenants, and limitations of this Agreement may be waived or modified only with the written consent of both Owner and Town. Oral waivers or modifications of this Agreement are not permitted. No waiver or modification of this Agreement shall be effective until a proper written instrument has been executed by both Owner and Town, and recorded in the office of the Clerk and Recorder of Summit County, Colorado.

9. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement, and supersedes any prior agreement or understanding relating thereto.

10. Notices. Except as otherwise provided, all notices permitted or required under this Agreement must be in writing, signed by the party giving the same, and shall be treated as having been properly given when actually received or two (2) days after mailed, postage prepaid, certified, return receipt requested, addressed to the parties at their addresses appearing on the signature pages of this Agreement. Any notice direct to a subsequent owner of the Residential Unit may also be sent to the address to which real property tax notices are sent by the Summit County Assessor. Any notice may also be personally served upon the recipient of the notice. Each party, by written notice to the other party, may specify any other address for the receipt of such instruments or communications.

11. Applicable Law. This Agreement is to be interpreted in all respects in accordance with the laws of the State of Colorado.

12. Recording And Filing; Covenant Running With The Land.

- A. Town and Owner intend, declare, and agree that the provisions of this Agreement are covenants running with the land.
- B. This Agreement shall be placed of record in the real property records of Summit County, Colorado, and the covenants contained in this Agreement shall run with the land and bind, and the benefits shall inure to, respectively, Owner and Owner's successors and assigns, and all subsequent owners of the Residential Unit or any interest therein, and Town, in perpetuity unless this Agreement is released and terminated in the manner described this Agreement.
- C. Owner agrees that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of this Agreement to constitute a restrictive covenant running with the land are to be treated as having been satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the

alternative, that an equitable servitude has been created to insure that these restrictions run with the land.

13. Headings. Section headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

14. Terminology. Wherever applicable, the pronouns in this Agreement designating the masculine or neuter apply equally to the feminine, neuter and masculine genders. Furthermore, wherever applicable within this Agreement, the singular includes the plural, and the plural includes the singular.

15. Binding Effect. This Agreement is binding upon, and inures to the benefit of parties, and their respective heirs, successors, assigns, legal representatives, and personal representatives, and all subsequent owners of the Residential Unit, or any interest therein, during the term of this Agreement.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____

Rick G. Holman, Town Manager

ATTEST:

Helen Cospolich, CMC,
Town Clerk

Address:
P. O. Box 168
Breckenridge, CO 80424

OWNER:

SOLAR PANEL PROGRAM SITE SPECIFIC AGREEMENT

Print Name: _____

Print Name: _____

Address: _____

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by Rick G. Holman, Town Manager, and Helen Cospolich, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____.

SOLAR PANEL PROGRAM SITE SPECIFIC AGREEMENT

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

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