

TERM SHEET
FOR
GRANT AWARD CONTRACT
BETWEEN
TRIUMPH GULF COAST, INC.
AND
OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS

This Term Sheet summarizes the basic terms upon which Triumph Gulf Coast, Inc. (“Triumph”) is considering awarding a grant to the Okaloosa County Board of County Commissioners (the “Board”) under the Triumph Gulf Coast Trust Fund. This Term Sheet is intended for discussion and negotiation purposes only and (a) does not constitute a grant, or an approval of a grant, by Triumph to the Board, and (b) does not create any binding obligations on Triumph or the Board with respect to (i) any grant, (ii) any approval of a grant, or (iii) engaging in any further discussions or negotiations with respect to a grant. Any binding agreement between Triumph and the Board with respect to any grant must be contained in a definitive grant award agreement (the “Agreement”), approved by the Board of Directors of Triumph and the members of the Board and executed by Triumph and the Board. At any time prior to such execution of the Agreement, either Triumph or the Board may terminate negotiations, and upon such termination, neither party shall have any liabilities or obligations to the other.

GRANT AMOUNT: \$1,500,000

PURPOSE: To provide partial funding for a project (the “Project”) to extend water and sewer mains along Highway 90 East to an area being primed for industrial, residential, and commercial growth, which includes the parcel known as the “Shoal River Ranch Mega Site,” as further described in the Board’s Application for Funds submitted to Triumph on March 22, 2018 (the “Grant Application”).

COST OF PROJECT: The Board shall obtain competitive bids for completion of the Project. The Board retains the right to elect to use its own employees to complete the

Project if it determines that doing so would be more cost effective than using an outside contractor.

FUNDING:

The Board shall use its own funds and resources to construct and complete the Project pursuant to plans and specifications provided to and approved by Triumph. Triumph shall have thirty (30) days from receipt thereof to approve or disapprove such plans and specifications; Triumph's failure to approve or disapprove within said thirty (30) days shall be deemed approval.

At the end of each quarter, the Board shall submit documentation to Triumph documenting the extent of completion of the Project and the cost of the Project incurred to that point. The Board shall also submit an application for reimbursement ("Application for Reimbursement") for the cost of the Project incurred to that point. Documentation and invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof, based on deliverables as established by the Agreement. Within forty-five (45) days of receipt of an Application for Reimbursement, Triumph shall either approve or disapprove of the Application for Reimbursement in a written notice to the Authority. If Triumph approves the Application for Reimbursement, then it shall disburse the approved amount to the Authority within thirty (30) days after delivery of the notice of approval. If Triumph disapproves the Application for Reimbursement, Triumph shall state in the notice of disapproval the reasons for such disapproval.

Upon completion of the Project, the Board shall send Triumph a notice certifying that the Project was completed in accordance with the plans and specifications. Within thirty (30) days after receipt of certification of completion, Triumph and/or its agents, engineers, and consultants shall have the right to inspect the Project to determine if it was in fact completed in accordance with the plans and specifications. If so, Triumph shall disburse final payment of the grant to the Board within thirty (30) days of such determination; if not, no grant funds shall be disbursed unless and until the Board promptly corrects any deficiencies and Triumph thereafter determines that it was finally completed in accordance with the plans and specifications. In connection with its inspection of the Project, the Board shall make available to Triumph copies of any and all invoices, contracts, plans and specifications, and other documentation relating to the construction and completion of the Project.

Triumph may elect by notice in writing to not disburse the grant or any portion thereof if, among other things:

(a) The Board made a misrepresentation or omission of a material nature in the Grant Application, or any supplement or amendment to the Grant Application, or with respect to any document or data furnished to Triumph;

(b) There is any pending litigation with respect to the performance by the Board of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement, or the disbursement of the grant;

(c) The Board has taken any action pertaining to the Project which requires the approval of Triumph, and the Board failed to obtain such approval;

(d) There has been a violation of the prohibited interests (conflicts of interests) provisions the Agreement;

(e) The Board is in violation, default, or breach of or under any provision of the Agreement;

(f) The Board is in breach of any representation or warranty contained in the Agreement;

(g) Any federal, state, or local agency (including the Board) providing financial assistance to the Project as disclosed in the Grant Application has revoked, suspended, or terminated that financial assistance to the Project, including, but not limited to, the matching amount stated in the Grant Application; or

(h) The Board has abandoned or, before completion, discontinued the Project, or for any reason the commencement, prosecution, or timely completion of the Project by the Board will be rendered improbable, infeasible, impossible, or illegal.

**MAINTENANCE
OF RECORDS:**

The Board shall retain sufficient records demonstrating its compliance with the provisions of the Agreement for a period of five years from the end of the three year maintenance period or dissolution of this agreement whichever is longer. Copies of these documents and records shall be furnished to Triumph upon request. Records shall include general accounting records, supporting documents, records of all contractors and consultants performing work on the Project, and all other records necessary for a proper audit. If any litigation, claim, or audit is started before the expiration of the eight (8) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

AUDITS:

The grant shall be subject to audits by Triumph. Also, on an annual basis by October 31 of each year, the Board shall submit to Triumph an activity report on the completion of the Project and the progress of satisfaction of

the performance metrics, together with its most recent audited financial statements.

