

MEMORANDUM

To: Triumph Gulf Coast Board & Staff

From: Scott Remington, General Counsel

Date: December 5, 2018

Re: Eastern Shipbuilding Application for Triumph Funds

Counsel was asked to review the Application of Eastern Shipbuilding Group (“ESG”) (Application #55) as supplemented on November 2, 2018 [<https://www.myfloridatriumph.com/proposal-details/506/>], in light of counsel’s previous memorandum opinions dated April 27, 2018 [<https://www.myfloridatriumph.com/wp-content/uploads/2018/04/SAR-Private-Funding-Memo-04-27-18-.pdf>], and June 12, 2018 [<https://www.myfloridatriumph.com/wp-content/uploads/2018/12/Memo-SAR-to-Triumph-Board-re-Public-Private-Partnerships.pdf>]. In addition, on or about December 6, 2018, counsel received a memorandum of law from ESG’s counsel which is attached hereto for your easy reference.

In short, counsel’s previous opinion regarding the eligibility of the ESG application has not changed as a result of the supplemental filing or the memorandum of ESG’s counsel. The current application does not contemplate a Public-Private-Partnership as described in s.255.065 *Florida Statutes* (2018); nor does the application contemplate the construction or acquisition of exclusively “public infrastructure” as counsel understands the meaning of that term in the Gulf Coast Economic Corridor Act (the “Act”) or other provisions of Chapter 288.

It continues to be the opinion of your counsel that the Act does not allow for direct awards to private entities for private infrastructure projects outside of a valid public-private partnership.

While there is a liberal manner in which to interpret the statute to allow the Board to develop and create a mechanism to fund private economic development projects, i.e., private infrastructure to support a public purpose, the risk of an adverse opinion from the Auditor General or difference of opinion with the Legislature suggests the Board should proceed with extreme caution in doing so.

Therefore, if the Board elects to expand the list of eligible awards to include awards for private infrastructure projects with a public purpose, it is counsel's recommendation that the Board seek amendment and/or clarification to the language of the Gulf Coast Economic Corridor Act before making such awards.