

SUMMARY
OF
GRANT AWARD AGREEMENT
BETWEEN
TRIUMPH GULF COAST, INC.
OKALOOSA COUNTY, FLORIDA
(Project #46)

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**”) and Okaloosa County, Florida (“**Grantee**”) 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 Grantee, and (b) does not create any binding obligations on Triumph or Grantee 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 Agreement approved by the Board of Directors of Triumph and Grantee and executed by Triumph and Grantee.

GRANT AMOUNT: Sixty Four Million One Hundred Thousand Dollars (\$64,100,000) (the “**Grant**”).

PURPOSE: To provide partial funding partial funding for the construction of Phased IV and V of the Southwestern Crestview Bypass and East-West Connector in Crestview, Okaloosa County (the “**Project**”), all as further described in Grantee’s Application for Funds submitted to Triumph (the “**Grant Application**”).

CONTINGENCIES: Triumph’s funding of the Grant is expressly contingent upon all of the following:

(a) Grantee having by June 30, 2020, cash in hand or firm and enforceable commitments for funding covering the entire planning and construction cost of the Project. The estimated total planning and construction cost of the Project is \$199,019,000, with the Grant being \$64,100,000, so Grantee’s cash or other funding commitments must total at least \$134,919,000 (the “**Matching Funds**”), of which (a) \$38,953,000 has

been committed by Grantee from the new local option sales tax revenues (approved in November 2018), TIFF proceeds, and local option gas tax revenues, and (b) \$95,966,000 is expected to be committed by the Florida Department of Transportation (FDOT). The FDOT funds shall be deemed to be committed only when (i) such funds are designated for the Project in FDOT's 5 year work plan and approved and appropriated by the Florida Legislature, and (ii) the Governor has signed the budget without vetoing that appropriation. The parties acknowledge that it is possible that the Governor may not make his decision until on or about June 30, 2020, the date by which he is legally required to do so, but that his decision could come earlier or later; provided, however, that in the event the Governor does not make a decision until after June 30, 2020, then the deadline shall be extended until such a decision is made. No Grant funds shall be funded unless and until Grantee has provided Triumph with satisfactory evidence of firm and enforceable funding commitments for the Project totaling not less than \$134,919,000. In the event cash and funding commitments totaling not less than \$134,919,000 are not in place by June 30, 2020, the Grant shall be deemed automatically rescinded and revoked and the Agreement shall be deemed automatically terminated. Should the Project costs increase above the \$199,019,000.00 set forth in the Grant Application, such additional funds must be obtained from non-Triumph sources, as it is expressly understood and agreed that the maximum grant amount to be funded by Triumph shall be \$64,100,000.

(b) Grantee entering into either (i) a guaranteed maximum price contract within the Budget (as defined in Section 5.2 below) with a construction manager at risk ("CMAR"), no later than December 31, 2020, (ii) a contract within the Budget with a qualified contractor under a design-build contract, no later than December 31, 2020, or (iii) a contract within the Budget with a qualified contractor under a design-bid-build contract, no later than December 31, 2020. Grantee must provide Triumph with evidence satisfactory to Triumph that such contract is in place. In the event that contract is not in place by December 31, 2020, the grant shall be deemed automatically rescinded and revoked and the Agreement shall be deemed automatically terminated and any Grant funds funded by Triumph to Grantee shall be returned to Triumph. However, in the event that Grantee has issued its Notice of Intent to Award but is prevented from entering into a contract with a CMAR, the design-build contract, or the design-bid-build contract as a result of a procurement challenge or some other condition that is beyond the reasonable control of Grantee, then the December 31, 2020 date shall be extended for a reasonable period of time (not to exceed 180 days) to allow the resolution of that issue.

(c) Grantee securing all rights of way, property, easements, permits, plan amendments and other regulatory approvals from federal, state and local authorities.

