

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into on the 3 day of December, 2021 (“Effective Date”), by and between the City of Miami, a municipal corporation of the State of Florida (“City”), and the Town Square Neighborhood Development Corporation, a Florida Not For Profit corporation (“TSNDC”) (collectively, the City and the TSNDC shall be referred to as the “Parties” and individually as “Party”).

RECITALS

WHEREAS, the Florida Department of Transportation (“FDOT”) has jurisdiction over I-395 and is undertaking a project which includes the development of a bridge over Biscayne Boulevard (sometimes referred to as the “Signature Bridge”), community enhancements located underneath I-395 (the “Underdeck”), and highway capacity improvements that are intended to improve safety and mobility; and

WHEREAS, the City and the FDOT entered into that certain Memorandum of Understanding, dated April 4, 2019, to outline their expectations as to their respective roles and responsibilities regarding the design, maintenance and operation of the Underdeck; and

WHEREAS, the City and the FDOT subsequently entered into that certain Second Memorandum of Understanding, dated August 14, 2020 (“MOU 2”); and

WHEREAS, the City and the FDOT intend to create an active environment for the Underdeck, consistent with a consensus plan which would represent the agreed-upon conceptual plan for the Underdeck as agreed and defined within said MOU 2 (“Consensus Plan”); and

WHEREAS, the City has engaged the community and stakeholders to work cooperatively toward these goals in furtherance of the Underdeck project; and

WHEREAS, one of the groups from which the City has received input is the adhoc Underdeck Advisory Board (“UAB”) established by concerned community stakeholders; and

WHEREAS, the UAB secured a Knight Foundation matching Grant to engage community members in the planning process; and

WHEREAS, as evidenced by the award letter in Appendix 2, the grant is a \$200,000 match grant and the match is being raised by the USAG referred to below; and

WHEREAS, the UAB sought a participating non-profit organization to house the funding and incubate the UAB through the planning process; and

WHEREAS, TSNDNC was represented on the UAB and was an entity willing to serve as the non-profit organization furthering the goals of the UAB through the planning process of the Underdeck; and

WHEREAS, the TSNDNC Board Meeting approved on 14 day of August, 2020 the formation of the Underdeck Subcommittee Advisory Group (hereinafter referred as “USAG”) to promote and engage the community in support of the Underdeck project; and

WHEREAS, the UAB secured a grant agreement in favor of TSNDNC from the John S. and James L. Knight Foundation to engage community members in the planning process (“Grant”); and

WHEREAS, as evidenced by the award letter attached and incorporated as Appendix 2, the Grant is a two hundred thousand dollar (\$200,000) match grant and the match is being raised by the USAG; and

WHEREAS, the parties intend to work in good faith to develop a mutually agreeable framework for the design, implementation, operation, maintenance, programming and management of the Underdeck under a to-be-formed not-for-profit corporation (hereinafter

referred to as the “TSNDC Assignee”) in accordance with Section 15 of this MOU All references herein to “TSNDC” shall be deemed to refer to TSNDC Assignee from and after such assignment; and

WHEREAS, the Parties understand that there are various obligations and financial commitments necessary to operate a world class Underdeck, and that maintenance funds are far more difficult to secure in light of the recent global pandemic. Accordingly, it is the intent of the Parties to explore the methods of sharing the responsibility to maintain and operate the Underdeck, and to negotiate and develop a mutually agreeable formal agreement to carry out the provisions of this MOU subject to the terms and conditions contained herein (“Management Agreement”);

NOW, THEREFORE, the Parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and made a part hereof.

2. Stakeholder Engagement. Appendix 1, attached and incorporated hereto, details the manner in which the parties anticipate stakeholders will be engaged and will contribute through the USAG and how USAG will collaborate with the City. Such Appendix 1 may be modified by mutual agreement of the parties, subject to the terms contained herein. The recommendations and deliverables that emerge from this MOU will need to be finalized and transmitted to the City for approval by the City's governing body (the “City Commission”). The final recommendations will also be subject to approval by the USAG Executive Committee. As noted in Appendix 1, the Executive Committee will be made up of:
 - The Chair of TSNDC or a person designated by such Chair
 - The Chair of the USAG
 - One Designee each from City Commission Districts 1, 2 and 5
 - One Designee from the City of Miami Mayor
 - One Designee from the City Manager
 - USAG Working Group Chairs
 - One Additional representative from each working group selected by their membership.

3. City Participation. Beyond participating in the Executive Committee, the City Manager may designate an appropriate City administration representative(s) to participate in each of the five working groups, as shown in Appendix 1 and City Commission may identify up to five (5) individuals to participate in the working groups that will be established by USAG.

4. Governance, Project Management, and Strategic Oversight. The Parties intend to develop an operational management plan based upon a mutually agreeable governance model with the goal of negotiating and executing the Management Agreement, subject to City Commission approval, within ninety (90) days after the execution of a Memorandum of Lease Agreement between the City and the FDOT.

5. Construction, Operations, & Maintenance. The Parties shall collaborate in the review and implementation of a coordinated plan that will identify the proposed funding streams to cover the costs of capital, development, operation and maintenance of the Underdeck and its components with the goal of implementing the Consensus Plan.

