

RESOLUTION NO. 1994

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING THE EXECUTION OF A LICENSE
AGREEMENT WITH JEFF GOLDANLOO FOR USE OF A
PORTION OF WASHINGTON AVENUE RIGHT OF WAY
ADJACENT TO THE 800 BLOCK OF 14TH STREET FOR A
RETAIL SEATING AREA**

WHEREAS, City Council approved Resolution 1761 on April 12, 2007 authorizing a License Agreement with John Polli as owner of a retail bicycle sales and repair business at 801-B 14th Street to allow construction and use, for display of for sale products, of a wooden deck within the City owned Washington Avenue right of way; and

WHEREAS, Pursuant to the License Agreement authorized by Resolution 1761, the wooden deck was constructed in the Washington Avenue right of way and used pursuant to the Agreement until the business relocated from 801-B 14th Street in mid 2009; and

WHEREAS, the Planning and Development Director sent a letter dated May 1 2009 to the owner of that business owner advising that the City intended to terminate the license agreement in conjunction with the relocation of the business; and

WHEREAS, the wooden deck has been unused since the relocation of the bicycle shop; and

WHEREAS, Jeff Goldanloo, owner of Higher Grounds Café at 803-B 14th Street, proposes to utilize the existing wooden deck previously constructed within a portion of the landscaped area of the Washington Avenue right of way to create a retail seating area; and

WHEREAS, the City of Golden, Colorado regulates the Washington Avenue right of way pursuant to its police powers; and

WHEREAS, the continued use of the existing wooden deck seating area within the Washington Avenue right of way will facilitate additional retail and pedestrian activity downtown without interfering with the City's use of the right of way; and

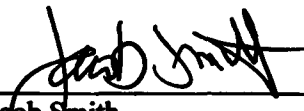
WHEREAS, Jeff Goldanloo wishes to agree as to certain conditions and provisions under which a portion of said Washington Avenue right of way may be utilized.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. City Council hereby ratifies the May 1, 2009 termination of the License Agreement with John Polli, as the owner of Peak Cycles located at 801-B 14th Street.

Section 2. The Mayor is authorized to execute on behalf of the City of Golden, a license agreement with Jeff Goldanloo substantially in the form attached hereto as Exhibit A.

Adopted this 8th day of October, 2009.



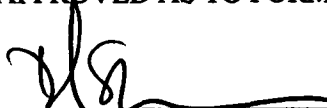
Jacob Smith
Mayor





Susan M. Brooks, MMC
City Clerk


APPROVED AS TO FORM:



David S. Williamson
City Attorney

I, Andrea L. Banks, Deputy City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular business meeting thereof held on the 8th day of October, A.D., 2009.



ATTEST: 

Andrea L. Banks, Deputy City Clerk of the
City of Golden, Colorado

LICENSE AGREEMENT

THIS AGREEMENT is entered into the ____ day of _____, 2009 by and between the City of Golden, Colorado, a municipal corporation organized under the laws of the State of Colorado (the "City"), with offices at 911 Tenth Street, Golden, Colorado 80401 and Jeff Goldanloo, ("Owner") whose business address is 803-B 14th Street, Golden, CO 80401.

- A. City Council approved Resolution 1761 on April 12, 2007 authorizing a License Agreement with John Polli as owner of a retail bicycle sales and repair business at 801-B 14th Street to allow construction and use, for display of for sale products, of a wooden deck within the City owned Washington Avenue right of way.
- B. Pursuant to the License Agreement authorized by Resolution 1761, the wooded deck was constructed in the Washington Avenue right of way and used pursuant to the Agreement until the business relocated from 801-B 14th Street in mid 2009.
- C. Jeff Goldanloo is the owner of a business known as Higher Grounds Cafe, located at 803-B 14th Street, and the City of Golden is the owner of the adjacent Washington Avenue right of way.
- D. Owner desires to make use of the wooden deck area between the existing detached sidewalk and curb of Washington Avenue that was constructed pursuant to the License Agreement authorized by Resolution 1761.
- E. The parties hereto wish to agree as to the nature, terms and conditions under which the Owner may maintain and utilize the existing improvements within the Washington Avenue right of way.

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND JOHN GOLDANLOO AGREE AS FOLLOWS:

- 1. License. The City grants to Owner a non-exclusive revocable license to use and maintain for seating purposes a wooden deck display area ("improvement") within the affected right of way area as shown in the attached Exhibit A. The improvement shall substantially conform to the design included in Exhibit A and shall not include any signage or lighting.
- 2. Conditions of Approval and Use. Approval of this License Agreement is specifically conditioned upon conformance to all of the requirements of Sections 4.90.060 and 4.90.070 of the Golden Municipal Code pertaining to the use of City sidewalks for outdoor seating, including but not limited to requirements for annual fee, insurance coverage, and maintenance and upkeep.
- 3. Maintenance. Owner shall, at his expense, maintain the improvements in good condition including the landscape within the above described area.

4. **General Obligations with Respect to Restoration, Preservation, and Maintenance Work.**
 - a. All work performed by Owner pursuant to this Agreement shall be done:
 - 1) In a good workmanlike manner; and
 - 2) In a timely and expeditious manner; and
 - 3) In a manner which minimizes inconveniences to the public and individuals; and
 - 4) In accordance with all applicable codes, rules and regulations of the City.
 - b. **Inspection.** All work performed by Owner within the right-of-way shall be subject to inspection by the City. Owner shall promptly perform reasonable remedial action as required by the City pursuant to the inspection.
5. **Indemnification and Release.** Owner shall hold harmless, indemnify and defend the City from and against all liabilities, damages and claims that result from the design, initial construction or maintenance of the improvements.
6. **Compliance with laws.** This Agreement relates only to permission to encroach onto a public right-of-way under the terms and conditions set forth. The execution of this license agreement shall not relieve Owner from complying with any provision of the Golden Municipal Code, including compliance with zoning ordinances, land use regulations, or building codes, nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by Owner to the extent that City approvals or permits are otherwise required by the Golden Municipal Code or statute. The execution of this license agreement, and the improvements constructed pursuant to this agreement, shall not relieve Owner, or otherwise be construed as a release or waiver, with respect to any obligation of Owner to not interfere with the subjacent lateral support of the City's right-of-way.
7. **Police Power Reserved.** The rights granted herein shall not limit or otherwise restrict the right of the City to exercise its police power with respect to its control of the right-of-way.
8. **Termination.** It is intended by the Parties that this Agreement shall remain in effect as needed by Owner. Notwithstanding the foregoing, the City may terminate this agreement with or without cause with sixty (60) days notice to the Owner, unless the preservation of the City's health, safety and welfare requires immediate termination. If the City Council determines that the City's need to utilize the public property necessitates the termination of this Agreement, the Owner will be required to remove all improvements located within the right of way pursuant to this Agreement.
9. This license granted by this agreement shall be appurtenant to 803-B 14th Street and shall be binding upon, and for the benefit of the subsequent owners of such location.

CITY OF GOLDEN

Jeff Goldanloo

Jacob Smith
Mayor

Date: _____

Date: _____

ATTEST:

Susan M. Brooks, MMC
City Clerk

Date: _____