(d) For certain Contracts, Grantee shall comply with Sections 180.24 and 255 et seq., Florida Statutes, the Consultant's Competitive Negotiation Act as set forth in Section 287.055, Florida Statutes, and/or Grantee's established competitive bidding procedures (a copy of which shall be uploaded to Triumph's SmartSheet system), as applicable. Upon determination of the winning bidder, but before Grantee formally accepts the bid, enters into any Contract, or in any way obligates itself to accept the bid, Grantee shall submit to Triumph for its approval, the name of the proposed vendor and all documentation relating to the evaluation of the various bids submitted. Triumph shall have fifteen (15) days from the receipt of the submitted material to notify Grantee of its approval or disapproval of such proposed award. If Triumph fails to approve or disapprove of the election within such fifteen (15) day period, the award shall be deemed approved. Upon approval, Grantee shall issue its intent to award to that vendor.

FUNDING:

Subject to the satisfaction of the contingencies set forth above, the Grant shall be funded as follows:

(a) General Allocation of Grant in Budget Categories. The Grant funds shall be allocated among the various components of the Project in the amounts as set forth in the Budget attached to the Agreement. As indicated on the Budget, Grantee shall use its own funds to acquire right of way and have the design prepared before any Triumph Grant funds are used.

(b) Funding of the Grant. Not more than once per calendar month, Grantee shall submit to Triumph a separate Request for Funding for each Budget category in accordance with the Budget and shall submit information pursuant to a SmartSheet system by Grantee's authorized users. Each Request for Funding shall request no more than Triumph's share of the Budget category that are the subject of the Request for Funding (with Grantee incurring the remaining costs out of the Matching Funds). Each Request for Funding shall include (A) reports in budget categories with copies of general ledger detail for the Project account (as defined below) showing itemized expenditures, (B) invoices from architects, engineers, contractors, materialmen, and other vendors performing the construction; (C) invoices, purchase orders, or contracts from vendors providing equipment, materials, and services; (D) documentation evidencing the completion of the work that is the subject of the requested funding, (E) to the extent that all or any portion of the prior month's funding was a disbursement for items to be paid rather than a reimbursement of amounts already paid, receipts evidencing that the funds disbursed in the prior month were in fact paid in the proper

amounts to the proper vendors for such items, (F) such other documents as Triumph shall require in order to determine that the funding is consistent with the purposes of the Grant, and (G) evidence that FDOT has timely funded their portion of the Matching Funds to date and the use of such funds, and evidence of payment and use of any other Matching Funds. Grantee shall notify the Triumph Program Administrator via email each time a Request for Funding is submitted. Upon Triumph's receipt of (a) notification to the Program Administrator, and (b) a Request for Funding that includes all required supporting documents, Triumph shall have forty-five (45) days to either approve or disapprove of the Request for Funding. If Triumph approves the Request for Funding, then it shall fund the approved amount to Grantee within thirty (30) days after approval. If Triumph disapproves the Request for Funding, Triumph shall deliver a notice of disapproval within such forty-five (45) day period that states the reasons for such disapproval. If the stated reasons for disapproval can be cured by Grantee's submittal of missing or corrective items, Grantee shall have thirty (30) days following receipt of the notice of disapproval to submit such missing or corrective items. If Triumph fails to notify Grantee of its disapproval of the Request for Funding within forty-five (45) days of receipt, such Request for Funding shall be deemed disapproved.

All amounts funded to Grantee pursuant to a Request for Funding shall be (check as applicable):

paid to Grantee as a disbursement, in which case Grantee shall then pay vendors supplying equipment, materials, or services, and/or to employees performing work, in each case consistent with the Budget; or

paid to Grantee as a reimbursement of amounts Grantee has already paid to vendors supplying equipment, materials, or services, and/or to employees performing work, in each case consistent with the Budget, in which case the Grant funds shall be retained by Grantee.