6. Stakeholder Awareness, Education, & Engagement. USAG hereby agrees to disseminate information, promote, identify, and engage, including but not limited to, community stakeholders, City agencies, homeowners associations, and advisory groups to actively participate in project events and in the USAG board meetings, or the appropriate subcommittees, to ensure wide stakeholders and community representation in the development of the Consensus Plan and in any activities related to the Underdeck. USAG shall also be responsible for the dissemination of information to the City related to the progress of USAG's efforts and responsibilities stipulated under in this section and MOU. The engagement of such civic-minded individuals and/or organizations shall also include efforts to raise funds from sponsorships, philanthropic contributions, and donations to help support the maintenance and operation of the Underdeck.

7. Funding Strategies. Based upon the cost estimates of the Consensus Plan, the Parties will collaborate to define the capital, development, operational, and maintenance budgets to guide minimum funding requirements. The Parties agree to identify strategies to obtain potential funding opportunities, including, but not limited to: (1) government funding streams and similar revenue

sources, such as special taxing districts; (2) designation of revenue-generating parcels within the project for potential proposers to operate and develop permanent and temporary retail; (3) activating open space for revenue-driven programs such as paid recreation, special events, venue rentals, health and wellness programs, etc.; (4) funds from sponsorships, philanthropic contributions, and donations, as described in Section 5 above; and (5) grants from local, state and federal government agencies.

8. Branding. The Parties agree to implement and develop a brand name strategy with participation from the community and stakeholders to prepare for recommendation to the City Commission a new name for the Underdeck no later than February 28, 2022. The USAG, at TSND's sole expense, shall engage a branding/marketing firm that will lead the naming and branding process. The final selected name is subject to the approval of the City Commission.

9. Term. The term of this MOU shall commence on the Effective Date and shall continue until July 1, 2022, unless otherwise extended or earlier terminated as provided in this MOU. The Parties understand that time is of the essence and, thus, intend to accomplish the goals of this MOU expeditiously.

10. Termination. This MOU may be terminated unilaterally and at any time by either of the Parties with thirty (30) days' prior written notice to the other Party. Upon termination by either Party, the Parties shall no longer have any obligations to each other under this MOU, except as otherwise provided herein.

11. Designated Representatives. In connection with the matters addressed in this MOU, the City Manager or designee, will serve as the designated representative for the City; and Lisa Martinez, will serve as designated representative for USAG. All official communications concerning this MOU must include the representatives indicated in Section 13 below, with each of these representatives responsible for the further dissemination of information to other members of their respective teams as they deem appropriate.

12. Force Majeure. In the event that either Party hereto is prevented from fully and timely performing any of its obligations hereunder due to acts of God, strikes or lock-outs, other industrial disturbances, acts of the public enemy, laws, rules and regulations of governmental authorities,

wars or warlike action (whether actual, impending or expected, and whether de jure or de facto), arrest or other restraint of government (civil or military), blockades, insurrections, acts of terrorists or vandals, riots, epidemics, pandemics, landslides, sinkholes, lightning, hurricanes, storms, floods, washouts, fire or other casualty, condemnation, civil commotion, explosion, breakage or accident to equipment or machinery, any interruption of utilities, confiscation or seizure by any government or public authority, accident, repairs or other matter or condition beyond the reasonable control of either party (collectively called "Force Majeure", financial inability to perform hereby expressly excluded), such party, upon receipt of written notice provided to the other party within ten (10) business days of the occurrence of a Force Majeure event, shall be relieved of the duty to perform such obligation until such time as the Force Majeure has been alleviated; provided, that upon the removal of the Force Majeure, the obligation prevented from being fulfilled will be automatically reinstated without the necessity of any notice whatsoever.

13. Notices. All notices or other communications which may be given pursuant to this MOU shall be in writing and shall be delivered by personal service or by certified mail addressed to the applicable Party at the addresses indicated herein. Such notices shall also be sent via electronic mail return receipt requested to the email addresses indicated herein. All such notices shall be deemed duly given (a) the day on which personally served when delivered personally or by prepaid overnight courier, with a record of receipt or (b) the third day after mailing if mailed by certified mail, return receipt requested.

To the CITY:

City Manager
City of Miami
444 SW 2 AVE
10th Floor
Miami, Florida 33130
Email: anoriega@miamigov.com

With copies to:

Director
Office of Capital Improvement Program
City of Miami
444 SW 2 AVE
8th Floor
Miami, Florida 33130
Email: AnCarrasquillo@miamigov.com

Director
Department of Real Estate and Asset Management
City of Miami
444 SW 2 AVE
3rd Floor
Miami, Florida 33130
Email: shollander@miamigov.com

City Attorney
Office of the City Attorney
City of Miami
444 SW 2 AVE
9th Floor
Miami, Florida 33130
Email: VMendez@miamigov.com

To the TSNDC/USAG:

Aric Kurzman
1300 Biscayne Blvd
Miami, Florida 33132
Attn: General Counsel
Email: akurzman@arshtcenter.org

With copies to:

Lisa Martinez
457 SW 27 Road
Miami, Florida 33129
Email: lisa@lmgenuinesolutions.com

Stearns Weaver Miller Weissler Alhadeff & Sitterson,
P.A. 150 W. Flagler Street, Suite 2200
Miami, Florida 33130
Attn: Alan H. Fein, Esq.
Email: afein@stearnsweaver.com

14. Entire Memorandum. This MOU and its Appendices constitute the entire agreement between the Parties with respect to the subject matter hereof, and may be amended or modified only in writing executed by each Party.

