

SUMMARY  
OF  
GRANT AWARD AGREEMENT  
BETWEEN  
TRIUMPH GULF COAST, INC.  
AND  
CITY OF PANAMA CITY and EASTERN SHIPBUILDING GROUP, INC.  
(Project #185)

This summarizes the basic terms of a grant award agreement (the “**Agreement**”) that has been negotiated between the staffs of Triumph Gulf Coast, Inc. (“**Triumph**”), City of Panama City (the “**City**”), and Eastern Shipbuilding Group, Inc. (“**ESG**”) under the Triumph Gulf Coast Trust Fund. This summary is intended for notice purposes only and (a) does not constitute a grant, or an approval of a grant, by Triumph to the City or ESG, and (b) does not create any binding obligations on Triumph or the City or ESG 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. The final terms and conditions of the grant (the “**Grant**”) will be contained in the definitive Grant Award Agreement (the “**Agreement**”) approved by the Board of Directors of Triumph and ESG and executed by Triumph, the City and ESG. It is expressly understood that approval of the Agreement is contingent upon, among other things, Triumph and Triumph’s legal counsel approval that no public-private partnership agreement shall be required as contemplated in the term sheet between the parties.

GRANT AMOUNT: Twenty Million Dollars (\$20,000,000.00)

PURPOSE: To provide partial funding for infrastructure improvements including platens, dredging, bulkhead installation, launchways, equipment, and warehouse facilities and improvements to be installed on an easement owned by the City (dominant tenement) located at ESG’s Nelson Street facility in Panama City (servient tenement) (collectively, the “**Project**”), all as further described in the City’s and ESG’s Application for Funds submitted to Triumph (the “Grant Application”).

GRANT

CONTINGENCIES:

Triumph’s approval of the Grant is expressly contingent upon all of the following occurring concurrently with or prior to the execution of the Agreement:

- (1) The estimated total planning and construction cost of the entire Project is \$70,380,000, with the Grant constituting \$20,000,000 of that amount. Accordingly, the City must secure cash or other funding commitments for the Project totaling not less than \$50,380,000, of which \$33,900,000 must be committed by ESG. No Grant funds shall be disbursed to the City unless and until the City has provided Triumph with satisfactory evidence that there are firm and enforceable funding commitments for the Project totaling not less than \$50,380,000, of which not less than \$33,900,000 has been committed by ESG.
- (2) The City and ESG shall have entered into an Easement Agreement (the “**Easement Agreement**”) pursuant to which ESG grants to the City easements at its Nelson Street Facility for the purposes of building, operating, managing, and maintaining the Project and the USCG Project (as defined below).
- (3) The City and ESG shall have entered into a Comprehensive Agreement for Shipbuilding Infrastructure Development (the “**Comprehensive Agreement**”) pursuant to which the City agrees to undertake and complete the Project, and which (i) commits the Nelson Street Facility to state and/or federal shipbuilding for at least 20 years; (ii) requires ESG to purchase from the City specified improvements at fair market value at end of the Lease (as defined below); and (iii) the City contracts with ESG to, among other things, assume all duties and obligations of permitting, designing, constructing, operating, managing, and maintaining the Project, as long as the City shall not be released of any of its obligations under the Agreement.
- (4) The City, as lessor, and ESG, as lessee, shall have entered into a Lease (the “**Lease**”) of the easement area under the Easement Agreement for the Project. The Lease shall, among other things, (i) commit the Nelson Street Facility to state and/or federal shipbuilding for at least 20 years; and (ii) require ESG purchase from the City specified improvements at fair market value at end of the Lease. The rental rate under the Lease shall require that ESG will pay fair market value rent for the term of the Lease; however, ESG may utilize any credit owed it for the easement rights granted to the City under the Easement Agreement and any obligations undertaken pursuant to the documents referenced herein. The Lease may provide ESG a purchase option for the improvements at end of lease so long as the option is allowed under Florida Law, including but not limited to, Florida Statutes Chapters 255, 288, and 311.