None of the amounts paid by Grantee in connection with the invoices submitted in a Request for Funding and then funded by Triumph shall also have been or will in the future be in any manner (a) reimbursed, returned, refunded, rebated, or otherwise credited to, Grantee by any contractor, materialman, vendor, or any other person or entity, or (b) paid, reimbursed, returned, refunded, rebated, or otherwise credited to Grantee by the State of Florida, the United States, or any agency or instrumentality of any of the foregoing, whether under any grant or loan program or other method of contribution, it being expressly understood and agreed that Grantee shall not receive payments, refunds, reimbursements, rebates or credits from any sources in amounts collectively exceeding 100% of the amounts paid or owing by Grantee. Notwithstanding the foregoing, amounts

in the Budget that have already been spent on the Project shall be counted within the Matching Funds.

Grantee shall seek funding only for costs as shown or contemplated under the Budget. All amounts paid by Grantee with respect to the Project shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. Any check or order drawn by Grantee with respect to any item which is or will be chargeable against the Project account will be drawn only in accordance with a properly signed voucher then on file in the office of Grantee stating in proper detail the purpose for which such check or order is drawn. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

Reasons for disapproving a Request for Funding must include one or more of the following:

- (a) Missing or incomplete documentation;
- (b) The Request for Funding seeks funding for items other than items set forth in the Budget or seeks funding for more than amounts actually invoiced by contractors, materialmen, or other vendors under the Contracts;
- (c) The amount requested for funding under the Request for Funding, together with all amounts previously funded under the Grant, would exceed the \$64,100,000.00 maximum amount of the Grant; or the amount requested for funding under the Request for Funding for a particular Budget category, together with all amounts previously funded for such Budget category, would exceed the maximum amount allocated to such Budget category; or Grantee failed to use any Grant funds funded to date in the amounts and for the purposes stated in the Budget;
- (d) Grantee 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;
- (e) There is any pending litigation with respect to the performance by Grantee of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement, or funding of the Grant;

(f) Grantee has taken any action pertaining to the Project which, under the Agreement, requires the approval of Triumph, and Grantee failed to obtain such approval;

(g) There has been a violation of Sections 9.1, 9.4, and/or 9.5 of the Agreement;

(h) Grantee is in material violation, default, or breach of or under any provision of the Agreement;

(i) Grantee is in breach of any material representation or warranty contained in the Agreement;

(j) Any federal, state, or local agency (including Grantee) providing financial assistance to the Project has revoked, suspended, or terminated that financial assistance to the Project, including, but not limited to, the Matching Funds;

(k) The Matching Funds are not being used for the intended purposes and in the amounts and at the times as set forth in a schedule of expenses approved by Triumph, and/or Grantee has failed to provide Triumph with evidence of payment of the Matching Funds toward completion of the Project;

(l) With respect to previous fundings of the Grant and payments under Contracts, Grantee has failed to pay, or has failed to provide Triumph with evidence of payment of, the Grant for the purposes of such funding. Such evidence shall include, but not be limited to, payroll ledgers, state and federal payroll returns, job descriptions, cancelled checks, wire transfer confirmations;

(m) Prior to the Completion Deadline, Grantee has abandoned or discontinued the Project, or for any reason the commencement, prosecution, or timely completion of the Project by Grantee is rendered improbable, infeasible, impossible, or illegal;

(n) All or any portion of the requested funding includes funding for items that are outside the scope of the Project that is contemplated under the Budget;

(o) One or more of the contracts previously approved or deemed approved by Triumph have been modified, amended, or terminated, or have been subject to a change order, without the prior written consent or deemed approval of Triumph; provided, however, that any change order under the applicable threshold shall not be subject to approval under the Agreement;

(p) Intentionally omitted;

(q) Without the prior approval of Triumph, the total Project cost, the overall Budget, and/or a particular Budget category, has been increased or decreased by more than 5%; and/or Grantee's share of the Matching Funds has decreased by more than 5%;

(r) Completion of the Project is not on schedule for completion by the Completion Deadline;

(s) Grantee has failed to maintain in full force and effect all insurance required under the Agreement;

(t) Grantee is not in compliance with all applicable environmental laws and regulations;

(u) Grantee is not in compliance with the competitive bidding requirements set forth in the Agreement; and/or

(v) Grantee is not in compliance with the equal employment opportunity and other labor provisions as required by the Agreement.

