



City of Grand Island

Tuesday, February 12, 2008

Council Session

Item G15

**#2008-42 - Approving License Agreement for America's Promise
Alliance for Use of Logo**

Staff Contact: Joni Kuzma

Council Agenda Memo

From: Joni Kuzma, Community Development Administrator

Meeting: February 12, 2008

Subject: License Agreement with America's Promise

Item #'s: G-15

Presenter(s): Joni Kuzma, Community Development Administrator

Background

In 1997, General Colin Powell founded the America's Promise Alliance, the largest youth-focused alliance of corporations, non-profit organizations, foundations, policymakers, advocates and faith-based groups committed to mobilizing all sectors and every interested community across America to improve the well-being of youth. In 2005, America's Promise Alliance and their partners launched a "100 Best Communities for Young People" competition that recognizes local communities for the outstanding and innovative work they are doing to help young people succeed. This recognition is based on the extent to which a community provides opportunities to young people to experience the Five Promises of success. Those promises are 1) caring adults, 2) safe places, 3) a healthy start, 4) an effective education, and 5) opportunities to help others.

In November 2007, grant writers from the City of Grand Island, the Grand Island Public School System, and Saint Francis Medical Center completed an application for Grand Island that demonstrated how the community provides elements of the Five Promises to community youth from birth to age 18. The lengthy application was comprised of information collected from a wide variety of community representatives (i.e. government, education, medical, human service, faith-based, business, non-profit entities).

Discussion

The City received notification on January 18, 2008 that Grand Island was chosen as one of the "100 Best Communities for Young People" in the nation. A media embargo was imposed until January 24, at which time the official announcement was made on The Today Show. One of the many benefits of the award is the opportunity to use the "100 Best" official seal provided by America's Promise Alliance on media announcements, in promotions, and on other appropriate outlets.

Information about use of and the actual "100 Best" logo was received on January 22 with instructions from America's Promise that it could be used on all promotions beginning January 24. However, in order for Grand Island to use the 2008 Seal artwork, they had to have a signed copy of the license agreement on file and would not release the artwork without a signed agreement. The City would not have been able to use the seal at the press conference or for marketing purposes until after the February 12, 2008 Council meeting. Based on that fact, the "100 Best" committee, with direction from the City Administrator, submitted a signed agreement to America's Promise to begin promotions the day of the announcement. The Mayor was in Washington D.C. accepting the award so was unable to sign the document.

At this time, the committee is requesting permission for the Mayor to sign an updated agreement with Council approval. This was a time-sensitive action that needed to be addressed to fulfill the promotional requirements of this national award.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the license agreement for use of the "100 Best" Seal of America's Promise and authorize the Mayor to sign the updated agreement.

Sample Motion

Move to approve the license agreement for use of the "100 Best" Seal of America's Promise and authorize the Mayor to sign an updated agreement.

LICENSE AGREEMENT

This Agreement is entered into by and between America's Promise—The Alliance for Youth ("APA"), a Maryland Non-profit Corporation with a place of business at 909 N Washington Street, Suite 400, Alexandria, VA 22314-1556 (hereinafter "Licensor" or "APA") and _____ with a place of business at _____ (hereinafter "Licensee") effective as of the last date written below.

WHEREAS Licensor is the Owner of the U.S. Trademark Application Serial No. 78/643138 for the mark 100 BEST COMMUNITIES FOR YOUNG PEOPLE for use in connection with "Arranging and conducting competitions for the purpose of recognizing local communities for innovative and successful work they are doing to help children and youth succeed" (hereinafter the "Mark")

WHEREAS Licensee is qualified to and desires to use the Mark in connection with promoting its selection as one of the 100 BEST for 2008 and wishes to obtain a license for such use of the Mark.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings and obligations of the parties hereinafter set forth, the parties hereto do hereby agree as follows:

1. Grant

The APA grants the Licensee a non-exclusive, non-assignable and nontransferable license to use and display the Mark as described under "Use of Mark" below.