#### DISBURSEMENT:

The Grant will be drawn down in accordance with the projected budget attached to the Agreement (the “**Budget**”). The parties acknowledge that the Budget may be updated and modified from time to time as the design and construction of the Project proceed, based on prudent financial management, the requirements and limitations of the various funding sources, and other considerations. As provided herein, the Grant shall be used only to pay a portion of the amounts due and owing from time to time by the City under and in

accordance with the Construction Contract (as defined in below). Not more than once per calendar month, the City shall submit an Application for Disbursement requesting a disbursement not exceeding seventy-seven percent (77%) the amount of the invoice(s) actually paid to the contractor under the Construction Contract; provided, however, that in no event shall the cumulative reimbursements made by Triumph exceed the \$20,000,000 maximum amount of the Grant. Each Application for Disbursement shall be accompanied by (i) documentation evidencing the extent of completion of each eligible element of the Project and the cost of each eligible element of the Project incurred to that point, (ii) an updated Budget, if applicable, (iii) an updated construction schedule, if applicable, (iv) progress reports from the architect/engineer, (v) (if available) aerial photographs, (vi) documentation and invoices in detail sufficient for a proper pre-audit and post-audit thereof, including, but not limited to, records of the Project account described in the Agreement, and (vii) documentation regarding the cumulative amounts paid and the amounts to be paid by other funding sources (including the Matching Funds) with respect to the amounts then due under the Construction Contract.

Within forty-five (45) days of receipt of an Application for Disbursement, Triumph shall either approve or disapprove of the Application for Disbursement in a written notice to the City. If Triumph approves the Application for Disbursement, then it shall disburse the approved amount to the City within thirty (30) days after delivery of the notice of approval. If Triumph disapproves the Application for Disbursement, Triumph shall state in the notice of disapproval the reasons for such disapproval. If Triumph disapproves the Application for Disbursement, Triumph shall state the reasons for such disapproval. The City shall have thirty (30) days to address the reasons for disapproval and submit documentation for reconsideration of the Application for Disbursement. If Triumph fails to approve or disapprove of the Application for Disbursement within forty-five (45) days of receipt, such Application for Disbursement shall be deemed disapproved.

Reasons for disapproving an Application for Disbursement must include one or more of the following:

- (a) Missing or incomplete documentation;
- (b) The Application for Disbursement seeks disbursement for more than the amounts actually invoiced by the under a Contract;
- (c) The Application for Disbursement seeks disbursement for an amount in excess of the amount permitted by the 77% limitation set above;
- (d) The amount requested for disbursement under the Application for Disbursement, together with all amounts previously disbursed under the Grant, would exceed the \$20,000,000 maximum amount of the Grant;
- (e) The City and/or ESG 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 with the Grant Application or pursuant to the Agreement;

- (f) There is any pending litigation against the City and/or ESG (1) which may in Triumph's reasonable discretion jeopardize or adversely affect or delay the Project, and/or (2) which involves or otherwise relates to the Agreement, the awarding of the Grant, the disbursement of the Grant, the Comprehensive Agreement, the Easement Agreement, and/or the Lease;
- (g) There is any pending litigation against Triumph (1) which in Triumph's reasonable discretion may jeopardize or adversely affect or delay the Project, and/or (2) which involves or otherwise relates to the Agreement, the disbursement of the Grant, the Comprehensive Agreement, the Easement Agreement, and/or the Lease;
- (h) Any permit applicable to the Project has been suspended, revoked, terminated, or has expired, without having been reinstated or renewed, or is in any other manner no longer in force or effect;
- (i) The City and/or ESG has taken any action pertaining to the Project which, under the Agreement, requires the approval of Triumph, and the City failed to obtain such approval;
- (j) Either the City and/or ESG has violated any of the provisions of the anti-lobbying, prohibited interests, and similar provisions of the Agreement;
- (k) Either the City and/or ESG is in material violation, default, or breach of or under any provision of the Agreement;
- (l) Either the City and/or ESG is in material violation, default, or breach of or under any provision of the Comprehensive Agreement, the Easement Agreement, and/or the Lease;
- (m) Either the City and/or ESG is in breach of any representation or warranty contained in the Agreement;
- (n) The City, ESG, and/or any federal, state, or local agency providing funding for the Project has revoked, suspended, or terminated such funding, including, but not limited to, the Matching Funds, without such funding having been reinstated or renewed or replaced by another funding source;

- (o) The City and/or ESG has abandoned or, before completion, discontinued the Project, or for any reason (other than *force majeure* as defined herein) the commencement, prosecution, or timely completion of the Project by the City and/or ESG is rendered improbable, infeasible, impossible, or illegal for any reason other than *force majeure* as defined in the Agreement;
- (p) All or any portion of the requested disbursement includes disbursement for improvements that are outside the scope of the Project that is contemplated under the Grant Application and/or a Contract; or
- (q) A Contract has been materially modified, amended, or terminated without the prior consent or approval of Triumph as required under the Agreement. A change order of \$25,000 or less shall not constitute a material modification.

