

## **DEPARTMENT OF PARKS AND RECREATION HOUSING AGREEMENT**

**THIS AGREEMENT** is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "**City**"), and **HEATHER MACLEAN**, an individual and employee of the City ("**Employee**").

**WHEREAS**, the City owns and operates certain facilities within its Mountain Parks in accordance with City Charter § 2.4.4(A); and

**WHEREAS**, Employee holds full-time employment with the City and has accepted and agreed to perform caretaker duties and other responsibilities related to the Mountain Parks and park amenities described in this Agreement; and

**WHEREAS**, the City wishes to have the Employee reside in certain residential property owned by the City located at 987 Lookout Mountain Road, Golden, Colorado 80401, and identified in Article II below and subject to the terms and conditions of this Agreement and Employee's employment; and

**WHEREAS**, as a part of Employee's compensation in exchange for performing employment duties and other duties under this Agreement, the Employee shall reside in and utilize the housing in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, the Department of Parks and Recreation ("**DPR**") and the DPR Executive Director ("**Executive Director**") is vested with the power to manage, operate and control DPR facilities consistent with § 2.4.4(A) of the City Charter, including for the use, care and maintenance of such facilities as delegated to the Denver Mountain Parks ("**DMP**") division.

**NOW THEREFORE**, it is agreed as follows:

### **ARTICLE I. ADMINISTRATION OF AGREEMENT**

The Executive Director or a designated representative shall be the individual responsible for fulfilling the rights and obligations provided for in this Housing Agreement ("**Agreement**").

### **ARTICLE II. IDENTIFICATION OF HOUSING**

Subject to the terms and condition of this Agreement, the City agrees to provide housing as a part of Employee's compensation for employment services. This Agreement applies to the housing (which includes any yard and garage designated for the Employee's use by the Executive

Director), identified as 987 Lookout Mountain Road, Golden, Colorado 80401, and as depicted in **Exhibit A** to this Agreement (“**Housing**”). Housing shall be utilized as specified in and for the purposes set forth in this Agreement.

### ARTICLE III. SPECIAL PROVISIONS

The following special provisions are applicable to the Housing identified in Article II of this Agreement:

1. The caretaker residence includes the 1-bedroom, 1-bathroom apartment located within the historic Pahaska building described in **Exhibit A**.
2. Parking for the caretaker’s personal vehicle is allowed in the main parking lot or the dirt parking area on the south end of the parking lot.
3. Any occupancy or personal use of City and County of Denver property by Employee outside the apartment described here is prohibited unless permission is obtained from the DMP Director in writing.
4. A City vehicle will not be provided for personal transportation, including commuting to and from the assigned duty station.
5. The DMP Director or designee will inspect Employee Housing and Residence Areas on an annual basis. The DMP Director shall provide reasonable written notice (including but not limited to electronic mail) of not less than 24 hours before any inspection of Employee Housing and Residence Areas, except in the case of emergencies. DMP staff may enter Employee Housing if an emergency exists or other legitimate purpose warrants such entry.
6. The Housing Agreement will be subject to annual review by the DMP Director at the end of each calendar year and may be continued or terminated based upon inspection and compliance with the terms of the Agreement.
7. Pets on the property will be considered on a case-by-case basis and require written approval of the DMP Director.
8. No improvements or changes to the Housing are authorized; however, Employee may request improvements, which shall not be performed without prior written authorization from the City.
9. AS-IS CONDITION: Upon occupancy and use of the Housing and Residence Areas, Employee accepts the condition of the Housing in an “AS IS”, “WHERE IS” condition. The City makes no representations regarding the suitability of the Housing for residential use and assumes no responsibility for any improvements required by governing authorities.

## ARTICLE IV. TERM AND CONDITIONS OF USE

1. The Agreement is effective as of execution. The Employee may use the Housing specified herein as a private residence for the Employee as long as it is beneficial to the City. The term of this Agreement as it affects Housing shall terminate by no later than May 1, 2028 (“**Term**”). The City shall assess the Housing and property in order to determine whether to extend the Term. However, the Term of this Agreement is not intended to affect Employment status. If Employment has been previously terminated, then the Housing Agreement may be terminated.