15. Binding Agreement; Assignment. This MOU shall be a binding agreement of the Parties, subject to all applicable laws as well as any associated agreement(s), whether existing or as may be entered into, between the City and FDOT and/or other governmental agencies that are required to effectuate the City obligations hereunder, and may not be assigned by either Party without the prior written consent of the other Party; provided, however, that TSNDC may assign, without

recourse, all its rights and obligations under this MOU to the TSNDC Assignee upon written notice and acceptance by the City Manager, which acceptance shall not be unreasonably withheld or delayed, and subject to City Commission approval. Upon such assignment, TSNDC shall be relieved of all of its obligations under this MOU, the TSNDC Assignee shall replace TSNDC for all purposes hereof, and the City shall look only to the TSNDC Assignee for performance hereunder.

16. Indemnification. TSNDC shall indemnify, hold harmless, save and defend the City, its officers, agents, directors, representatives, and employees (the "Indemnitees") from and against all claims, actions, liabilities, losses, costs (including reasonable attorney's fees), or judgments to the extent arising out of, resulting from, or in connection with: (i) the execution, performance or non-performance of this MOU, whether it is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the Indemnitees, or any of them; or (ii) TSNDC's negligence, intentional misconduct or failure to comply with any of the provisions contained herein, or to conform to statutes, ordinances, or other rules, conditions of approval, permits or regulations or requirements of any governmental authority, local, federal or state, in connection with the performance of this MOU ("Liabilities"). As used herein, "Liabilities" shall not include any loss, liability, damage or expense incurred or sustained by an Indemnitee solely as a result of any recklessness, intentional misconduct or breach of this Agreement by the City or such Indemnitee.

The indemnification provided above shall obligate TSNDC to defend, at its own expense, to and through appellate, supplemental or bankruptcy proceedings, or to provide for such defense, at City's option, any and all Liabilities which may be brought against the City. In the event that any action or proceeding is brought against City by reason of any such claim or demand, TSNDC shall, upon written notice from City, resist and defend such action or proceeding by counsel satisfactory to City. The TSNDC expressly understands and agrees that any insurance protection required by this MOU or otherwise provided by TSNDC shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnitees as herein provided.

Granting of this MOU is freely acknowledged by the TSNDC as good and sufficient independent consideration for this Indemnification. This Indemnification provision shall survive

the expiration, termination, or cancellation of this MOU and shall continue in effect until the expiration of the corresponding statute of limitations or the tolling thereof.

Additionally, TSNDNC shall require any contractors utilized by TSNDNC in furtherance of the subject matter set forth in this MOU to indemnify, hold harmless, save and defend the Indemnitees from and against all claims, actions, liabilities, losses, costs (including reasonable attorney's fees), or judgments to the extent arising out of, resulting from, or in connection with such contractors' action, negligence, recklessness, omission, or wrongful misconduct in connection with this MOU or the agreement between TSNDNC and such contractors.

17. Insurance. TSNDNC shall furnish the City with a certificate of insurance pursuant to Appendix 3, attached and incorporated hereto. TSNDNC shall further require its contractors performing activities undertaken in relation to this MOU to obtain and provide to the City a certificate of insurance in accordance with Appendix 3.

18. Due Authorization. Each Party represents and warrants that its signatories below are duly authorized by such Party to enter into this MOU on behalf of said Party. For the avoidance of doubt, USAG is not a separate entity, but rather, is a subcommittee of TSNDNC. Accordingly, any obligation of USAG contained herein shall be an obligation of TSNDNC.

19. Controlling Law and Attorney's fees. This MOU is governed by and shall be interpreted and enforced under the laws of the State of Florida. Venue for any actions or suits arising from or related to this MOU shall be in the Circuit Courts of Miami-Dade County, Florida. In the event that any cause of action, claim, or controversy should arise as a result of this MOU, each Party shall be responsible for its own attorney's fees and costs, through the appellate level.

20. Severability; Headings. If any term or provision of this MOU or the application thereof to any Party shall to any extent be invalid or unenforceable, the remainder of this MOU, or the application of such term or provision shall not be affected thereby. The headings in this MOU are for convenience only and are not a part of this MOU and do not in any way define, limit, describe, or amplify the terms and provisions of this MOU or the scope or intent thereof.

21. Counterparts; Electronic Signatures. This MOU may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and

the same instrument. Facsimile, .pdf and other electronic signatures to this MOU shall have the same effect as original signatures.

22. No Third-Party Beneficiaries. No provision of this MOU shall, in any way, inure to the benefit of any third parties so as to constitute any such third party a beneficiary of this MOU, or of anyone or more of the terms hereof, or otherwise give rise to any cause of action in any party not a party hereto.

23. Compliance with Laws and Requirements. Each Party shall comply with all applicable federal, state, and local laws, rules, regulations, codes, ordinances, resolutions, administrative orders, permits, policies, procedures and orders (“Applicable Laws”) that govern or relate to the respective Parties’ obligations and performance under this MOU, all as they may be amended from time to time. Notwithstanding any language contained in this MOU to the contrary, TSNDC expressly agrees that any obligations of the City contained herein shall be subject to all requirements as may be imposed by FDOT, FHWA, or other applicable governmental entities in connection with the Underdeck project as well as subject to all Applicable Laws, including, without limitation, the City’s Procurement Ordinance. TSNDC recognizes that any future agreements pertaining to the management and operation of the Underdeck as may be entered into by the City must comply with the City’s Procurement Ordinance and other Applicable Laws. For the avoidance of doubt, the City is under no obligation to enter into the Management Agreement with, and/or grant any bid waiver to, TSNDC or any other entity, and the City expressly reserves all rights concerning the same. All references to City Commission approval identified in this MOU shall mean approval by the City Commission at the City Commission’s sole and absolute discretion, which may be withheld for any or no reason whatsoever.

