



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#18-0093

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: March 6, 2018

TITLE: Motion to Approve the Acceptance of Baseball Tomorrow Fund Grant
Funding in the Amount of \$2,500 After the Fact

Recommendation

It is recommended that the City Commission approve a motion authorizing the City Manager to accept a Baseball Tomorrow Fund Grant and to execute any documents associated with the acceptance of these funds after the fact.

Background

The Baseball Tomorrow Fund (BTF) supports programs to increase youth participation in baseball and softball. Grant funds are awarded for expenditures to benefit such programs including equipment, uniforms, and training materials. Grant funds were used to benefit the baseball program at Carter Park. The grant funds were used to purchase: gloves, bats, equipment bags, batting tees & nets and scorebooks.

After having learned that the City was pre-approved to receive grant funds to support its baseball programming in conjunction with the BTF/Miami Marlins Equipment Day, staff provided BTF with the requested necessary supplemental information. Staff was advised of the approval of the grant on November 3, 2017 and subsequently received the grant funds in the amount of \$2,500. Staff was advised to follow the proper grant procedures in future.

The City Attorney's Office advises against ratifying this letter of agreement and recommends returning the \$2,500 to the grantor for the following reasons:

1. A staff member acted *ultra vires* (beyond his authority) in executing the letter of agreement with the Baseball Tomorrow Fund.
2. The City Attorney's Office has not found the Baseball Tomorrow Fund to be a legal entity. (The City's Miscellaneous Receipt shows that the funds were received from Baseball Industry Growth Fund, LLC/Baseball Tomorrow Fund. Baseball Industry Growth Fund, L.L.C., is a Delaware limited liability company.)

3. The City Attorney's Office was not asked to review the letter of agreement prior to its execution.

4. The letter of agreement contains the following provision:

The Recipient agrees to defend, indemnify and hold harmless BTF, its members, employees, officers, and agents from and against any and all claims arising out of or in connection with the purchase and use of equipment, services or supplies and the use of the youth baseball and/or softball programs.

This provision would be violative of the "pledging credit" clause of the Florida Constitution and pose the risk of an incalculable liability.

5. The letter of agreement holds the City to "all applicable guidelines, grant requirements and policies of the BTF, a copy of which is attached." These have not been provided to the City Attorney's Office for review and are not attached to the CAM for the City Commission's review and approval.

The City Manager understands the City Attorney's concerns but does not agree that they are significant to require return of the grant funds.

Resource Impact

There will be a positive fiscal impact to the City in the amount of \$2,500. Funds are being appropriated contingent upon the approval of the Consolidated Budget Amendment CAM 18-0089.

Source:

| ACCOUNT NUMBER | INDEX NAME (Program) | CHARACTER CODE/ SUB-OBJECT NAME | AMENDED BUDGET (Character) | AVAILABLE BALANCE (Character) | AMOUNT |
|----------------------|------------------------|---|----------------------------|-------------------------------|------------|
| 129-GBASEBALL18-F734 | Baseball Supplies 2018 | Intergovernmental Revenue/ The Baseball Tomorrow Fund | \$0 | \$0 | \$2,500.00 |
| TOTAL AMOUNT → | | | | | \$2,500.00 |

Use:

| ACCOUNT NUMBER | INDEX NAME (Program) | CHARACTER CODE/ SUB-OBJECT NAME | AMENDED BUDGET (Character) | AVAILABLE BALANCE (Character) | AMOUNT |
|----------------------|------------------------|--|----------------------------|-------------------------------|------------|
| 129-GBASEBALL18-3901 | Baseball Supplies 2018 | Services & Materials / Athletic Equipment and Supplies | \$0 | \$0 | \$2,500.00 |
| TOTAL AMOUNT → | | | | | \$2,500.00 |

Strategic Connection:

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Public Places Cylinder of Excellence, specifically advancing:

- Goal 3: Be a community that finds opportunities and leverages partnerships to create unique, inviting, and connected gathering places that highlight our beaches, waterways, urban areas and parks.
- Objective 1: Improve access to and enjoyment of our beach, Riverwalk, waterways, parks, and open spaces for everyone.
- Goal 4: Be a healthy community with fun and stimulating recreational activities for our neighbors.
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This item advances the *Fast Forward Fort Lauderdale Vision Plan 2035: We are Here*.

Related CAM

18-0089

Attachment

Exhibit 1 – Executed Letter of Agreement

Prepared by: Gina Rivera, Parks and Recreation

Department Director: Phil Thornburg, Parks and Recreation