ELIGIBLE COSTS/  
DOCUMENTATION:

The estimated total cost of the entire Project is \$70,380,000, of which a maximum of \$20,000,000 shall be provided by the Grant, and the balance of \$50,380,000 shall be provided using the following matching funds (collectively, the “**Matching Funds**”): (a) the City and Bay County shall pay using \$450,000 of its own funds, (b) the State of Florida shall pay \$15,500,000 from its own funds, (c) the United States Maritime Administration shall pay \$530,000 using its own funds, and (e) ESG shall pay \$33,900,000 using its own funds. Using the Grant, the Matching Funds, and funds from other sources, the City and ESG agree to bear the entire cost and expense of the Project, including but not limited to, all costs and all expenses in excess of the total estimated cost of the Project, it being expressly understood and agreed that the Grant shall operate only to disburse to the City, on and subject to the terms and conditions set forth herein, a portion of the costs and expenses to be paid by the City at the time(s) of such disbursement. The City and ESG shall take all steps reasonably necessary to maintain the Budget. The City and ESG shall notify Triumph of any anticipated changes to the Budget and shall work with Triumph to update and revise the Budget such that it reflects the anticipated schedule of completion of the Project.

MAINTENANCE  
OF RECORDS:

The City and ESG shall submit to Triumph such data, reports, records, contracts and other documents relating to the Project as Triumph may

require. During the construction portion of the Project, the City and ESG shall on a quarterly basis submit to Triumph an activity report which outlines the progress of construction and the cost of the Project incurred to date, and shall submit to Triumph on an annual basis audited financial statements within six (6) months following the end of their respective fiscal year. Once construction is completed and Triumph has approved such completion in accordance with the provisions of the Agreement, and until such time as ESG has achieved the performance metrics described in below, the City and ESG shall, on an annual basis, within six (6) months following the end of their respective fiscal year, submit to Triumph audited financial statements for such fiscal year. Upon completion of the Project, the City and ESG shall send Triumph a notice certifying that the Project was completed in accordance with the Construction Contract, and all applicable standards, statutes, rules and regulations. 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 Construction Contract. If so, and subject to Triumph's receipt of an approved Application for Disbursement, Triumph shall disburse a final payment of the Grant to the City; if not, no Grant funds shall be disbursed unless and until the City and/or ESG promptly corrects any deficiencies and Triumph thereafter determines that it was finally completed in accordance with the Construction Contract. In connection with its inspection of the Project, the City and ESG 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 and its employees, agents, and contractors shall have the right, at any time and from time to time during normal working hours and upon reasonable notice to the City and ESG, to access the Project and inspect the work being performed or as completed; provided that Triumph and its employees, agents and contractors shall at all times (i) comply with all applicable security and safety rules and regulations and (ii) be accompanied by the respective representatives of the City and ESG and any contractors

Each of the City and ESG shall establish separate accounts to be maintained within its existing accounting system or establish independent accounts with respect to the Project. Such accounts are referred to herein collectively as the “**the Project account.**” Records of costs incurred under terms of the Agreement shall be maintained in the Project account and made available upon request to Triumph at all times during the period of the Agreement and for eight (8) years after final payment of the Grant is made. Copies of these documents and records shall be made available to Triumph upon request.

Records of costs incurred include the City's and ESG's general accounting records and the Project records, together with supporting documents and records, of the City and ESG and all consultants performing work on the Project and all other records of the City, ESG, and consultants considered necessary by Triumph for a proper audit of costs. 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 and/or monitoring by Triumph and applicable public records laws.

TERMINATION  
OR SUSPENSION  
OF PROJECT:

If ESG abandons, suspends, or discontinues the Project, or fails to complete the Project by the Completion Deadline (subject to *force majeure* events), or for any other reason, the commencement, prosecution, or timely completion of the Project by ESG is rendered improbable, infeasible, impossible, or illegal, Triumph shall have the right, by written notice to ESG, to (i) suspend any further disbursements of the Grant and/or any or all of Triumph's other obligations under the Agreement until such time as the event or condition resulting in such abandonment, suspension, or discontinuation has ceased or been corrected, and/or (ii) revoke and terminate the Grant. If Triumph issues a final termination or revocation notice, then ESG shall, upon written demand by Triumph, repay to Triumph all portions of the Grant theretofore disbursed to and received by ESG

APPROVAL OF  
CONTRACTS:

Triumph shall have the right to review and approve any and all contracts in connection with the Project, including, but not limited to, Construction Contract, Easement Agreement, the Comprehensive Agreement, and the Lease (each, a "**Contract**," and collectively, the "**Contracts**") before the City or ESG executes or obligates itself in any manner, and (ii) proposed amendments, waivers, terminations, or other changes to the Contracts before the City or ESG executes or obligates itself in any manner. Triumph shall have fifteen (15) days from receipt of a proposed Contract or amendment, waiver, termination, or change order to notify the City of its approval or disapproval thereof. If Triumph fails to approve or disapprove of a Contract or amendment, waiver, termination, or change within such fifteen (15) day period, the subject Contract or amendment, waiver,

termination, or change order shall be deemed approved. Triumph also reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of same.