24. Public Records. TSNDC understands that the public shall have access, at all reasonable times, to all documents and information required to be provided pursuant and subject to the provisions of Chapter 119, Florida Statutes. Accordingly, TSNDC agrees to allow access by the City and the public to all documents subject to disclosure under applicable laws.

25. City Rights as Sovereign. Notwithstanding any provisions contained in this MOU to the contrary, the City retains all of its sovereign prerogatives and rights as a municipality under all

applicable laws, including, but not limited to, any governmental approvals arising from the planning, design, construction, development and operation of the Underdeck project. Nothing in this MOU shall be construed as a waiver or limitation of the conditions and limitations of Florida Statutes, Section 768.28.

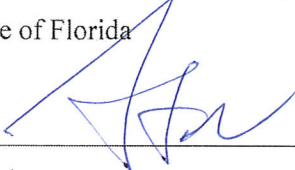
[signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the 3 day of December, 2021.

FOR CITY:

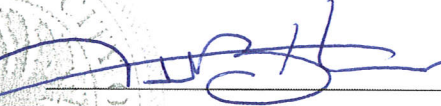
ATTEST:

CITY OF MIAMI, a municipal corporation
of the State of Florida


By: 
Arthur Noriega V
City Manager

APPROVED AS TO INSURANCE
REQUIREMENTS:

APPROVED AS TO FORM AND
CORRECTNESS:

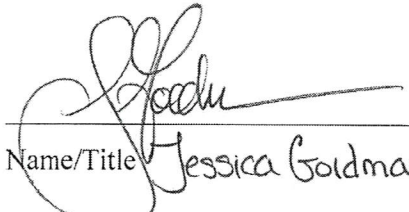
By: 
Gomez, Frank
Ann-Marie Sharpe, Director
Risk Management Department

Digitally signed by
Gomez, Frank
Date: 2021.11.10
14:38:59 -05'00'

By: Barnaby L. Min o/b/o
Victoria Méndez
City Attorney Matter 21-1995
TSNDC MOU 

FOR TSNDC:

TOWN SQUARE NEIGHBORHOOD
DEVELOPMENT CORPORATION,
a Florida Not For Profit corporation,

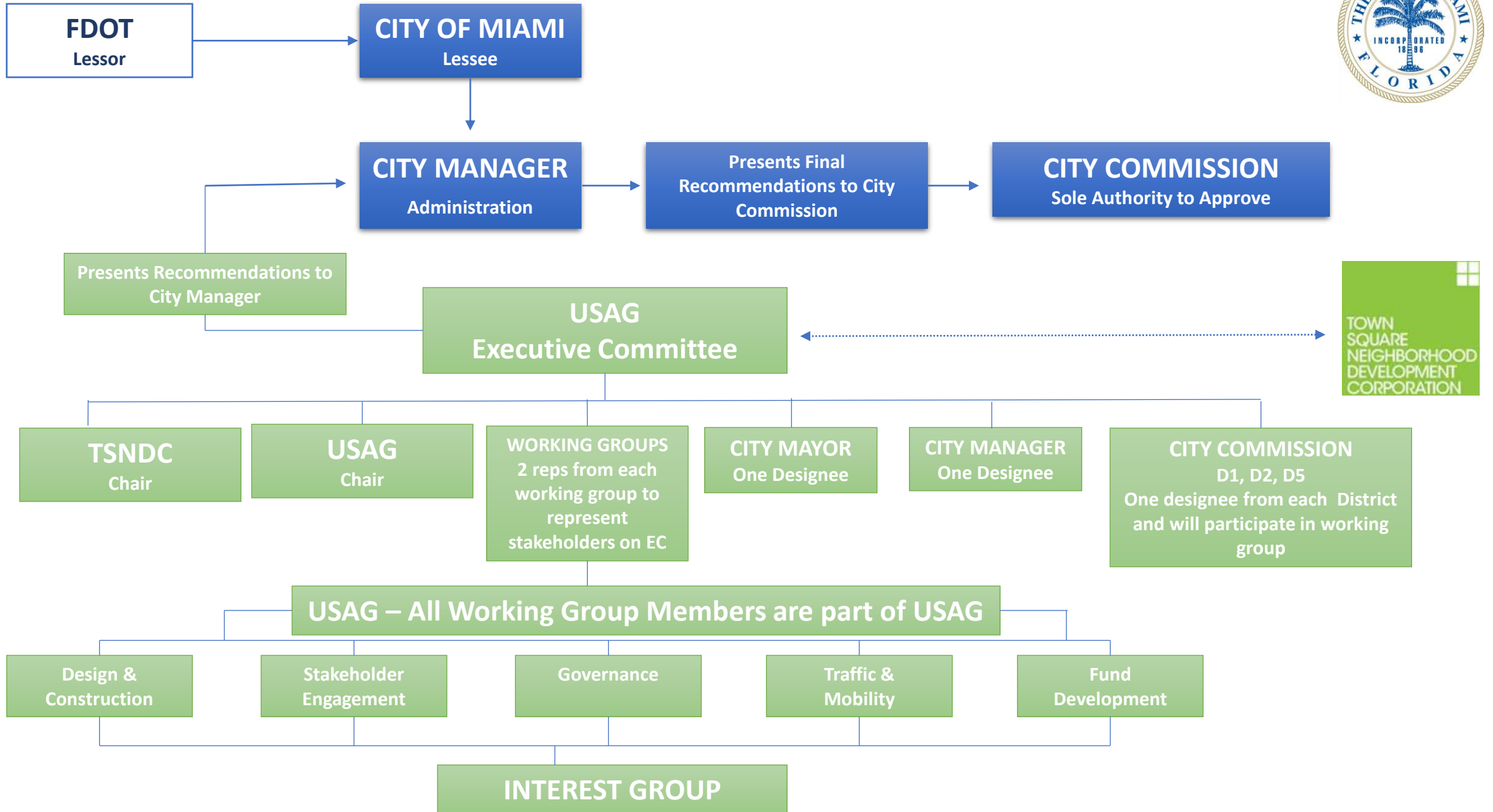
By: 
Name/Title Jessica Goldman Srebnick, Chair, TSNDC