**ELIGIBLE COSTS/
DOCUMENTATION:**

The total cost of the Project is \$199,019,000, of which (i) \$64,100,000 shall be provided by the Grant on the terms set forth herein, and (ii) \$134,919,000 shall be provided by Grantee's cash and other funding commitments as Matching Funds as follows: (a) \$38,953,000 has been committed by Grantee from the new local option sales tax revenues (approved in November 2018), TIF proceeds, and local option gas tax revenues, and (b) \$95,966,000 is expected to be committed by FDOT. The total estimated cost of the Project is based upon the budget set forth in the Budget. Grantee shall monitor the Budget and submit an amended Budget to Triumph in the event that (a) the total cost of the Project increases or decreases by greater than five percent (5%), (b) total the Budget increases or decreases by greater than five percent (5%), (c) the Budget increases or decreases by greater than five percent (5%) within a particular Budget category, and/or (d) Grantee's portion of the Matching funds decreases by greater than five percent (5%). If Grantee proposes an increase or decrease by greater than five percent (5%) as described above as compared to the most recently approved Budget, such proposal shall be submitted to Triumph in writing along with a proposed amended Budget, and Triumph shall have the right to approve or disapprove both the proposed Budget category increase or decrease and the proposed amended Budget. Triumph shall have fifteen (15) days from the receipt of a proposed amended Budget to notify Grantee of its approval

or disapproval. If Triumph fails to approve or disapprove the proposed Budget category increase or decrease and/or the proposed amended Budget within such fifteen (15) day period, the proposed Budget category increase or decrease and/or the amended Budget, as applicable, shall be deemed approved as submitted. If Grantee fails to obtain Triumph's approval or deemed approval, that failure shall be sufficient cause for nonpayment by Triumph. Using the Grant, its own funds, and funds from other grants (including, but not limited to, the Matching Funds), Grantee agrees 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 pay, on and subject to the terms and conditions set forth herein, a portion of the costs and expenses of the Project. Furthermore, Grantee agrees to spend all of the Matching Funds as contemplated in the Grant Application.

MAINTENANCE OF RECORDS:

Grantee shall submit to Triumph such data, reports, records, contracts and other documents relating to the Project as Triumph may require at any time and from time to time. In addition, Grantee shall on an annual basis on or before October 31 of each year submit to Triumph an activity report which outlines the progress of the Project, costs incurred to date, the progress of satisfaction of the Performance Metrics, the amounts FDOT has paid toward the Project for the prior period and to date, the amounts of other Matching Funds paid for the prior period and to date, and Grantee's most recent audited financial statements. In connection with its inspection of the Project, Grantee shall make available to Triumph copies of any and all invoices, contracts, plans and specifications, and other documentation relating to the Project. Triumph shall have the right, at any time and from time to time upon reasonable notice to Grantee, to access the Project and inspect any work being performed or as completed. Upon completion of the Project, Grantee shall send Triumph a notice certifying that elements of the Project have been 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 elements to determine if they were in fact completed in accordance with the plans and specifications. If so, Triumph shall fund the final payment of the grant to Grantee within thirty (30) days of such determination; if not, no Grant funds shall be funded unless and until Grantee 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, Grantee 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.

Grantee shall establish separate accounts to be maintained within its existing accounting system or establish independent accounts with respect to the Project, including, but not limited to, if applicable, payroll ledgers, state and federal payroll returns, and job descriptions, with respect to personnel used in connection with the Matching Funds. Such accounts are referred to herein collectively as 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 Grantee's general accounting records and the Project records, together with supporting documents and records, of Grantee and all consultants performing work on the Project and all other records of Grantee 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 Grantee 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 Grantee is rendered improbable, infeasible, impossible, or illegal, Triumph shall have the right, by written notice to Grantee, 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 Grantee shall, upon written demand by Triumph, repay to Triumph all portions of the Grant theretofore disbursed to and received by Grantee.