The Licensee agrees to use the Mark only as set forth in this Agreement. The Licensor will provide the winning community with a version of this Mark, refer to attached sample. Nothing in this Agreement will give the Licensee any right to the Mark beyond the right granted in this Agreement.

2. Use of Mark

A. Placement

Licensee may display the Mark in transient advertising and solicitations, to include newspaper advertisements, periodicals, billboards, posters, direct mail appeals, flyers and television, in annual reports and letterhead, business cards and decals, or other promotion materials (hereinafter "advertising and solicitations"). Licensee may install the Mark anywhere on their primary World Wide Web site, on web sites and in email (hereinafter "website displays") provided the Mark clicks to a 100 BEST Communities for Young People section of the AmericasPromise.org website as described below. All uses must be consistent with the intended uses described in this agreement.

B. Mark Usage Specifications

Upon Licensee's signing of this Agreement, APA will provide Licensee with a digital version of the Mark as well as specifications for usage for the Licensee to use in non-electronic media. APA will also provide Licensee with access information to digital versions of the Mark for the Licensee to download and install in electronic media. The Licensee may not modify or change the specified PMS Colors used in the Mark as follows: PMS 130/Yellow, PMS 185/Red, and PMS 2735/Blue. The Mark should appear in the four PMS (or PROCESS equivalent) colors specified or Black and White (Greyscale). No other color or tint combinations are acceptable.

C. Restrictions

The Mark cannot be used in for-profit commercial ventures, such as affinity cards (for example, Visa/Mastercard). Such commercial ventures violate this agreement and can result in the decision to curtail the winning community's further use of the Mark.

The Agreement does not authorize the Licensee to alter the Mark in any way or to use it in a manner which would reflect poorly on APA or the community.

The Mark must be used as designed and must include the year in which the LICENSEE was selected as one of the 100 BEST COMMUNITIES FOR YOUNG PEOPLE by APA. APA has the right to void the License Agreement if Licensee is found to have modified or broken-up components within the Mark live area.

D. Inspection

LICENSEE shall supply LICENSOR with a sample of any advertising and solicitations, and samples of any website display in which the MARK will appear prior to their use and/or distribution to the public. LICENSEE further agrees to supply LICENSOR with samples of any changes in the use or appearance of the MARK in connection with the advertisements or solicitations or website displays already approved by Licensor prior to their use or distribution to the public. LICENSEE acknowledges LICENSOR's right to review and disallow any and all advertising and/or promotional materials bearing the MARKS before and after publication and distribution.

LICENSEE agrees not to use or distribute to the public any proposed advertising and solicitations or website displays bearing the MARK or any previously approved advertising and solicitations or website displays with changes in the use or appearance of the MARK until the LICENSOR approves the advertising and solicitations or website displays. LICENSOR's approval of the advertising and solicitations or website displays shall be in its reasonable discretion and shall not be unreasonably withheld.

3. Ownership of Marks

LICENSEE acknowledges and agrees that the MARK and the goodwill associated therewith are the sole and exclusive property of the LICENSOR and that all use of the MARKS by LICENSEE shall inure to the benefit of and be on behalf of LICENSOR. LICENSEE further acknowledges and agrees that nothing in this Agreement shall give LICENSEE any rights, title, or interest in and to the MARKS other than the right use the MARKS in accordance with this Agreement. LICENSEE will not at any time do, or knowingly permit to be done, any acts or things which would or could affect the validity of the MARKS.

4. Licensee Responsibilities

Upon request, Licensee agrees to provide APA with information on where the MARK will appear including the uniform resource locators (URL) where Licensee will display the Mark online. If the URL changes, the Licensee will notify APA of the new URL and of the URL of the web site that will no longer display the logo, if appropriate.

5. APA Responsibilities

APA will maintain the technology to ensure that the online Mark clicks to a 100 Best Communities for Young People section of the AmericasPromise.org web site.