Appendix 1 – Stakeholder Engagement

Appendix 2 – Grant

Appendix 3 – Insurance Requirements

APPENDIX 1



November 2, 2020

Ken Harris
Town Square Neighborhood Development Corporation (aka TSNDK)
150 West Flagler Street
Ste 2200
Miami, FL 33130

Dear Mr. Harris:

The Trustees of the John S. and James L. Knight Foundation have approved a \$200,000 grant to Town Square Neighborhood Development Corporation (aka TSNDK).

The grant is to be used as follows: To support community engagement in the planning and design of the Underdeck, a mile-long linear park created by I-395's redesign.

The terms and conditions of this grant are contained in the attached grant agreement. Grant payment according to the terms outlined will be released within 60 days of Knight Foundation receiving the signed agreement.

The Relationship Manager for this grant, Raul Moas (moas@kf.org), is your primary point of contact and will answer any questions you may have. All reports should be uploaded to our Fluxx Grantee Portal at <https://knight.fluxx.io>.

Before you take steps to publicize this grant, please review our communications resources and guidelines at www.knightcommunications.org.

This grant is tangible recognition of your services to Miami, a Knight community. Thank you.

Sincerely,

AI: NC

Enclosures

C: Jodi Farrell, Town Square Neighborhood Development Corporation (aka TSNDK)
Ken Harris, Town Square Neighborhood Development Corporation (aka TSNDK)

**JOHN S. AND JAMES L. KNIGHT FOUNDATION
GRANT AGREEMENT**

ORGANIZATION: Town Square Neighborhood Development Corporation (aka TSNDC)

GRANT ID: GR-2020-61885

PURPOSE: To support community engagement in the planning and design of the Underdeck, a mile-long linear park created by I-395's redesign.

TERMS: November 1, 2020 to October 31, 2022

AMOUNT: \$200,000

A C T I V I T I E S

The Underdeck will build community, bridge neighborhoods and cultural assets in downtown Miami, and reconnect Overtown to the heart of downtown Miami. A volunteer group of business leaders and private and non-profit stakeholders has been working in partnership with the City of Miami for two years to ensure this public space's success. With design concepts finalized and a July 2021 deadline for a governance plan, formalizing this effort now is essential. This includes bringing on a project manager to quarterback the initiative, increasing community input, determining the appropriate governance model, and creating fundraising and revenue generation strategies for the Underdeck's eventual programming, operations and maintenance.

O B J E C T I V E S

This planning grant will create a community-driven, public-private partnership between the City of Miami and TSNDC to ensure the Underdeck, a mile-long linear public space created via I-395's redesign due for completion in 2024, becomes a defining fulcrum of Overtown and downtown Miami.

The description of your organization's activities and your expectations for the outcomes of the funded project are listed above. Your organization agrees that the results described are achievable and represent the terms against which your organization will judge the success of the project.

M O N I T O R I N G

- Any evaluation reports relating to this grant will be submitted to the Knight Foundation.

- A master plan that is reflective of the needs and priorities of the diverse constituencies that are most proximate to the Underdeck.

COMMUNICATIONS

You agree to follow the communications guidelines at <http://knightcommunications.org> and to clear with communicationsdirector@knightfoundation.org any content that mentions the Foundation. Please also follow us on Twitter at @knightfdn.

You will recognize Knight Foundation for its Cumulative Giving in all future donor recognition, of whatever type, consistent with your donor recognition protocols. You shall provide the text of any proposed donor recognition of Knight Foundation to Knight Foundation for its prior written approval. You shall not give greater recognition to any donor that has given Grantee the same amount as, or less than, Knight Foundation's Cumulative Giving to Grantee. Cumulative Giving includes all gifts from Knight Foundation to Grantee as of the date of the donor recognition, including the amount of this grant.

If this grant is to fund a program, center, etc. whose name (the "Name") includes reference to Knight, the Knight Foundation, its founders John S. Knight and/or James L. Knight, or to which Knight Foundation has previously agreed to a specific naming recognition or naming convention, you must obtain prior written permission from Knight Foundation for any and all changes including any derivatives or abbreviations of said Name.