COMPLIANCE  
WITH LAWS:

ESG and the City shall also comply with all applicable laws regarding third party contracts, labor laws, and civil rights laws. The Agreement shall also have prohibitions on conflicts of interest.

INSURANCE:

At all times during the term of the Agreement, the City and/or ESG shall maintain or cause to be maintained casualty insurance on all improvements, fixtures, and equipment, the cost of which was, in whole or in part, paid using the Grant, to the extent such improvements can in fact be insured. The Lease shall require the City and/or ESG to maintain casualty insurance on improvements, fixtures, and equipment commencing upon the date of beneficial occupancy by ESG during the term of the Lease.

CLAWBACK:

Any Grant funds disbursed by Triumph to the City and/or ESG shall be subject in being repaid (“clawed back”) in the event (i) ESG and/or the City abandons, suspends or discontinues the Project, or fails to complete the Project by Completion Deadline, and/or (ii) ESG and/or ESG made any materially false certification or representation to Triumph in connection with its application for the Grant, under the Agreement, and/or in connection with any request for reimbursement, and/or (iii) ESG and/or the City breaches any obligation under the Agreement, and/or (iv) ESG fails to achieve at least one of the following performance metrics:

(a) On the earlier to occur of:

(1) ESG cuts steel and begins work on assembly of the ship that will be OPC 10, or

(2) ESG delivers OPC 9 to the USCG,

at least 900 “**Net New Jobs**” (as defined below) shall have been created at the ESG Nelson Street Facility over and above 500 FTE (as defined below) jobs, and such 900 Net New Jobs shall have been maintained for a period of three (3) years after the earlier to occur of items (1) or (2) above.

(b) As used herein, a “**Net New Job**” shall mean a job that was (a) created after November 14, 2017, (b) resulted in a net increase in overall



employment on or at the ESG Nelson Street Facility related specifically to contracts obtained with respect to the United States Coast Guard Offshore Patrol Cutter (“USCG OPC Project”), and (c) is performed by a FTE (2080 man-hours/year) at the ESG Nelson Street Facility specific to the USCG OPC Project Jobs are not considered Net New Jobs if they are (A) moved from other workplaces in Florida, unless the relocated positions are back-filled with net new-to-Florida full-time-equivalent jobs paying at least the wage of the transferred position(s); or (B) temporary construction jobs involved with the construction of the Project, or temporary or seasonal jobs associated with cyclical business activities or to substitute for permanent employees on a leave of absence.

Notwithstanding the foregoing, in the event ESG does not win the United States Coast Guard (“USCG”) contract for offshore patrol cutters (“OPC”) 10 – 25, then the City can retain any Grant received to date as long as at least the 900 Net New Jobs described above are maintained at the ESG Nelson Street Facility and Allanton Facility which are devoted to local, state, federal or commercial shipbuilding and the Lease shall remain in full force and effect.

The calculation of the performance metrics shall be made by Rick Harper or another similarly qualified economist or analyst selected by Triumph.

Triumph shall have the discretion to waive, reduce, extend, or defer any clawback amounts due if it determines in its sole and absolute discretion that (i) a breach of a representation and warranty herein or in the Grant Application, or a breach, violation, or default of or under any other provision of the Agreement, was not material in nature, (ii) based on quantitative evidence, the performance metrics were not achieved due to negative economic conditions beyond ESG’s reasonable control, (iii) ESG made a good faith effort to achieve full performance of at least one of the performance metrics and its failure to do so does not substantially frustrate the general purpose of the Grant, and/or (iv) based on quantitative evidence, the effects of a named hurricane or tropical storm, or specific acts of terrorism, adversely affected ESG’s ability to achieve at least one of the performance metrics.

**TRAINING:**

Triumph, the City, and ESG shall work collaboratively with each other and/or with appropriate state and local agencies and share costs of identifying and developing training to meet the needs of ESG and other firms that participate in ship building, maintenance, repair and overhaul.

OTHER TERMS  
AND  
CONDITIONS:

This is a summary only. The Agreement contains such other covenants, representations and warranties, and other terms and conditions as agreed to by Triumph, the City, and ESG.