2. The Employee acknowledges that the Housing identified in Article II of this Agreement was clean prior to occupancy and that all installed appliances that are the property of the City (refrigerator and stove) were functioning. The City and Employee conducted a joint pre-move-in inspection for the purpose of documenting the condition of the Housing and grounds.

3. The caretaker is allowed to reside with immediate family members (including domestic partners or significant others). Subletting is not permitted. All caretaker duties must be performed by the caretaker. Family members may be considered volunteers to assist the caretaker if appropriate volunteer paperwork is submitted and approved by the DMP Director.

4. Caretaker duties vary by property, and the skill set for each caretaker role will vary according to park needs. Tasks specific to Pahaska and Lookout Mountain Park include, but are not limited to, groundskeeping (litter pick-up, sweeping and gravel removal, snow removal from walkways and parking lot, vegetation management, grave maintenance, etc), emptying trash, securing dumpsters from wildlife, inspecting the gate and reporting problems to Jefferson County Open Space, inspecting and securing buildings, monitoring for site security, responding to after-hours alarms, and general park maintenance not otherwise completed by on-duty staff. The caretaker will coordinate with the DMP Manager to assist with caretaker coverage during approved vacation time or other planned absences from the site.

5. The Employee shall maintain the Housing in good and safe condition. No additions or alterations shall be made by the Employee unless Employee first obtains written prior approval from the City. Employee may perform minor maintenance of **TWO HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$250.00)** or less to the Housing. Any maintenance over \$250.00 requires prior written permission from the City. Employee shall perform no modifications to the building structure or major systems.

6. Requests for additional maintenance of the Housing shall be made in writing and directed to the DMP Manager. The DMP Manager will consult with the DMP Director on any requested improvements that exceed normal maintenance.

7. The Employee and members of their family and guests must comply with all applicable laws, ordinances and regulations imposed by any governmental entity having jurisdiction in the area in which the Housing is situated. Employee must monitor guests at all times to ensure security of concession space within the building.

8. Objectionable or disorderly conduct shall not be permitted in or about the City's Housing or anywhere in Lookout Mountain Park.

9. Keys to the Housing and museum shall be under the control of the Employee and shall be provided to the Employee and family residing with the Employee on an as-needed-basis. These keys are not to be loaned or duplicated, and a **TWENTY-FIVE DOLLARS AND ZERO CENTS (\$25.00)** per key replacement fee will be assessed if a key is lost.

10. The City shall provide electricity, water, sewage and trash removal at the Housing as part of the base rent. The Employee shall be responsible for the cost of telephone and internet service.

#### **ARTICLE V. DUTY TIME**

The City provides housing to certain employees in lieu of stand-by pay. However, pursuant to the Fair Labor Standards Act, 29 U.S.C.A. Section 207(f), and § 785.23 of 29 CFR 785, the Employee is not considered as working at all times simply because they live in employer supplied housing; and a reasonable agreement as to pay between the Employee and the employer, which takes into consideration all the pertinent facts, is acceptable. With this in mind, the City's policy is as follows:

1. The rental fee is assessed in accordance with Executive Order 27 and accounts for the value of Employee's services. Employee is expected to provide some off-duty services in exchange. The Employee will be required to remain in the area during certain off-duty hours as scheduled in advance without additional compensation or stand-by pay. During such times, the Employee may be subject to work requirements that may interfere with his or her freedom to engage in personal activities as determined by the City.

2. Employee is required to perform 25 hours per month of off-duty tasks (off-duty tasks are set forth in Article IV, above). Any work performed outside of regular duty hours which involves more than this time will be paid at the Employee's regular rate of pay subject to prior supervisory approval; and, if sleep is interrupted by a call to duty, actual time will be paid, but not less than two hours. The time must be documented on appropriate overtime slips and

submitted with time sheets. Workers' Compensation coverage shall apply to off-duty tasks herein.