BASIC GRANT CONDITIONS

1. Grantee will use the funds for the purposes described in this Agreement. Any alternative use of funds must be authorized in advance in writing by Knight Foundation. If the funds are not used in accordance with the terms outlined in the Agreement, the Grantee must repay those funds to the Foundation.
2. Changes to any specific line item in the enclosed budget greater than 5% should be approved in writing by Knight Foundation prior to making the change.
3. Significant changes in project or organizational leadership should be reported to Knight Foundation within 30 days of the change.
4. As required by IRS rules, Knight Foundation funds will not be used: a) to carry on propaganda or otherwise attempt to influence legislation; b) to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; c) to make a grant to any individual for travel, study or other similar purposes or to make a sub-grant to any other

organization unless the grant complies with Section 4945(d)(3) or (4) of the Internal Revenue Code and the grant has been detailed in the approved grant plan and budget; or (d) to undertake any activity for any purpose other than the charitable and educational purposes specified in Section 170(c)(2)(B) of the Internal Revenue Code.

5. Knight Foundation requires its Grantees to adhere to ethical standards, in addition to complying with all applicable laws and regulations. If Knight Foundation, at its sole discretion, determines these standards have not been met, it reserves the right to suspend or terminate the grant agreement.
6. If the Knight grant is for re-granting to a news or media organization, then that organization must agree to post the same information with respect to its funding sources on its website.

REPORTS AND PAYMENTS

1. The first payment of \$100,000 will be mailed within 60 days of Knight Foundation receiving this signed grant agreement and proof of \$50,000 towards a 1:1 match.
2. A progress report, both narrative and financial, an evidence of condition submitting a filing of a 990 tax return, and evidence of \$150,000, towards a 1:1 match, is due October 15, 2021.
3. The second payment of \$100,000 will be released within 60 days of receiving all requirements, deemed satisfactory solely at the Foundation's discretion.
4. A final report, both narrative and financial, is due November 30, 2022.
5. Login to the Fluxx Grants Portal at <https://knight.fluxx.io> to submit your reports online. Click on the green "+" sign to upload your reports. Click on the "Submit" Link to let Knight know you have submitted your requirement. These reports include both financial and program information using online forms. The program report must include a narrative account of the use of grant funds and progress in achieving the purposes of the grant, including grant outcomes. The online report forms are available on Knight's Grantee Portal. Copies of the reports will be provided to your Program Director by Grants Administration. The Director will review your report and provide feedback. Any questions about the grant should be directed to the Program Director.
6. During the term of the grant, organizations audited by an independent auditing firm should submit the audit results including the management letter within 90 days of completion of the audit report.

7. Upon the Foundation's request the Grantee will provide all information relating to or developed under the grant.
8. The Foundation may withhold future payments at the Foundation's sole discretion if it has not received all required reports and/or the reports do not meet the Foundation's reporting requirements or the grant fails to achieve satisfactory progress.

RETURN OF GRANT FUNDS ON CHANGE IN PURPOSE:

If there is a "Change in Purpose" (as hereinafter defined), upon the written request of Knight Foundation, Grantee shall (and shall cause the Fiscal Agent, if applicable, to), at Knight Foundation's sole discretion, promptly either (i) reassign to another charitable organization acceptable to Knight Foundation, or (ii) return to Knight Foundation, all grant funds that were not properly expended (in accordance with the approved project budget) prior to the first Change in Purpose subsequent to the date hereof. For purposes of this grant agreement, the term "Change in Purpose" means (i) any material change in the current charitable purpose of the Grantee as set forth on Annex I hereto, as determined by Knight Foundation in its sole discretion, including but not limited to any change in purpose or activities communicated by the Grantee to the IRS by means of a letter, Form 990 filing or other communication, (ii) at the sole discretion of Knight Foundation, any change required to be reported to Knight Foundation pursuant to item 3 of "Basic Grant Conditions," above, and/or in circumstances as contemplated by "Purpose" above, (iii) any winding up of the Grantee's activities or operations, (iv) any combination of the Grantee with any other charitable or other organization, whether by means of merger, transfer of assets or other reorganization event, and/or (v) any public announcement by Grantee or any of its affiliates with respect to any of the foregoing events. Grantee shall promptly notify Knight Foundation, in writing, upon the occurrence of any circumstance, event or development that could reasonably be expected to result in a potential Change in Purpose.

INTELLECTUAL PROPERTY:

Grantee and the Foundation agree that all intellectual property (IP) rights (including copyright, patent, and any other rights) in materials arising out of or resulting from Grantee's use of the grant funds or any earning thereon (the "Public Materials") shall be owned by Grantee. Grantee acknowledges that the Foundation wishes to ensure the widest possible distribution of the Public Materials and ensure that they are and remain generally available to the public. Accordingly, Grantee hereby grants, and shall ensure that any individuals who have any IP rights in Public Materials shall grant, to the Foundation, under all IP rights of such party, a non-exclusive, transferable, perpetual, irrevocable, royalty-free, paid-up, worldwide, sublicenseable license to use or publish the Public Materials; provided, however, that the Foundation shall not exercise such rights except (a) in connection with the activities of the Foundation, and/or (b) in the event Grantee materially breaches the terms of this Agreement.