6. Term, Suspension and Termination

A. Term

The license is for a term of five years commencing on the date the license is executed by APA. The term of the License is renewable with the written consent of LICENSOR.

B. Suspension and Termination

This Agreement and the license may be suspended by APA in its sole discretion if there are substantial questions raised regarding the Licensee's use of the Mark or the appropriateness of the Mark given previously unanticipated circumstances, particularly as they relate to the well-being of the communities' youth. APA may terminate this Agreement upon ten days notice if licensee violates any terms of the Agreement, is declared insolvent or bankrupt, or in any way conducts themselves in a manner inconsistent with the objectives of the 100 BEST COMMUNITIES FOR YOUNG PEOPLE and detrimental to the communities' young.

C. Responsibilities upon Suspension and Termination

The Licensee agrees to remove the MARK immediately from all electronic media, to discard promptly all materials bearing the MARK, and cease future use of the MARK.

7. Indemnification

The Licensee agrees to indemnify and hold APA harmless against any loss, damage or expense, including reasonable attorney's fees, arising out of any third party claim alleging misuse by Licensee, or of any violation of the terms and conditions of this Agreement.

8. Policing

Licensor agrees that it will police infringements of the Licensed Mark that are brought to its attention. Licensee agrees that it will cooperate with Licensor in preventing, enjoining, or prosecuting any infringements of the Licensed Mark. If Licensor elects not to bring action against any alleged infringer of the Licensed Mark, Licensee shall have the right to initiate infringement proceedings at its own expense, in its name and that of the Licensor. Licensor agrees that it will cooperate with Licensee in any such suit, in any reasonable manner requested by Licensee, at Licensee's expense.

9. Limitation of Liability

Licensee agrees that it will not sue APA for monetary damages on any matter concerning this Agreement.

10. Entire Agreement/Modifications

This agreement is not valid until countersigned by an authorized representative of APA. APA may modify this Agreement from time to time. APA shall provide written notice of any modification to Licensee and Licensee shall be deemed to have consented to the modification if Licensee continues to use the Mark following receipt of the notice.

LICENSEE (Organization):

Name of License Contact: _____

Title: _____

Street Address: _____

City: _____ **State** _____ **Zip:** _____

Email: _____

Website: _____

Phone No.: _____ **Facsimile No:** _____

Signature: _____ **Date:** _____

America's Promise—The Alliance for Youth

909 N Washington Street, Suite 400

Alexandria, VA 22314

Name: _____

Title: _____

Email: _____

Phone No.: _____ **Facsimile No:** _____

Signature: _____ **Date:** _____

RESOLUTION 2008-42

WHEREAS, in 1997, General Colin Powell founded the America's Promise Alliance for the purpose of improving the well being of the youth of America; and

WHEREAS, In 2005, America's Promise Alliance and their partners launched a "100 Best Communities for Young People" which recognizes local communities for the outstanding and innovative work being done to help young people succeed; and

WHERE, on January 18, 2008, the City of Grand Island received notification that it was chosen as one of the "100 Best Communities for Young People" in the nation; and

WHEREAS, as one of the benefits of receiving this award is the opportunity to use the "100 Best" official seal provided by America's Promise Alliance on media announcements; and

WHEREAS, in order to use the "100 Best" official seal, the City of Grand Island is required to enter into a license agreement with America's Promise Alliance; and

WHEREAS, a proposed License Agreement between the City of Grand Island and America's Promise Alliance authorizing the use of the "100 Best" Seal has been reviewed by the City Attorney's office.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the updated License Agreement by and between the City and Grand Island and America's Promise Alliance authorizing the use of the "100 Best" Seal is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, February 12, 2008.

Margaret Hornady, Mayor

Attest:

Approved as to Form	☐ _____
February 7, 2008	☐ City Attorney

RaNae Edwards, City Clerk