3. Caretaker hours performed as an offset to monetary rent will be tracked and submitted to the Employee's supervisor monthly. Annual caretaker hours will be submitted to the DMP Director and DPR Contract Administrator by January 30<sup>th</sup> of the following year.

4. The DMP Director shall annually calculate fair market value calculations for the property and review with the DPR Director of Finance by March 1<sup>st</sup> each year.

5. Except as provided above, all regular policies of the City and DPR as related to pay and other benefits as set forth in the Career Service Rules shall apply.

## **ARTICLE VI. TERMINATION OF USE**

1. The Employee agrees and understands that the use of Housing by the Employee is for the sole benefit and convenience of the City and DPR and not the Employee, and, therefore, the Executive Director, acting in his or her sole discretion, may at any time terminate the Employee's use of the Housing with or without cause.

2. Notice of any such termination will be in writing. Except in emergency circumstances (as may be determined by the City), the Notice to Quit shall provide the Employee with the following minimum periods within which to vacate the Housing depending on the reason for the Notice to Quit:

<b><u>Event Occurring to Employee</u></b>	<b><u>Minimum Period</u></b>
Death or Disability of the Employee	30 days
Voluntary or Involuntary Termination	15 days
Suspension in excess of 15 days	15 days
Leaves of Absence of more than 30 days	15 days
All other reasons	15 days

For the reasons involving involuntary termination or suspension, notice shall be provided after the appropriate decision regarding the personnel action. For unpaid leaves of absence requested by the Employee, notice may be given to the Employee at any time after such leave is approved.

The Employee agrees to leave the Housing in accordance with the terms of the Notice. If the Employee fails to comply with the terms of the Notice, the Employer may proceed to evict the Employee.

3. Employee may also terminate this Agreement, with or without cause, by providing Notice to the City, the Executive Director, the DMP Director or other designee, in accordance with the minimum periods specified above.

4. At the expiration or termination of this Agreement, Employee shall deliver the Housing to the City in the same condition as the Housing was in at the beginning of this Agreement Term, ordinary wear and tear excepted; and Employee shall remove all of Employee's personal property and other effects. The City and Employee shall perform a post-moveout inspection to confirm the condition of the Housing and grounds.

#### **ARTICLE VII. RESPONSIBILITY FOR PERSONAL PROPERTY**

The Employee is responsible for the safety of his or her personal property. The City shall not provide insurance or be liable for damage to the Employee's personal property for any cause whatsoever. Subject to the terms and conditions of this Agreement, Employee is required to purchase and maintain renters' insurance adequate to cover Employee's personal property and will provide evidence of the policy to the DPR Contract Administrator.

#### **ARTICLE VIII. VENUE**

The venue for any dispute arising hereunder shall be in the District Court in and for the City and County of Denver; provided, however, that if the City is required to evict the Employee from Housing in accordance with C.R.S. 13-40-101, et seq. (Volume 6A, 1987 Replacement Volume, as amended), then the venue for any such eviction action shall be in the District Court in the county in which the Housing is located.

#### **ARTICLE IX. ELECTRONIC SIGNATURES**

Employee consents to the use of electronic signatures by the City. The Agreement may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[Page intentionally left blank]**

**[Signature pages follow]**

**Contract Control Number:** PARKS-202578249-00  
**Contractor Name:** Heather MacLean

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL** **CITY AND COUNTY OF DENVER:**

**ATTEST:** By: \_\_\_\_\_  
\_\_\_\_\_

**APPROVED AS TO FORM:** **REGISTERED AND COUNTERSIGNED:**  
Attorney for the City and County of Denver  
By: \_\_\_\_\_ By: \_\_\_\_\_

By: \_\_\_\_\_



**Contract Control Number:**  
**Contractor Name:**

PARKS-202578249-00  
Heather MacLean

By:  Signed by:  
B05A0093CF5D44D...