Grantee, at the Foundation's request, agrees to execute any additional documents required to affect such license. Upon Grantee's request in writing, the parties shall cooperate to identify whether any particular materials produced by Grantee constitute Public Materials; provided that Grantee and the Foundation

acknowledge that Public Materials shall include all materials required to be developed as described in the applicable grant description.

Exceptions to this clause must be approved by the Foundation in writing. Grantee shall not make available such Public Materials, or any derivative works of the Public Materials, under any other licensing terms, without the Foundation's prior written consent.

TAX-EXEMPT STATUS:

Grantee will maintain its tax-exempt status as a Section 501(c)(3) organization classified as a public charity under Sections 509(a)(1) or (2) current throughout the period of this grant and will comply with all applicable federal and state laws and regulations that govern the use of funds from private foundations to the Grantee organization. This includes but is not limited to the prohibition against activities described in Section 4945(d) of the Internal Revenue Code.

BOOKS AND RECORDS:

Grantee shall maintain its books and records, including an accurate record of the grant received and all expenses incurred under this grant, and retain such books and records for at least four years after completion of the use of this grant. Those records include a general ledger with enough detail to allow tracking of the use of Foundation funds, original invoices, bank statements, copies of checks disbursing grant funds and documentation of the business purpose of each expense.

At the Foundation's request, Grantee shall make its books and records available to the Foundation by permitting reasonable access to its files, records and personnel by the Foundation (or its designated representatives) for the purpose of making financial audits or other evaluations concerning this grant as the Foundation deems necessary. The fees and expenses of such designated representative shall be paid by Knight Foundation.

MANAGEMENT AND INVESTMENT OF FUNDS, EARNINGS, AND APPRECIATION:

All grant funds received, and earnings and appreciation on those funds, shall be invested in a designated account in a bank or investment firm that is a member of either the FDIC or SIPC. The investment will be in accordance with Grantee's governing documents and investment policies so long as they do not conflict with this Agreement, with the laws of the State of Florida, and with Federal laws. Earnings and appreciation on grant funds shall be used solely for the purpose of the Grant. Grantee may not assess an administrative or financial management fee unless agreed to in writing and in advance by the Foundation.

UNEXPENDED FUNDS:

The Foundation reserves the right, in its sole discretion, to discontinue funding if it is not satisfied with the progress of the grant or the content of any required written report. In the event of discontinuation or at the close of the grant, any unexpended funds shall immediately be returned to the Foundation, except where the Foundation has agreed in writing to an alternative use of the unused funds.

ROYALTIES:

Any materials produced by this grant and earnings thereon shall not provide royalties or otherwise inure to the personal benefit of individuals connected with this grant. Grantee shall not engage in any sales of such materials unless it has determined that such sales are substantially related to the charitable and educational purposes of the Grant. Any revenues realized by Grantee or any sub-grantee from any such materials must be used exclusively for this project.

NO-COST EXTENSION:

If needed, Grantee should submit a request for a no-cost extension to the program officer before the end of the grant period. The request should contain the reason for the extension, its length and detail how any unexpended funds would be used.

NO GUARANTEE OF FUTURE FUNDING:

The Grantee acknowledges that the receipt of this grant does not imply a commitment on behalf of Knight Foundation to continue funding beyond the terms listed in this grant agreement.

If you agree to the terms and conditions of this grant agreement, please sign and submit this document via DocuSign to Knight Foundation. Please download a copy of the signed document for your grant files. Grant payment according to the terms above will be released within 60 days of receiving this signed agreement.

Grantee Authorized Signatory:

Type or print name of person signing Agreement

Title

Signature of person signing Agreement

Date

All future correspondence regarding this grant should refer to grant # GR-2020-61885. Please sign and return this document via DocuSign or by emailing it to grants@kf.org.

**JOHN S. AND JAMES L. KNIGHT FOUNDATION
GRANT AGREEMENT
ANNEX I**

GRANTEE: Town Square Neighborhood Development Corporation (aka TSNDC)

GRANT ID: GR-2020-61885

AMOUNT: \$200,000

CONTACT: Lisa Martinez

PURPOSE: To support community engagement in the planning and design of the Underdeck, a mile-long linear park created by I-395's redesign.

CHARITABLE PURPOSE: To help create and sustain a vibrant and attractive urban setting to secure both the Arsht Center's future and that of the surrounding community.



Budget Report Form

Organization Name: Town Square Neighborhood Development Corpora
 Grant Number: Underbridge Planning Projec
 Reporting Period From: 11/1/20 To 10/31/21

- Notes:
 * Include revenues for **THIS PROJECT ONLY** on this page.
 * Cells shaded red signal potential issues with the proposed budget.
 * For multi-year revenue, please submit each year on a separate page.