TERMINATION
OR SUSPENSION
OF PROJECT:

If the Board abandons or, before completion, finally discontinues the Project; or for any other reason, the commencement, prosecution, or timely completion of the Project by the Board is rendered improbable, infeasible, impossible, or illegal, Triumph will, by written notice to the Board, suspend any or all of its obligations under the Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or Triumph may terminate any or all of its obligations under the Agreement. Upon receipt of any final termination or suspension notice, the Board shall upon demand by Triumph repay to Triumph all of the grant previously received by the Board.

APPROVAL OF
CONTRACTS/
COMPLIANCE
WITH LAWS:

The Board agrees to undertake the construction of the Project in accordance with all applicable, federal, state and local statutes, rules and regulations, and standards. The Board shall be responsible for obtaining clearances/permits required for the construction of the Project from the appropriate permitting authorities. Upon the completion of the Project, the Board shall certify to Triumph that the Project has been completed in accordance with the applicable standards, statutes, rules and regulations, including all applicable laws regarding public records, third party contracts, labor laws, civil rights laws. Triumph shall be entitled at all times to be advised, at its request, as to the status of work being done by the Board and of the details thereof. Coordination shall be maintained by the Board with representatives of Triumph. The Board shall provide Triumph with quarterly progress reports and Triumph shall have the right to review and approve any and all third party contracts.

CLAWBACK:

Any grant funds disbursed by Triumph to the Board shall be subject in being repaid (“clawed back”) in the event (i) the Board made any materially false certification or representation to Triumph in connection with the Grant Application, under the Agreement, and/or in connection with the disbursement of the grant, and/or (ii) the Board breached, violated, or is in any way in default under any of its obligations under the Agreement, and/or (iii) the Board fails to achieve the following performance metrics: (a) 250 net new jobs shall have been created at the Shoal River Ranch Mega Site at greater than the County average wage as of the year the Project is completed

(based on the EFI/DEO incentive wage chart) in one of Florida's targeted industries, or (b) 150 net new jobs shall have been created at the Shoal River Ranch Mega Site at or above 150% of the County average wage as of the year the Project is completed (based on the EFI/DEO incentive wage chart) in one of Florida's targeted industries, or (c) at least \$25 million in new capital investment at the Shoal River Ranch Mega Site by a company that is in one of Florida's targeted industries. The jobs or capital investment performance metric described above must be achieved by the third (3rd) anniversary of the date of disbursement of the grant and must be maintained for at least three (3) years thereafter, or (d) 500 net new jobs shall have been created at the Shoal River Ranch Mega Site at greater than the County average wage as of the year the Project is completed (based on the EFI/DEO incentive wage chart) in one of Florida's targeted industries, which must be achieved by the fifth (5th) anniversary of the date of the last disbursement of the grant and must be maintained for at least three (3) years thereafter. The Board must share its State of Florida employment reporting forms in order to verify employment. Triumph shall have the discretion to waive, reduce, extend, or defer any amounts due under the clawback provisions if (i) it determines in its sole and absolute discretion that, based on quantitative evidence, the performance metrics were not achieved due to negative economic conditions beyond the Board's control, (ii) it determines in its sole and absolute discretion that the Board made a good faith effort to achieve full performance metrics and its failure to fully achieve the performance metrics does not substantially frustrate the general purpose of the grant, or (iii) it determines in its sole and absolute discretion that, based on quantitative evidence, the effects of a named hurricane or tropical storm, or specific acts of terrorism, adversely affected the Board's ability to achieve the performance metrics. It is expressly understood and agreed that, as of the date of this non-binding term sheet, it is still an open issue to be negotiated regarding the extent to which Triumph, in considering of whether to exercise the clawback provisions and the extent of funding that would be subject to clawback, shall consider that any clawback be calculated on a pro rata basis as to the extent that the performance metrics that have been achieved. Such final agreement between the Board and Triumph on such pro rata clawback shall be set forth in the Agreement.

OTHER TERMS
AND
CONDITIONS:

The Agreement shall contain such other terms and conditions as required by Triumph and its counsel.

By signing below, the parties are indicating a willingness to proceed with having a draft grant award Agreement prepared on substantially the terms set forth herein. However, as indicated above, this Term Sheet is merely intended for discussion and negotiation purposes only and (a) does not constitute a grant, or an approval of a grant, by Triumph to the Board, and (b) does not create any binding obligations on Triumph or the Board with respect to (i) any grant, (ii) any approval of a grant, or (iii) engaging in any further discussions or negotiations with respect to a grant. Any binding agreement between Triumph and the Board with respect to any grant must be contained in a definitive grant award Agreement, approved by the Board of Directors of Triumph and the members of the Board and executed by Triumph and the Board. At any time prior to such execution of the Agreement either Triumph or the Board may terminate negotiations, and upon such termination neither party shall have any liabilities or obligations to the other.

Dated: _____, 2018

Triumph Gulf Coast, Inc.

Okaloosa County Board of County
Commissioners

By: _____

Name: _____

Title: _____

By: _____

Name: Graham W. Fountain

Title: Chairman