APPROVAL OF
CONTRACTS:

Triumph shall have the right to review and approve certain contracts (“**Contracts**”) (including bid process and bid documents and the CMAR, Design-Build contract, or Design-Bid-Build contract) that will be paid for, in whole or part, with Grant funds. Triumph shall have fifteen (15) days from receipt thereof to approve or disapprove such Contracts. Triumph’s failure to approve or disapprove a Contract within said fifteen (15) days shall be deemed approval. The parties acknowledge that, as a result of the time parameters required for the Project, Grantee has already entered into various consultant Contracts to provide preliminary services as to the Project. In addition, any proposed amendments or change orders to previously approved Contracts in excess of the threshold must be approved by Triumph before Grantee executes or obligates itself in any manner thereunder. Triumph shall have fifteen (15) days from receipt of a proposed amendment, or change order to notify Grantee of its approval or disapproval of such amendment, or change order. If Triumph fails to approve or disapprove of an amendment or change order within such fifteen (15) day period, the subject amendment 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:

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

INSURANCE:

Grantee shall keep and maintain or cause to be maintained casualty insurance on all improvements, fixtures, and equipment, that constitute the Project, the cost of which was in whole or in part funded using the Grant, but only to the extent that such equipment and improvements can in fact be insured. In the event of the loss of such equipment or improvements, Grantee shall either replace the improvements, fixtures, and equipment, or reimburse Triumph to the extent the Grant was used to purchase or such improvements, fixtures, and equipment.

CLAWBACK:

Any Grant funds disbursed by Triumph to Grantee shall be subject in being repaid (“clawed back”) in the event (i) Grantee abandons, suspends or discontinues the Project, or fails to complete the Project by Completion Deadline, and/or (ii) Grantee 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) Grantee breaches any obligation under the Agreement, and/or (iv) Grantee fails to timely achieve the following performance metrics (the “Performance Metrics”), then Grantee shall upon written demand by Triumph repay to Triumph all portions of Grant theretofore funded to and received by Grantee:

(a) By the 10th anniversary of the date of the Agreement, employment in the Federal Government Military sector, as measured by Economic Modeling Specialists International (EMSI) Industry Sector 901200 (using QCEW employees, non-QCEW employees, and Self-Employed), shall have increased by 1,300 above the 2019 number of sector 901200 workers plus growth that had been projected for the 10-year period. Because the EMSI measure of 901200 workers in Q3 2019 was 16,052 and projected growth over the next 10 years totaled 243, the forecasted number of 901200 workers in 2029 is 16,295. The agreed upon 1,300 increase in sector 901200 over baseline means that in 2029, the EMSI sector 901200 needs to exceed 17,595, (i.e., baseline projected growth of 243 from the 2019 base of 16,052, plus incentivized growth of 1,300).

The calculation to determine whether or not the above stated Performance Metrics were satisfied shall be made by Rick Harper or another similarly qualified economist or analyst selected by Triumph.

In the event Grantee fails to timely achieve the Performance Metrics described above, then, upon written demand by Triumph, Grantee shall within ninety (90) days of such demand repay to Triumph an amount of the Grant proportional to the jobs shortfall, based on \$49,308 per job (see the basis for this number below). For example, if there is a shortfall of 1 job (1,299 jobs created instead of 1,300), then the amount owed would be \$49,308 (1 x \$49,308), and if there is a shortfall of 400 jobs (900 jobs created instead of 1,300), then the amount owed would be \$19,723,200 (400 x \$49,308). The \$49,308 per job amount is determined by dividing the \$64,100,000 grant amount by the 1,300 promised jobs. All amounts owed shall be repaid with interest at the rate *Wall Street Journal Prime Rate* plus three percent (3%) per annum on such amounts to be repaid. Such interest shall accrue commencing on the date of such written demand by Triumph and shall continue to accrue until the amount demanded is repaid in full. Notwithstanding the foregoing, Triumph shall have the discretion to waive, reduce, extend, or defer any 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 Grantee's reasonable control, (iii) Grantee made a good faith effort to achieve full performance 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 Grantee's ability to achieve the Performance Metrics.

**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 and Grantee.