Project Revenues	Knight Foundation Funds Only				All non-Knight Funds			
	Proposed	Actuals	Variance	%	Proposed	Actuals	Variance	%
Contributed Income								
1. Individual contributions					50,000			
2. Foundation grants	100,000				14,000			
3. Federal government support								
4. Parent organization support								
5. Special events								
6. In-kind contributions					36,000			
7. Other (specify):								
.....								
.....								
.....								
.....								
.....								
Earned Income								
8. Other (specify):								
.....								
.....								
.....								
.....								
.....								
Other Income								
9. Other (specify)								
.....								
.....								
.....								
.....								
Total Revenues:	\$ 100,000				\$ 100,000			

Project Expenses	Knight Foundation Funds Only				All non-Knight Funds			
	Proposed	Actuals	Variance	%	Proposed	Actuals	Variance	%
1. Program salaries and wages (specify):								
.....								
.....								
.....								
2. Administrative salaries and wages (specify):								
.....								
.....								
.....								
3. Consultant/Contract services (specify):								
Project Manager	60,000							
Public Space Consultants	6,600				12,500			
.....								
.....								
4. Employee benefits								
5. Administrative expenses	2,500				2,500			
6. Travel					5,000			
7. Fund raising								
8. Capital expenses								
9. Overhead/indirect (specify):								
.....								
.....								
.....								
.....								
10. Other (specify):								
Legal services					36,000			
PR/Media relations/Community Engagement	12,500				14,875			
Marketing/Graphic design	9,900				12,725			
Architectural Renderings	7,000				5,000			
Misc.					4,000			
National memberships	1,500							
Audit					7,400			
Total Expenses:	\$ 100,000				\$ 100,000			



Budget Report Form

Organization Name: Town Square Neighborhood Development Corpora
 Grant Number: Underbridge Planning Projec
 Reporting Period From: 11/2/21 To 10/31/22

- Notes:
 * Include revenues for **THIS PROJECT ONLY** on this page.
 * Cells shaded red signal potential issues with the proposed budget.
 * For multi-year revenue, please submit each year on a separate page.

Project Revenues	Knight Foundation Funds Only				All non-Knight Funds			
	Proposed	Actuals	Variance	%	Proposed	Actuals	Variance	%
Contributed Income								
1. Individual contributions					122,000			
2. Foundation grants	100,000							
3. Federal government support								
4. Parent organization support								
5. Special events								
6. In-kind contributions					36,000			
7. Other (specify):								
.....								
.....								
.....								
.....								
.....								
Earned Income								
8. Other (specify):								
.....								
.....								
.....								
.....								
.....								
Other Income								
9. Other (specify)								
.....								
.....								
.....								
.....								
Total Revenues:	\$ 100,000				\$ 158,000			

Project Expenses	Knight Foundation Funds Only				All non-Knight Funds			
	Proposed	Actuals	Variance	%	Proposed	Actuals	Variance	%
1. Program salaries and wages (specify):								
.....								
.....								
.....								
2. Administrative salaries and wages (specify):								
.....								
.....								
.....								
3. Consultant/Contract services (specify):								
Project Manager	60,000							
Public Space Consultants	6,600				12,500			
.....								
.....								
4. Employee benefits								
5. Administrative expenses	2,500				2,500			
6. Travel					5,000			
7. Fund raising								
8. Capital expenses								
9. Overhead/indirect (specify):								
.....								
.....								
.....								
10. Other (specify):								
Legal services					36,000			
PR/Media relations/Community Engagement	12,500				14,875			
Marketing/Graphic design	9,900				12,725			
Architectural Renderings	7,000				5,000			
Misc.					4,000			
National memberships	1,500							
Audit					7,400			
Total Expenses:	\$ 100,000				\$ 100,000			

Appendix 3

INSURANCE REQUIREMENTS-MOU TSNDC

I. **Commercial General Liability**

- A. Limits of Liability
- | | |
|---|--------------|
| Bodily Injury and Property Damage Liability | |
| Each Occurrence | \$1,000,000 |
| General Aggregate Limit | \$ 2,000,000 |
| Personal and Adv. Injury | \$ 1,000,000 |
| Products/Completed Operations | \$ 1,000,000 |
- B. Endorsements Required
- City of Miami & FDOT listed as additional insured
Contingent & Contractual Liability
Premises and Operations Liability
Primary Insurance Clause Endorsement

II. **Business Automobile Liability**

- A. Limits of Liability
- | | |
|--|--------------|
| Bodily Injury and Property Damage Liability | |
| Combined Single Limit | |
| Owned/Scheduled Autos | |
| Including Hired, Borrowed or Non-Owned Autos | |
| Any One Accident | \$ 1,000,000 |
- B. Endorsements Required
- City of Miami & FDOT listed as an additional insured

III. Worker's Compensation

Limits of Liability
Statutory-State of Florida
Waiver of Subrogation

Employer's Liability

A. Limits of Liability

\$100,000 for bodily injury caused by an accident, each accident
\$100,000 for bodily injury caused by disease, each employee
\$500,000 for bodily injury caused by disease, policy limit

IV. Professional Liability/Errors and Omissions Coverage

Combined Single Limit	
Each Claim	\$1,000,000
General Aggregate Limit	\$1,000,000
Retro Date Included	

V. Network Security and Privacy Injury (Cyber Liability) If Applicable

Each Claim	\$1,000,000
Policy Aggregate	\$1,000,000
Retro Date Included	

Consultant agrees to maintain professional liability/Errors & Omissions coverage, along with Network Security and Privacy Injury (Cyber) coverage, if applicable, for a minimum of 1 year after termination of the contract period subject to continued availability of commercially reasonable terms and conditions of such coverage.

The above policies shall provide the City of Miami with written notice of cancellation or material change from the insurer in accordance to policy provisions.

Companies authorized to do business in the State of Florida, with the following qualifications, shall issue all insurance policies required above:

The company must be rated no less than “A-” as to management, and no less than “Class V” as to Financial Strength, by the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and /or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.