RESOLUTION NO. 2082

A RESOLUTION OF THE GOLDEN CITY COUNCIL AUTHORIZING A POLICY FOR CONSIDERATION OF TEMPORARY LICENSE AGREEMENTS FOR USE OF CITY PROPERTY AS INCUBATOR SPACE FOR CERTAIN SUSTAINABILITY RELATED BUSINESSES

WHEREAS, the City of Golden, through its commitment to sustainability and economic development seeks to encourage the establishment and growth of small businesses in fields related to efficiency, alternative energy, and unique business and manufacturing practices; and

WHEREAS, the City may, on occasion, be in a position to allow the temporary use of certain City properties for testing or demonstration purposes for existing or new small businesses in the community; and

WHEREAS, it is beneficial to have a policy in place to provide general guidance to City Council in evaluating such requests.

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

City Council endorses the provisions of the City Lands Incubator Proposal attached hereto as Exhibit A, and agrees to use this policy as guidance for consideration of specific License Agreement requests related to the use of City properties for business incubator purposes.

Adopted this 14th day of October, 2010.

Jacob Smith
Mayor

Susan M. Brooks, MMC
City Clerk

APPROVED AS TO FORM:

David S. Williamson
City Attorney

I, Susan M. Brooks, 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 14th day of October, A.D., 2010.

(SEAL)

ATTEST:

Susan M. Brooks, City Clerk of the City of Golden, Colorado

Exhibit A - City Lands Incubator Proposal

September 23, 2010

Description of proposed program: City Council should enact a limited program whereby License Agreements may be considered to allow the temporary use of (typically unused) City owned property to promote the development of sustainability related businesses. City Council already has the authority for such a program, however, the preparation of program guidelines would be appropriate.

Background: One of the more complex aspects of traditional economic development programs is that while the encouragement and "incubation" of small businesses is a very valuable part of a community economic development program, the actual implementation of a traditional "brick and mortar" incubator (where small and start-up businesses are able to rent physical facilities for office, research, and minor production purposes) is extremely complex and is rarely affordable for the sponsor. Where they do succeed, they traditionally require sizable subsidies from the sponsor, and tend to utilize existing space converted from another use. (Staff is aware of a prior one in a former elementary school at 20th Avenue and Eldridge Street). In part for these reasons, Council's recent discussion has been to support efforts by others for one or more incubator if feasible.

In considering recent inquiries from companies considering expansion or relocation, it was noted that on occasion there would be a benefit to be able to secure property for demonstration or product testing, the type of community support that should not entail the type or level of subsidy of a traditional "brick and mortar" incubator. Specifically, Golden could utilize License Agreements to allow the temporary use of certain City owned land by eligible businesses, as part of our sustainability efforts and EDComm's branding efforts for business retention and attraction. In a recent situation, staff indicated that a proposal to use a portion of the City land purchased as future right of way for SH 93 to test and demonstrate either photovoltaic panels or small commercial wind turbines could be recommended to City Council if the company located in an adjacent building or parcel.

This same concept was discussed with NREL representatives in recent months, although Golden does not have a parcel large enough to compete with NREL's test facility in Aurora that has been provided by the City.

Specific proposal: At this time, the specific proposal is that City Council adopt a resolution stating that the City may be willing to consider such temporary use of City property on a limited basis according to the following parameters:

- City properties to be included: While there may be exceptions, typically the only areas where the program would work would be:
  - Limited portions of the property purchased for the potential relocation of SH 93.
  - The vacant portion of the North Reservoir site near SH 93 and Pine Ridge Road (the portion Council briefly discussed selling in 2008).
  - One or more of the City owned lots in the Catamount Subdivision.
  - A slight possibility of some use of traffic signal poles on City streets.
  - Possibly on City buildings (the City would need to receive energy benefit).

- City Properties to be generally excluded from general program: While there again may be exceptions, typically the areas where the program would not be permitted would include:
  - Fossil Trace Golf Course
  - City Parks

- City Open Space

- Time period: License Agreements are annual agreements with provision for termination without cause with notice requirements based upon the nature of the item being located in the right of way. For example, for a PV array or wind turbine, it may be appropriate to provide 90 or 120 days notice when possible. Council could include a maximum time limit of say three years for most applications, in order to make opportunities available to other potential users. Extensions of agreements in place would also be considered if appropriate.

- Criteria for eligible activities: Based upon sustainability and Economic Development goals, the use of such City land should be limited to uses such as the following:
  - Testing or demonstration sites for renewable energy technologies;
  - Demonstration sites for other sustainability related businesses, as recommended by CSAB and EDComm and approved by Council.
  - Field assembly for a sustainability related businesses, as recommended by CSAB and EDComm and approved by Council.
  - Uses determined by the City to pose no significant impact to adjacent or nearby residents or property owners.

- Criteria for Eligible Companies: Given the goal to support the creation and growth of small businesses, the types of companies eligible to request such License Agreements for use of City land should be limited to:
  - Golden based start up businesses or existing businesses typically with less than 25 employees.
  - Businesses in the process of relocating to Golden typically with up to 25 employees (at the time of relocation).
  - Larger Golden based or relocating businesses may be considered when the affected city land is adjacent to their facility and the City determines that there is insufficient available space on the company's site.
  - Since some small businesses do not have a physical base other than the address of the principals, Council could also consider a "virtually based" business where one or more principals have strong ties to the community.

- Miscellaneous: A few additional items to consider:
  - It is proposed that Council would allow such use without direct compensation (rent), however, there may be some maintenance of other service required as part of the license agreement.
  - Any agreement that is not an arms-length market rent transaction is subject to Charter and Municipal Code incentive limitations. The maximum amounts per code ($25,000 net

benefit) should not be a problem for a temporary rental situation. The incentive sign requirement would apply.

- Use restrictions would include a prohibition of any sort of hazardous materials and a requirement to remove all such private property at the end of the license.
- Risks to City could include cost to remove equipment or materials if they do not, and potential hazardous materials. It may be necessary to collect a deposit or bond from certain types of users.