Name: Heather MacLean  
(please print)

Title: Senior Park Ranger  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

## EXHIBIT A

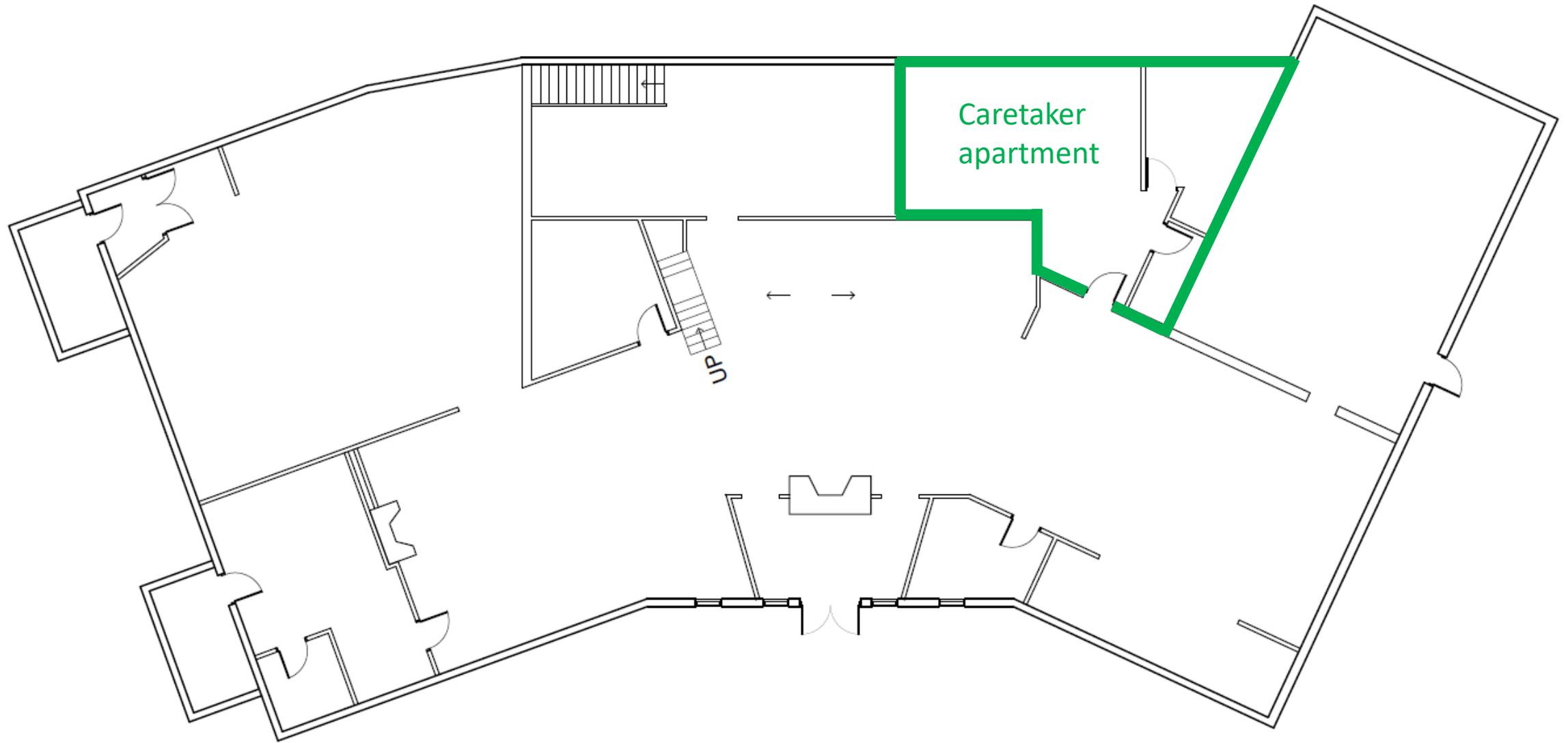


Exhibit A: Pahaska floorplan showing caretaker apartment in green (main floor only)